ORDER NO. 98-094

ENTERED MAR 13 1998

This is an electronic copy.

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 731
Phase II

In the Matter of the Investigation of	)	
Universal Service in the State of Oregon.	)	ORDER

TABLE OF CONTENTS

INTRODUCTION AND PROCEDURAL HISTORY **1**

DESIGN OF UNIVERSAL SERVICE **3**

1. *Design Objectives* *3*
2. *Selection of a Benchmark* *5*

CRITERIA FOR DEFINING BASIC UNIVERSAL SERVICE **5**

BASIC SERVICES **6**

1. *White-Page Directory Listing* *6*
2. *Extent of Residential and Business Support* *7*

SERVICE QUALITY **7**

HIGH COST DISTRIBUTION MECHANISM **8**

1. *Category 1 Distribution* *8*
2. *Category 2 Distribution* *8*
3. *Category 2 Rate Deaveraging* *9*

FUNDING UNIVERSAL SERVICE **9**

1. *Selection of a Mechanism for Funding Universal Service* *9*
2. *Carrier Reporting Requirements* *10*

IMPLEMENTATION ISSUES **11**

1. *Administrator* *11*
2. *Float* *11*
3. *Carrier Administration* *12*
4. *Commission Oversight* *12*

CONCLUSIONS **13**

ORDER **13**

ORDER NO.

ENTERED

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 731
Phase II

In the Matter of the Investigation of	)	
Universal Service in the State of Oregon.	)	ORDER

DISPOSITION: OREGON UNIVERSAL SERVICE POLICIES DETERMINED

INTRODUCTION AND PROCEDURAL HISTORY

We are continuing with the development and implementation of the Oregon universal service program (OUSP) that complements the federal universal service program. On October 17, 1995, the Commission completed Phase I of Oregon's universal service (US) plan, addressing policy issues and proposals relating to universal service funding. *See* Order No. 95-1103. When Phase II began, the objective was to address specific implementation issues for funding raised in Phase I. However, more recent actions of Congress and the Federal Communications Commission (FCC) caused us to enlarge the scope of Phase II to include an evaluation of Phase I policies that may be inconsistent with federal law and valid rules. We recognize that further inquiry into costs is necessary, and will address those issues in additional phases of this proceeding.

On January 7, 1996, Administrative Law Judge Lowell Bergen conducted a Phase II prehearing conference. The resulting schedule, published on January 24, 1996, anticipated that this proceeding would be completed by the end of 1996. However, on February 8, 1996, the President signed into law the federal Telecommunications Act of 1996, amending the Communications Act of 1934 (the Act). Among other things, the Act established universal service policies and eligibility requirements for carriers to receive universal service funds. The Act established a Federal-State Joint Board to assist the FCC with the implementation of the universal service portions of the Act. The Joint Board published its recommended decision (FCC 96J-3) on November 7, 1996.

The changes in the federal law altered the substance and timeline of Phase II of this proceeding. On May 16, 1996, the parties conducted a workshop to discuss Phase II issues in light of the Act. On June 12, ALJ Bergen adopted a Consensus Issues List, a list identified in the workshop. A second Phase II workshop was held July 17, 1996. As a result of delays in Docket No. UM 351, the investigation into economic cost and pricing issues, the on-going federal activity regarding pricing, and the Joint Board's Recommended Decision, the ALJ adopted a revised schedule on September 23, 1996. A third Phase II workshop, held January 14, 1997, addressed the Joint Board's Recommended Decision. The parties agreed that a fourth workshop should be held after the May 8, 1997, deadline for the FCC's universal service and access reform orders. Accordingly, the ALJ adopted a second revised schedule on February 10, 1997.

On March 25, 1997, Staff submitted its UM 731 Phase II Draft Proposal. Staff's primary recommendation was to "adjust Oregon's [funding] mechanism to complement and implement federal policy where appropriate." Included in the Draft Proposal was a comparison between Oregon's plan and the Recommended Decision of the Joint Board. Part I of Staff's Draft Proposal suggested modifications to the Oregon Plan, and Part II addressed the Consensus List Issues identified in the first Phase II workshop.

