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DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

April 10, 1996

VIA OVERNIGHT

Office of the Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: FCC 96-93; CC Docket No. 96-45
Initial comments of the Oregon Public Utility Commission

Dear Ladies and Gentlemen:

Enclosed for filing are the original and four copies of the Initial Comments of the Oregon Public Utility commission in the above captioned docket.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph T. McNaught".

Joseph T. McNaught
Assistant Attorney General
Public Utility Section

tjh/JTM0592.LET
Enclosures
c w/enc: Service List

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION**

Washington, D. C. 20554

In the Matter of)	FCC 96-93
)	
Federal-State Joint Board on)	CC Docket No. 96-45
)	
Universal Service)	

**INITIAL COMMENTS OF THE
OREGON PUBLIC UTILITY COMMISSION**

Under Oregon law, the Oregon Public Utility Commission (OPUC) is responsible for representing the customers of telecommunications utilities in rate, valuation and service matters, in order to protect them from unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates. Part of its responsibility is to represent these customers before officers, commissions and public bodies of the United States. See ORS 756.040

The Telecommunications Act of 1996 (Act) is one of the most important federal actions that has taken place in recent history with respect to the telecommunications industry, and is expected to have a profound impact on the way the industry operates and

on the choices that consumers have available to them. We appreciate this opportunity to provide input, based on our experience in updating Oregon's universal service program.

Prior to the passage of the Act, the OPUC had already taken actions to deal with the new competitive environment in telecommunications, including reviewing its universal service policies. We offer here some of the things we learned and decisions we made as we considered the information we received from the parties to our proceedings. We hope that they will assist the FCC, with input from the Joint Board, to develop a universal service system in which federal and state programs operate in harmony. Our comments are organized according to the paragraph in which the FCC sought comment on the issues raised in the Notice of Proposed Rulemaking.

We have included as attachments to these comments two recent OPUC orders related to universal service: Order No. 93-1133 (Docket No. UM 384), labeled Attachment 1, and Order No. 95-1103 (Docket No. UM 731), labeled Attachment 2.

Paragraph 4. Quality Services. The OPUC has determined that service providers must meet minimum service quality standards in order to qualify for universal service support funds. While some parties thought that a competitive environment would result in adequate service quality through the workings of the marketplace, others thought that the telecommunications marketplace is not yet competitive. The service quality standards set by the OPUC are not a requirement for market entry; they are a requirement

for obtaining universal service support. Telecommunications providers that wish to obtain state support for universal service must comply with OPUC administrative rules relating to service quality. OPUC's service quality rules may be found in OAR 860-23-005, 860-23-055, 860-34-380, and 860-34-390. A copy of these rules is in Attachment 3.

It would be burdensome on the FCC to enforce service quality requirements for every eligible telecommunications carrier in the country. We suggest that the FCC allow each state to determine service quality standards appropriate to its own circumstances, with the broad guidance that they must, at a minimum, be sufficient to enable customers to obtain the services listed in the FCC's definition of universal service. As we have seen in Oregon especially, companies that do not face effective competition may let their service quality standards slip to an unacceptable level, leading to numerous customer complaints and adverse consequences to economic development. Until the marketplace is competitive enough so that customer demand is sufficient to dictate a reasonable level of service quality, state action is still needed. States will be in the best position in the future to gauge when the marketplace is ready to function with less regulatory guidance in this area.

Paragraph 8. Other principles. The OPUC has adopted design principles for its own residential universal service program that would be useful to consider here.

They are:

General. A universal service fund should:

1. Be administratively simple and low cost.
2. Provide a minimum amount of support necessary to maintain affordable basic network access service.
3. Require the price of basic service to cover costs prior to applying universal service credits

Who pays. Universal service should:

1. Be supported by a broad user base.
2. Be as competitively neutral as possible.

Who receives. Universal service should:

1. Maintain affordable basic local exchange service.
2. Promote operating efficiency
3. Eliminate artificial investment incentives.

(OPUC Order 95-1103, Pages 9-10.)

The OPUC therefore supports the FCC's suggestion that universal service support should be competitively neutral, and that it should be accomplished through the least regulatory method possible. A low-cost, administratively simple program is essential, and consistent with the other federal goal of making universal service support explicit.

Paragraph 9. Including services that do not meet all four criteria. The OPUC has found that toll blocking should be included in universal service for low-income

customers. The reason for this decision is that some of these customers may wish to ensure that unauthorized charges will not be billed to their account. Their inability to pay such charges might result in their service being shut off. In this case, the resulting advancement of universal service by providing a means for low-income customers to manage their telephone bills outweighs the consideration that a majority of customers have not subscribed to the service. (OPUC Order 95-1103, Page 5.)

The OPUC urges the FCC and the Joint Board to interpret the four criteria in a way that does not require that every criterion must be met before a service can be included in the definition of universal service. The word “consider” requires only examination of the service with respect to a criterion, not that the criterion must be met.

Paragraph 16. What services to support. The initial group of services to be supported should be small, in order to keep the cost of the program down while any difficulties with implementation are being worked out. The OPUC supports all of the suggested services as a reasonable part of universal service, with the caveat that 911 emergency services should be included only where they are available. (OPUC Order 95-1103, page 7.) These services are all consistent with the needs of telephone users in today’s society.

Paragraph 17. Additional services to be supported. As discussed earlier, we believe that toll blocking should be available to low-income customers. We also believe

that a single directory listing should be included in the definition, and that directory assistance should be accessible. The ability to be called means little if it is difficult for anyone to discover the telephone number to call in the first place, and the ability to call means little if the caller does not have access to telephone numbers to call. Both of these are included in Oregon's definition of universal service. They are also generally available to telephone subscribers, although some choose not to have their number listed in a directory. The choice of whether or not to be included in a directory should be the same with respect to services subject to universal service support. Oregon includes accessibility to relay services for the hearing and speech impaired in its definition of universal service, as well. Access to EAS and interexchange services should also be supported. Having access to only local service in a rural area with no health care providers accessible by telephone would not be consistent with public health and safety, nor the public interest, convenience, and necessity.

Paragraph 40. Transition period. The OPUC found that a four-year transition period was needed due to a change in universal service funding for carriers supported by the Oregon Customer Access Fund. This change could have been disruptive if accomplished in a shorter period of time. (Order 93-1133, Appendix A.) A waiver and extra universal service support are available where the cost impact on local exchange ratepayers is particularly large. (OPUC Order 93-1133, page 7.) Any transition on a national level would be expected to affect an even more diverse set of interests. It will be difficult to anticipate all of the impacts of any transition in federal universal service

funding. A transition period of several years, combined with a waiver process and additional support for companies that experience larger rate effects than others, would provide a useful safety net for companies that experience large effects during the national transition.

Paragraph 50. Services for low-income consumers. Please see our answer to the questions posed in paragraph 17

Paragraph 51. Toll limitation services. Please see our answer to the questions posed in paragraph 17

Paragraph 83. Discounts for schools and libraries. Many programs will be available to schools and libraries, including grant programs and discount programs from both state and federal resources. The FCC should have a general policy that the financial support received should not result in anyone paying a rate less than zero - in essence, receiving disposable income - as a result of participation in these programs.

Paragraph 115. Transition period. Please see our response to the questions posed in paragraph 40.

Paragraph 119. Who should contribute. The OPUC recently reviewed the issue concerning who should contribute to universal service support, and decided that all

carriers should contribute to the state's universal service fund. Any carrier that incurs costs not incurred by another carrier could be put at a disadvantage. Further, we found it undesirable to collect a universal service fee directly from consumers, due to the potential for misunderstanding of the charge. Oregon's universal service fund will be funded by assessments on carriers' gross intrastate revenues, net of access payments. We found this mechanism to be the most competitively neutral and administratively simple mechanism suggested during the course of our proceeding. Although they should be included under the OPUC's reasoning in this decision, radio common carriers will be excluded from the assessment because the OPUC currently lacks authority to include them. OPUC is currently pursuing state legislation that would give it the authority to assess the gross revenue fee on radio common carriers, including cellular providers. The definition of radio common carrier would also be updated to include commercial mobile radio service and PCS. (OPUC Order 95-1103, page 10.)

Paragraph 123. Contributions based on revenues net of payments to other carriers. Please see the answer provided above to the questions posed in paragraph 119.