As scheduled, the FCC issued its Universal Service Order on May 8, 1997, (FCC Order No. 97-157), which adopted, in part, the recommendations of the Joint Board. The FCC has issued four additional orders reconsidering Order No. 97-157. Order No. 97-157 is currently on appeal to the US Court of Appeals for the Fifth Circuit.

The parties met in a fourth Phase II workshop on July 10, 1997, and agreed to a new schedule. Pursuant to that schedule, Staff published a Revised Proposal, the parties responded by filing written comments, and ALJ Bergen presided over a hearing on November 21, 1997.

The FCC required states to implement certain rules under its federal universal service program by January 1, 1998. These issues were identified in a portion of Staff's Revised Proposal and the Commission decided these issues in other orders.[1] Another portion of Staff's Revised Proposal suggests revisions to the Oregon universal service plan; another portion addresses the consensus list issues. Many of the consensus list issues duplicate issues addressed in the proposed universal service plan. Hence, in the discussion below, consensus list issues and Oregon universal service issues are addressed together where appropriate.

The following parties filed comments in response to Staff's proposals or attended the Phase II hearing: AT&T Communications of the Pacific Northwest, Inc., and AT&T Wireless Services, Inc., (hereinafter AT&T); GTE Northwest (GTE); MCI Telecommunications Corporation (MCI); Oregon Exchange Carrier Association (OECA); Oregon

[1] The following issues were decided in or deferred to other dockets and/or orders: Cost Proxy Model issues are deferred to Phase III of UM 731; Eligible Telecommunications Carriers and Service Areas were designated in Docket UM 873, Order No. 97-481; Toll Control was addressed in Docket UM 873, Order No. 97-481 and Docket AR 335, Order No. 97-489; RCC inclusion in the OTAP was addressed in Docket AR 335, Order No. 97-489; support for low income residential telephone customers (OTAP) was determined in Phase II of Docket UM 731, Order No. 97-491; the Oregon Customer Access Plan (OCAP) was extended in Docket UM 384, Order No. 97-484; Oregon universal service support for Schools and Libraries was determined in Docket UM 837, Order No. 97-460; and Oregon universal service support for Rural Health Care Providers was determined in Docket UM 838, Order No. 98-022.

Telecommunications Association (OTA); Sprint Corporation on behalf of United Telephone Company of the Northwest (Sprint); TCG Oregon (TCG); and U S WEST Communications, Inc., (U S WEST).

In this order, we resolve disputed issues involving the OUSP. We will select a cost proxy model and its inputs in Phase III of this proceeding and will resolve remaining issues in Phase IV. We anticipate completing these tasks prior to the commencement of the federal universal service program on January 1, 1999.

DESIGN OF UNIVERSAL SERVICE

1. Design Objectives

Staff proposes the following design objectives:

General: A universal service fund should (1) be administratively simple and low cost; (2) be sufficient to provide for quality basic network access service at just, reasonable, and affordable rates; and (3) should be applied in a competitively neutral manner.

Contribution Criteria (who pays): All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the Oregon US fund.

Distribution Criteria (who receives): Universal Service Support should:
(1) promote operating efficiency and eliminate artificial investment incentives;
(2) be specific, predictable and sufficient when combined with the federal mechanisms to preserve and advance universal service.

In its original draft proposal, Staff had included another objective, identified as Objective 6. That objective specified that the "price of basic service should cover cost prior to US credits." Part of that objective included a virtual voucher system that would show the amount of universal support on customers' bills. Staff concluded in its revised proposal that Objective 6 should be deleted because it is not a necessary or practical element of universal service. Staff provided three reasons for dropping Objective 6 and the virtual voucher concept. First, Staff agrees with U S WEST that there may be confusion in displaying a cost–based price less a virtual voucher credit. Second, Staff agrees that the virtual voucher system would be administratively complex, necessitating the setting up of rates and rate designs to encompass all of the census block groups that may be involved. Finally, neither the FCC nor the Joint Board adopted the virtual voucher system. To substitute for the virtual voucher system, Staff proposes the creation of a database that would provide customer location and US credit amount information.