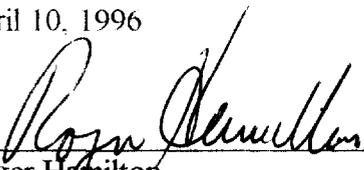
Paragraph 130. Who should administer - state public utility commissions?
States should be allowed to decide whether they prefer to administer universal service funds themselves or have them be administered by a neutral third party. The neutral third party could be an organization that administers the fund for only one state, or an organization that administers the fund for a group of states. The FCC rule, then, need

only require that the state regulatory commission notify the FCC as to whom the state has selected as its fund administrator, including updates if there are any changes.

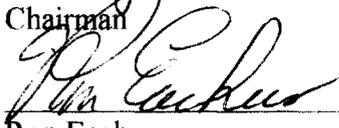
Respectfully submitted,

Oregon Public Utility Commission
550 Capitol St NE
Salem OR 97310-1380

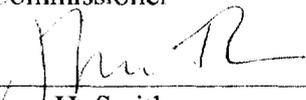
April 10, 1996



Roger Hamilton
Chairman



Ron Eachus
Commissioner



Joan H. Smith
Commissioner

ORDER NO. **93 - 1133**

ENTERED **AUG 12 1993**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 384

In the Matter of an Investigation into Alternative)
Means of Intrastate Separations and Settlements.)

ORDER

DISPOSITION: STIPULATION AND PLAN ADOPTED

This docket was opened by the Commission at its public meeting on February 19, 1991, to investigate cost separations and settlements.

A prehearing conference was held on May 29, 1991, before Hearings Officer Allen Scott. A schedule for development of an issues list and for comments on issues was adopted.

The parties filed proposed issues lists and comments and conducted extended negotiations regarding the issues. A second prehearing conference was held on January 14, 1992, at which a final issues list was adopted by the Hearings Officer. The Hearings Officer granted a request by the parties for an opportunity to attempt to resolve issues through additional negotiations. A prehearing conference was set for May 18, 1992, for a report of the progress of the negotiations.

At the May 18, 1992, prehearing conference, a schedule for additional settlement conferences in July and August 1992 was adopted and a schedule for filing initial and final comments in August and September was established.

In July 1992, the parties determined that the focus of the proceeding should be broadened substantially beyond the issues list to encompass the development of a new Oregon Carrier Access Plan. The Hearings Officer then approved the parties' request that three workshops be held in August and September 1992 to work toward resolution of the enlarged issues in the proceeding.

In October 1992, following the workshops and additional collaboration among the parties, the Hearings Officer scheduled a prehearing conference for November 3, 1992.

At the November 3, 1992, prehearing conference, a schedule was developed for additional settlement conferences, the filing of proposed plans and comments on the proposals, and for a hearing if necessary.

The parties conducted extensive negotiations during the period from November 1992 through March 1993 under the guidance of Settlement Hearings Officer Samuel J. Petrillo.

The negotiations led to the filing of proposed plans by staff and the Oregon Exchange Carriers Association (OECA) in February 1993. Following additional negotiations, several parties agreed to a stipulation and proposed 1994 Oregon Customer Access Plan (Plan). The stipulation and Plan were filed on March 31, 1993, accompanied by staff's comments in support. The stipulation and proposed Plan adopt elements both of staff's proposed plan and the proposal by OECA. The stipulation was signed by AT&T Communications of the Pacific Northwest, Inc.; PUC staff; OECA; Pacific Telecom, Inc. (PTI); United Telephone of the Northwest (United); and U S WEST Communications, Inc. (USWC).

Many comments were filed in response to the stipulation. Several companies filed petitions to intervene as parties.

On April 2, 1993, Hearings Officer Scott presided over a hearing on the matter in Salem. Oral comments on the stipulation were received and additional steps for consideration of the matter were adopted.

The Commission issued a Draft Order on July 19, 1993, and elicited comments from the participants. On August 3, 1993, the Commission considered the matter at a public meeting and received oral comment from the parties. The Commission then adopted the stipulation and Plan.

Background

The current intrastate access charge plan, the Oregon Customer Access Plan (OCAP), was adopted by the Commission in Order No. 89-041, UM 214, issued January 9, 1989. The plan is to remain in effect through 1993 or until a new plan is approved and implemented.

The current OCAP establishes a switched access pooling arrangement, called the Oregon Customer Access Fund (OCAF), under the administration of OECA. The pooling arrangement calls for the mirroring of approved USWC access charges by all participating independent telephone companies (ITCs). The difference between an ITC's access revenues derived from the mirrored access charges and its revenue requirement is the dollar amount to be funded by OCAF. This dollar amount is, in turn, funded by an approved OCAF access charge applied to all statewide terminating carrier common line (CCL) access minutes. The net result is a statewide uniform set of access charges that is independent of the size, cost, or demographics of the local exchange telephone company (LEC) involved.

The OCAF rate and corresponding mirrored switched access charges are filed annually. The annual filing encompasses all 34 Oregon LECs. The filing test year is

prospective. The staff review process involves an analysis of each LEC's Oregon rate base and expense budget, forecasted access minutes and revenues, and cost separation factors. At the current OCAF rate of 1.91 cents per terminating minute, \$30 million is generated. This amount is distributed to the independent telephone companies based on each ITC's access revenue shortfall relative to the total OCAF revenue requirement.

The statewide uniform access rates created by the OCAF have the positive effect of mitigating pressure to geographically deaverage toll rates in response to the generally higher cost of serving rural LECs and of removing disincentives for competitive interexchange carriers (IXCs) to serve otherwise high-cost rural areas.

Staff, however, has noted the following disadvantages to the current OCAF:

1. The OCAP pooling arrangement disconnects an LEC's cost of access from the price of access. This disconnection prevents the operation of normal market incentives as a vehicle to control cost. Without market or price consequences of cost increases, the Commission is put into the position of gatekeeper between the LEC and its "rightful" access revenues.
2. The gatekeeper role which the Commission and its staff must perform is becoming increasingly complex and unwieldy because of the increasing diversity of the industry and the associated need for the Commission to detect inappropriate cross-subsidies through the refinement of cost allocation rules and closer regulatory scrutiny. Moreover, the review of cost, demand, and separation factors for 34 LECs is an unwieldy process in which any single disagreement with even one LEC can suspend the filing for all LECs.
3. The present system involves more regulatory scrutiny than is desirable in light of the evolution of the industry toward greater competition and reduced regulation. At both the state and federal level, changes in law and policy have reduced the regulatory oversight of large and small LECs. LECs have accordingly become resistant to the guidelines and demands for disclosure of information which are associated with regulation.
4. The OCAP needs to be more responsive to changing market conditions in Oregon, including the increase in competition in both the toll and access service areas. The number of competitive providers has increased. Many serve lucrative niches in the market and thus put pressure on subsidy arrangements, such as the OCAF, which support less lucrative markets. USWC has expressed concern over the share of OCAF support it pays, approximately \$19 million out of the \$30 million

required to support the 1992 OCAF. GTE has proposed to pay zero on terminating and imputed access minutes in its territory if it becomes a primary toll carrier as it proposes in UT 113.

5. GTE's proposal to establish a multiple intraLATA PTC environment calls into question the mirroring of USWC's access rates as the threshold for OCAF support. Why should one PTC of multiple PTCs, or any PTC for that matter, be the basis for OCAF?
6. Changes in PUC and FCC policies may affect access charges. The Commission is currently investigating incremental costing and pricing in UM 351 and has completed its investigation of Open Network Architecture in AR 264. The FCC has investigations in progress relating to expanded interconnection with LEC facilities and access restructure and pricing of interstate transport charges. These changes may be adopted differently by individual LECs depending on their individual circumstances. The requirement for mirroring of USWC's access charges under the current OCAF does not allow individual LECs to respond flexibly to changes in market conditions and to variations in access charge structures authorized by regulators.

The Stipulation and Proposed Plan

The proposed plans submitted by staff and OECA in February 1993 were similar in regard to the recognition of the need to reduce the level of cost allocations to switched access services. The plans differed, however, with regard to the mechanics of cost transition, waiver processes, and access pooling arrangements.

The proposed Plan agreed to by the parties has features of both staff and OECA proposals. It adopts the pooling arrangements from OECA's plan and the cost transition mechanics and waiver processes from staff's plan.

Scope

The proposed 1994 OCAF governs the provisions of intrastate switched access services. These are services provided by LECs to IXCs. Access services, however, may also be provided to the end-user customers who request "dial tone" access from another exchange (referred to as foreign exchange access) and end-user customers who have interexchange private line networks and request "dial tone" access to a local exchange (referred to as Off Network Access Lines (ONALs)).