AT&T, MCI, and Sprint disagree with Staff's proposed deletion of Objective 6. AT&T argues that the deletion is inconsistent with Section 254(e) of the Act, which requires that any subsidy be explicit. AT&T also contends that the administrative burdens incident to

Objective 6 are not overwhelming and suggests an end-user surcharge be considered if Objective 6 is deleted.

Sprint argues that the deletion is inconsistent with the FCC requirement that subsidies be specific, predictable, and sufficient. MCI argues that the deletion is inconsistent with the FCC's requirement of competitive neutrality because the current system was adopted under a monopoly regime. MCI supports the virtual voucher system because it promotes competition by allowing customers to "port" credits to the carrier of their choice.

U S WEST and the Oregon Exchange Carrier Association (OECA) support the deletion of Objective 6 because it is not necessary or practical in the implementation of universal service. OECA argues that the virtual voucher system would cause administrative complexity and customer confusion. U S WEST and TCG support the Staff proposed database.

The principles adopted by the FCC in Order No. 97-157 are as follows: (1) quality services should be available at just, reasonable, and affordable rates; (2) access to advanced telecommunications and information services should be provided in all regions of the nation; (3) consumers in all regions of the nation should have access to telecommunications and information services, including interexchange and advanced services, that are reasonably comparable to those services provided in urban areas and that are available at rates reasonably comparable to rates charged for similar services in urban areas; (4) all providers of telecommunications services should make an equitable and nondiscriminatory contribution; (5) there should be specific, predictable, and sufficient federal and state mechanisms to preserve and advance universal service; (6) elementary and secondary schools should have access to advanced telecommunications services as described in section 254(h); (7) competitive neutrality.

The federal universal service plan is based on seven objectives. An explicit requirement that the price of basic service should cover cost prior to US credits is not included among them. The FCC requires that subsidies be "specific, predictable and sufficient." The decision not to include price to cover cost as an objective of the Oregon universal service plan is not inconsistent with the FCC requirement of "specific, predictable and sufficient."

The Commission agrees with Staff that the virtual voucher system is administratively impractical. It would be burdensome if carriers were required to convert their customer billing systems to accommodate costs and credits that may be different from one census block, or other individual support area, to another. The virtual voucher system could create customer confusion. We feel that Staff's proposed database is an adequate solution. It will ensure that subsidy amounts are available and verifiable and will allow competitive local exchange carriers to know what credit amounts are available to them. The information available through the database will satisfy our desire to make subsidies explicit.

The Commission adopts the design objectives proposed by Staff in its revised proposal. They are reasonable and are consistent with those adopted by the FCC.

2. Selection of a Benchmark

Under the federal universal service program, a non-rural telecommunications carrier will be eligible to draw from the federal universal service support only if the forward-looking cost of serving a subscriber exceeds a benchmark approved by the FCC. The FCC's benchmark is based on a nation-wide average revenue per line. Although the FCC estimates the benchmark for residential customers to be $31 per month and $51 per month for business customers, the FCC did not adopt a precise calculation and is waiting for an opportunity to review state cost studies. Similarly, Staff proposes to defer our selection of a benchmark until the cost proxy model and study are complete.

TCG recommends that the Commission adopt the federal approach to the benchmark and set it at an average revenue per line. Sprint advocates that the benchmark be based on affordability. AT&T and MCI request clarification of the terms "affordability rate" and "revenue benchmark." U S WEST rejects the FCC proposed benchmark because it accounts for services not included in the definition of universal service. GTE recommends that the benchmark be set at company specific tariffed rates.

The Commission adopts Staff's recommendation to defer the selection of a benchmark until after the cost proxy model and study are complete. The FCC deferred the selection of a precise calculation for the benchmark until it has an opportunity to review state cost studies. We also want to see cost proxy study results before we establish a benchmark. We will then be in a better position to estimate the size of the Oregon Universal Service Fund (OUSF) and to understand how the benchmark selected will impact the carriers.

CRITERIA FOR DEFINING BASIC UNIVERSAL SERVICE

Staff proposes that the Commission, in determining the services to be supported by the OUSF, consider the extent to which the services:

(1) Are essential to education, public health, or public safety;
(2) Have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;
(3) Are being deployed in public telecommunications networks by telecommunications carriers;
(4) Are consistent with public interest, convenience, and necessity;
(5) Include not only tariffed services but also the functionalities and applications associated with the provision of services; and
(6) Would not burden the OUSF.

Staff added Criterion 5 because the FCC adopted the Joint Board's recommendation to define telecommunications services in a functional sense. This definition naturally promotes competitive neutrality because it does not favor one technology over another.

The Commission adopts Staff’s proposed criteria for defining basic universal service. The first four criteria, and Criterion 6, are also included in Section 254 of the Act.

BASIC SERVICES

The universal service program is designed to support basic telecommunications services. The FCC designated which services qualify for the federal program. The parties in this proceeding agree with many of the services designated by the FCC, but raise questions on others. We will address two areas of disagreement among the parties.

1. White-Page Directory Listing

The incumbent local exchange carriers now provide a white-page listing for each customer without a separate charge. The question here is whether we should require carriers to continue to provide white-page listings without reimbursement, require listings but allow reimbursement, or drop the requirement that white-page listings be included as a US component.

The FCC adopted the Joint Board’s recommendation to exclude white-page listings from the definition of telecommunications services because the listings do not meet the statutory requirements of Section 254(c)(1) of the federal act. However, the FCC encourages carriers to make white-page listings available to consumers receiving universal service support.

Staff recommends that the Commission continue to require LECs to provide free primary service white-page listing as part of their universal service obligation, without reimbursement. Staff argues that the intrinsic value of a white-page listing is far greater than the cost of the listing.

AT&T and Sprint disagree with Staff’s recommendation and argue that white-page listings should be excluded from universal support. AT&T argues that the inclusion of white-page listings burdens the federal universal support mechanism. Sprint argues that the elimination of white pages from universal service support is consistent with the FCC position.

U S WEST also disagrees with Staff’s recommendation. U S WEST proposes that recovery of the cost of white-page listings be included as a component of universal service support, thus matching the definition of universal service with the associated costs. GTE supports Staff’s recommendation to require free white-page listings as part of the universal service program.

Resolution of this issue is troublesome. Each possible solution contains negative consequences. Continuing the present system results in a disparity between the universal services required and the universal services separately funded. Allowing reimbursement for the separable costs of providing directory services would subsidize a service that is profitable and not in need of support. Not requiring that directory services be provided would take an essential service out of the universal service program.

We reject the option of deleting a directory listing from universal service requirements. A directory listing is an essential and integral part of local telephone service. We also reject the option of supporting a directory listing by allowing the recovery of directory listing costs. White-page listings have a direct connection to yellow-page listings which we have found in other proceedings to be profitable.[2] We do not want to increase the size of the OUSF by including in it services that do not need to be supported. We agree with Staff that the intrinsic value of a white-page listing is far greater than the cost of the listing. We therefore will require local exchange companies to continue to provide a free primary service white-page listing as part of their universal service obligation.

2. Extent of Residential and Business Support

The parties raised issues concerning the number of residential and business lines that should be included in the universal service plan – should support extend only to a primary line or all lines a customer has? They also questioned whether the Commission should defer resolution of that issue until the cost proxy models are completed. The FCC provides universal service support to all residential and business lines until the cost models are completed. Commission Staff agrees that all lines should be supported for rural LECs remaining on embedded cost systems until the cost proxy process is completed. Staff is concerned, however, that extending support to all lines for non-rural LECs will result in an unmanageable universal service funding requirement. Staff recommends that the Commission defer the decision as to the number of lines that should be supported under the universal service program until after the completion of the cost proxy model and studies.

Earlier in this order we adopted a set of criteria for deciding what services should be supported in the Oregon universal service program. One criterion requires a showing that the subject service is essential to education, public health, or public safety. Another criterion requires a showing that, through the operation of market choices by customers, the service has been subscribed to by a substantial majority of residential customers. We are not convinced that those criteria have been met for lines other than the customer's primary line.

In Phase I of this proceeding we limited the universal service support program to basic telephone service, including single-party voice grade service with touch-tone capability, extended area service, certain ancillary services such as operator services and 911 calling, and toll blocking. In keeping with that decision, we elect to include only primary residential and business lines in the support program until the completion of the cost model and studies. Once the cost information is available, we will be better able to consider the size of the OUSF and the impact our decision will have on it. We therefore defer until then our final decision about the number of lines to include in the universal service program.