The OCAF does not govern special access services, private line services, operator services, or billing and collection services, nor does it address the rights, obligations, or provisions of message toll services by PTCs or other interexchange carriers.

The proposed Plan is for four years. All Oregon LECs are subject to the provisions of the Plan.

Objectives

The Plan has eight objectives: promote universal service, prevent access discrimination, foster competition, maintain a reasonable level of access rates throughout the state, provide cost control incentives, stimulate network usage through price reductions and innovations, expedite PUC review, and maintain a balanced and equitable cost separation between access and exchange services. The provisions of the Plan attempt to balance these potentially conflicting objectives.

Summary

In summary, the proposed 1994 OCAP provides for:

1. A four-year transitional reduction in local exchange carriers' switched access revenue requirements to reflect the underlying actual relative use of exchange plant.
2. A waiver procedure for LECs unable to complete the revenue requirement transition because of the impact of the cost shift on local exchange ratepayers.
3. An Oregon Universal Service Fund (OUSF) to support the cost of basic local exchange services for those LECs having an approved waiver.
4. An Oregon Customer Access Fund (OCAF) that provides for cost pooling under a common set of access tariffs. The proposed OCAF arrangement is similar to the current OCAF except that (a) participation by individual LECs is optional, (b) USWC's access charges are no longer mirrored, and (c) participating LECs will be subject to cost controls.
5. Funding of OUSF and OCAF will continue to be on statewide terminating intrastate carrier common line (CCL) access minutes.
6. Continued administration of the Plan by the OECA, subject to the provisions of OAR 860-32-100.

The OCAP is adaptable to the possibility of the Commission authorizing one or more LECs to act as Primary Toll Carriers (PTCs) in Oregon. The Plan accommodates multiple PTCs by:

1. Reserving the right of any LEC to seek Commission approval to enter the Oregon intrastate toll market as a PTC.

2. Discontinuing the current OCAF mirroring arrangement of USWC's access charges and establishing an independent OCAF access billing rate. This removes any perceived discrimination of the OCAF in mirroring USWC's access rates or any one PTC's access rates in preference to another.

3. Prohibiting interexchange carriers such as USWC (which has designated responsibility for "default" transported intraLATA message toll), LECs acting as PTCs, and competitive interexchange carriers (IXCs) from participating in the OCAF and OUSF. This prohibition puts all interexchange carriers on the same footing by preventing one inter-exchange carrier from subsidizing another through the pooling process.

Intrastate Switched Access Revenue Requirement

The Plan continues to use FCC allocation methods. The use of FCC allocation methods does not preclude any costing methods adopted and ordered by the Commission as a result of the investigation on incremental costing and pricing in UM 351. Two areas of cost transition are associated with local switching and equipment costs and subscriber loop costs. The transition is toward the actual relative use of switching and loop plant as the appropriate basis to distribute costs between access and local exchange services. The transition is over four years.

Oregon Customer Access Fund (OCAF)

The proposed OCAF is similar in many regards to the current OCAF. The important differences are as follows:

1. The revenue requirement per access minute of the OCAF will decline over the period of the Plan as the transitional factors of the Plan are phased in and as the OCAF cost controls are applied.
2. LEC participation in the OCAF is optional.
3. The basic billing rate for the OCAF is \$.05 per access minute; thus separating the proposed OCAF mechanism from USWC's access rate. The \$.05 access rate is a composite rate made up of three access rate elements for carrier common line, local switching, and local transport.

Oregon Universal Service Fund (OUSF)

The OUSF is intended to provide support for the cost of basic local exchange service in those circumstances in which the LEC cannot complete the proposed cost transition without substantially increasing local exchange rates.

The waiver process discussed below results in a freezing of certain transitional separation factors at some level above the actual relative use of exchange plant. The revenue requirement associated with the difference between the frozen factors and the transitional factors may be recovered from the OUSF. The OUSF is funded in the same manner as the OCAF.

The OUSF is envisioned to be a permanent part of the regulatory landscape directly targeted to support universal service goals.

OCAF Cost Controls

Staff has agreed to the cost control measures proposed by OECA for LECs participating in the OCAF. Cost control measures limit an LEC's switched access revenue requirement submitted to OCAF to a 10 percent growth rate or the prior year's access minute growth rate, whichever is less. This has the effect of ensuring that OCAF revenue requirement per access minute, year over year, will not increase.