SERVICE QUALITY

The parties recommend that service quality standards be deleted as a criterion for eligibility for universal service support. They are concerned that quality standards for eligibility

[2] Order Nos. 97-171, 89-1807, and 88-488 are among the orders we have issued that discuss directory listings.

may create problems, including possibly jeopardizing the availability of discounted services to targeted customer groups. Staff notes that the Commission has available to it sanctions better suited to specific problems than denying universal service eligibility.

The Commission agrees that the service quality standards should not be used as a criterion for eligibility for universal service support. The Commission shares the concern that service quality standards may jeopardize the availability of discounted services to targeted customer groups.

HIGH COST DISTRIBUTION MECHANISM

The FCC adopted two mechanisms for high cost universal service fund distributions to eligible carriers. The first mechanism bases support on forward-looking cost proxy models for high cost areas, less an "affordable" benchmark. It is scheduled to begin in 1999 for non-rural LECs. However, this mechanism is deferred until 2001 for rural LECs. The first mechanism is similar to the Oregon Universal Service Category 2 mechanism.[3]

The second mechanism continues to base support on study area embedded costs until the LECs convert to the forward-looking mechanism. This is a going-forward embedded cost formula. This mechanism corresponds to the Oregon Universal Service Category 1a, referred to as the Oregon Customer Access Plan (OCAP). OCAP already contains a mechanism to control growth and eliminate toll support as reflected in the cost allocation factors for subscriber plant and local switching.

With respect to either FCC mechanism, support per line is portable to an eligible competitive provider.

1. Category 1 Distribution

As to Category 1a, on August 27, 1997, the OECA filed a petition to reopen PUC Docket No. UM 384 for the purpose of extending the current OCAP. Staff supports the petition because the FCC extended the embedded cost basis for rural LECs for three years.

We extended the OCAP in Order No. 97-484.

As to Category 1b, which applies to larger LECs that do not participate in the OCAP, there is no dispute that this category should be deleted. Category 1b distribution is deleted from the Oregon universal service plan.

2. Category 2 Distribution

Staff recommends that Category 2 issues be deferred due to the current status of the FCC's selection of a cost proxy model. Without a cost model, Staff cannot estimate Oregon universal service funds or make recommendations regarding benchmarks, lines, and services.

[3] We established distribution categories in Order No. 95-1103 in Phase I of this proceeding.

U S WEST recommends that the Commission establish an interim fund to offset the disappearing subsidies. AT&T agrees with Staff's recommendation to defer the issue because forward-looking economic cost is critical to sizing and targeting the fund.

U S WEST has not demonstrated a need for an interim fund. The Commission agrees with Staff and AT&T that the decision on the mechanism for Category 2 distribution should be deferred until the cost modeling phase is finished. Without a cost model, we lack sufficient information to estimate Oregon US funds or to make informed decisions regarding benchmarks, lines, and services.

3. Category 2 Rate Deaveraging

Category 2 support is targeted at residential customers of large LECs (which do not receive support through the Oregon Customer Access Fund) who live in sparsely populated areas, are costly to serve, and receive basic telecommunications services. Residential customers would qualify for support when local loop costs exceed a benchmark revenue figure. According to Order No. 95-1103, Category 2 support would be triggered only if the Commission ordered fully regulated LECs to deaverage basic service rates. U S WEST recommends that the Commission no longer require deaveraging as a trigger mechanism for Category 2 support. Staff agrees and points out that using rate deaveraging as a trigger mechanism for Category 2 support is an outgrowth of the theory that the price of basic service should cover cost prior to US credits. AT&T supports the recommendation to eliminate deaveraging as a triggering mechanism for Category 2 support. TCG comments on deaveraging and how it would affect the credits received by a CLEC.

In our discussion of universal service design above, we rejected "price to cover cost" as an objective of the Oregon universal service plan. Changes have occurred since Order No. 95-1103 was issued. The premise on which the triggering mechanism was based no longer is compelling. We now decide to eliminate the requirement that Category 2 distributions are possible only if we deaverage rates.

FUNDING UNIVERSAL SERVICE

1. Selection of a Mechanism for Funding Universal Service

Section 254(b)(4) of the Act states that all providers of telecommunications services should make an equitable and nondiscriminatory contribution to universal service funds. The FCC decided to use retail end-user interstate telecommunications revenue as a basis for US collections. The FCC excluded wholesale services and deleted the proposed netting of revenues against payments to other carriers.

Staff recommends that the Commission adopt the FCC proposed collection basis and limit the Oregon base to intrastate retail telecommunications revenue. Staff recommends excluding RCC revenues from the base because RCCs are not intrastate telecommunications carriers. Staff argues that until there is enabling legislation, RCCs should be excluded from both distribution of and contribution to the OUSF.

AT&T and OECA support Staff's recommendation to base funding on retail end user telecommunications revenues. AT&T comments that Staff's proposal for funding is competitively neutral because the plan eliminates double counting and does not disadvantage resellers. AT&T also contends that the Commission has authority under existing law to include wireless carriers in the OUSF as contributors and potential carriers. However, AT&T does not oppose Staff's recommendation to wait for enabling legislation.

U S WEST supports the adoption of the FCC's basis; however, U S WEST argues that the revenue base should not be limited to intrastate retail revenue. Instead, it contends that intrastate, interstate, international, and RCC revenues billed for an Oregon address should be included.

The Commission adopts Staff's recommendation to base universal service contributions on retail end-user intrastate telecommunications revenue. The Commission also adopts Staff's recommendation to exclude RCC revenues from the base. These carriers are excluded because they are not now classified as intrastate carriers. In addition, in its Fourth Order on Reconsideration, the FCC recognized the difficulty associated with classifying wireless traffic as intrastate. As a result, the FCC concluded that these carriers may recover their contributions to the federal program through rates charged for both interstate and intrastate services. (FCC Order No. 97-420.) For these reasons, the Commission does not consider RCCs to be intrastate carriers for purposes of the high cost OUSP. Therefore, RCCs are not required to contribute to the high cost fund and they may not receive distributions from it. In the event of enabling legislation, the Commission may revisit this issue.

We decline to include interstate and international revenues in the state revenue base as requested by U S WEST. The FCC included only interstate calls in the federal program; so to fully and efficiently complement the federal program, the state program should use only intrastate revenues in the state revenue base. We may reconsider this decision if the federal program changes.

2. Carrier Reporting Requirements

All commenting parties recommend that the Commission follow the FCC's lead with regard to carrier reporting requirements. In its Draft Report, Staff had recommended that carriers be allowed to subtract what they expected to receive in universal support from the amount they contributed to the fund. However, U S WEST pointed out that the FCC does not allow such netting of payments, and there are questions about problems that may arise if netting is allowed in Oregon's intrastate program. In its Revised Proposal, Staff agreed with U S WEST.

The Commission adopts the FCC's approach to collecting information regarding the universal service fee. Carriers will be required to use a form that includes information on Oregon revenues and the percent of revenues arising from Oregon intrastate operations. Also, they will need to provide information on resellers that is specific to Oregon. The Commission also adopts the FCC position that carriers should not be able to reduce their contribution by the amount they expect to receive from the universal service program.

IMPLEMENTATION ISSUES

1. Administrator

Several aspects of the universal service program already have an administrator: the Schools and Libraries Program and the Rural Health Care Program are being administered by federal administrators; the OTAP fund has its own administration; and the Category 1a high-cost program will continue to be administered by the OECA. That leaves for resolution the issue of the administrator of the Category 2 high-cost program.

Staff recommends that a neutral third party be selected as the administrator, and that an advisory board oversee the administrator. The advisory board would include representatives from various segments of the telecommunications industry and consumer groups. Because the federal program does not commence until January of 1999, Staff recommends deferring the selection of a neutral third party Administrator for Category 2 until after the final order in this proceeding. Staff feels that the information available after the cost model is completed and benchmarks are determined will make that a better time to select the administrator.

AT&T recommends that the administrator be a neutral third party, determined through a Request for Proposals process. OECA requests that it be selected to hire the administrator. OECA would create a subsidiary to act as the advisory board to oversee the administrator. The advisory board would include representatives from industry, consumer groups, and the Commission. U S WEST believes that finding an appropriate administrator and determining the appropriate steps to administer the OUSFwill be a lengthy process. It recommends that the process to select the administrator not be postponed.

We prefer to start the selection process now, rather than waiting until this proceeding is completed. However, we do not feel confident in now selecting an administrator based on the information received in this proceeding. We urge the parties to work together to recommend a process and administrator to us. If these efforts do not result in one or more recommendations, all entities that desire to serve as the administrator, and others who have a concrete proposal for our consideration, shall file an application for appointment as administrator. We will then investigate and select an administrator.

2. Float

A lead time is required between the collection and disbursement of Oregon US funds to ensure that an adequate “float” of funds is available for operations. GTE proposes that one quarter of float be established, and that the administrator be given authority to borrow funds and periodically change the fee percentage to keep the OUSF in balance. AT&T recommends that the administrator be given sufficient authority to deal with carriers who do not pay their allocated share and to earn money on the float funds. Staff agrees with GTE.

We adopt GTE’s recommendation of one quarter’s float, and the administrator may, with prior Commission approval, reset the US fee rate quarterly if necessary. We also adopt AT&T's suggestion that the administrator be authorized to earn money on the float funds, but limit its authority to investments in federal government guaranteed instruments.

3. Carrier Administration

Carriers will incur expenses when they participate in the universal service program. Should they be reimbursed from the OUSF for those expenses? GTE and Staff recommend that until better information is available regarding the size of the OUSF, LEC expenses not be reimbursed by the fund unless reporting and auditing requirements are onerous.

U S WEST disagrees, and recommends that any additional expenses involved with the implementation and monitoring of universal service be reimbursed from the fund. U S WEST argues that when not reimbursed, these costs are implicit and violate the Act. U S WEST recommends that the Commission revisit this issue in Phase III of this proceeding.

We believe that the carriers should be able to bear a modest level of expenses without reimbursement from the fund. As of now, the size of the fund and expenses incident to participation in the universal service programs are a matter of speculation. We therefore adopt the recommendation of GTE and Staff. If the carriers find that the expenses incident to US participation become substantial and onerous, they may file an application with the Commission and request reimbursement from the fund.

4. Commission Oversight

The parties disagree about what oversight and enforcement provisions should be established to ensure that the entire administration of the OUSF operates as the Commission intends and that the administrator operates in a neutral manner. Staff recommends that the Commission do the following:

(1) Review and approve budgets submitted by the OUSF Administrator;
(2) Establish service areas for both rural and non-rural telephone companies;
(3) Review and approve Category 1 requirements;
(4) Review and approve Category 2 cost-of-service requirements by service areas;
(5) Designate eligible carriers to receive OUSF distributions;
(6) Review and approve budgets for OUSF distribution requirements;
(7) Approve the OUSF collection fee; and
(8) Conduct audits of the OUSF Administrator's operations and details supporting the US collections and disbursements.

AT&T and MCI recommend that the Commission only review the OUSF Administrator's budget because additional involvement will be duplicative, time consuming, and unnecessary. U S WEST recommends some Commission oversight.

The Commission agrees with Staff that it is necessary for the Commission to retain the right to review the fund's operation and approve the Administrator's budget, as well as approve the collection and distribution requirements that determine the collection rate. The Commission adopts Staff's proposed guidelines for Commission oversight.

CONCLUSIONS

In this order we have adopted Oregon universal service design objectives, defined criteria for defining basic services, and adopted policies to encourage universal telecommunications services for all Oregonians. We have established policies for funding the program and making distributions from it. These decisions are in compliance with the federal telecommunications act and complement the federal program.

ORDER

IT IS ORDERED that:

1. The revised Oregon universal service proposal submitted by Staff is adopted with the modifications discussed above;

2. The Commission adopts the policies and decisions announced above.

Made, entered, and effective ____________________________.

______________________________	______________________________
Ron Eachus	**Roger Hamilton**
Chairman	Commissioner
	______________________________
	Joan H. Smith
	Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements of OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070. A party may appeal this order to a court pursuant to ORS 756.580.

Um731phaseII