Waivers

The waiver process provisions in the Plan allow LECs to appeal either the cost transition provisions for local switching and subscriber loop cost allocations provided in the OCAP or the OCAF cost control provisions. The waiver process recognizes that potential for unforeseen or unique circumstances or individualized remedies are appropriate. It is also the process that is required prior to an LEC submitting revenue requirements for support from the OUSF.

The trigger point for LECs petitioning for waiver of the cost transition factors is a showing that basic residential service (single-party flat rate with touch tone) would be driven to a rate in excess of \$15 per month as a result of the cost transfer. The current residential flat rates range between \$8 and \$14 per month. The \$15 rate is somewhat subjective but is offered by OECA as a reasonable level for maintaining universal service. The \$15 trigger is not an absolute cap on residential service rates because of the variety of circumstances that the Commission may face.

The Plan recognizes a number of factors that may be considered by the Commission in making a determination regarding a waiver petition. An LEC, in this process, must make a showing that it cannot complete the cost transition. The cost transition factors, as discussed, are geared to move toward an equitable cost recovery balance between interexchange carriers and local ratepayers based on their actual relative use of exchange plant. Thus, the waiver process has the effect of requiring Commission approval to allow the LEC to charge interexchange carriers more than their proportionate use of exchange plant in order to preserve universal service.

Optional Pooling and Filing Frequency

LEC participation in the OCAF and OUSF is optional. To prevent cross subsidy between interexchange carriers, U S WEST, PTCs, and IXC's are not eligible to participate in either pool.

In general, access filings are expected annually. However, for those LECs that have completed their cost transition and do not participate in the OCAF or OUSF, access filings may be less frequent. In no event, however, shall the interval between filings be longer than two years. The intent of the two-year interval is to allow some flexibility in access filing frequency and to reduce staff workload, without significantly disrupting the balance between the cost and price of access.

Amendments to the Plan

Nothing in the Plan precludes a party from seeking changes to the Plan.

Pool Administrator

OECA is retained as a plan administrator with responsibilities consistent with OAR 860-32-100.

Reserved Rights of Parties

The Plan reserves the rights of parties to seek Commission approval for changes in regulatory treatment.

OPINION

We congratulate the participants in this lengthy process for their dedication to the difficult task of attempting to work out an agreement among many entities with differing viewpoints. The procedure followed by the Hearings Officers, our staff, and the other parties properly blended elements of the adjudicative process with the features of alternative dispute resolution to focus the complex issues and then to effect a resolution. We are aware that the issues are of real importance to the participants and that our resolution will have an impact on them and on the public at large. We thank the participants for their well-prepared and well-reasoned written and oral comments.

We conclude that the stipulation and Plan should be adopted. The goals are sound and are in keeping with our paramount task of furthering the public interest. The policy and technical conclusions in the stipulation and Plan are well designed to meet those goals. No plan could meet all of the desires of the disparate participants involved. We believe, however, that the proposed Plan does an exceptional job of balancing the needs of all

who will be affected. It deals with the changes evident in the industry. It has the potential for controlling costs. It fulfills our staff's desire for a reduction in the intricacies of its review and the industry's wish for reduced regulatory burden. Moreover, it has the important element of flexibility so that the special needs of some participants can be met and the changes which may occur while the plan is in effect can be dealt with expeditiously.

We have considered the comments of those who are critical of some aspects of the Plan. The issues they raise are significant. However, on balance we believe the Plan is appropriate in the form presented to us and should be adopted unchanged, except for a few relatively minor changes which we direct in this order.

The comments critical of the Plan touch on many issues. The responsive comments of the stipulating parties provide a thorough and persuasive reply to each concern raised by the critics of the stipulation. We will discuss in some depth in this order the issues that are of the greatest magnitude or which occasioned the most controversy. The parties may be certain that we have considered every issue raised in the comments, even those not specifically mentioned in this order, before making our decision to adopt the stipulation and Plan.

Waiver Provisions

The Plan provides that a company may seek a waiver of transition or cost constraint features of the Plan. The purpose is to provide flexibility to the Plan so that individual participants having difficulty with implementing these facets may obtain relief on an expedited basis early in the annual rate-making process. The waiver process is designed to insure that the important goal of maintaining affordable basic local service is not jeopardized because of the unique circumstances faced by a particular company or companies.

Some of the critical comments suggest that the process may be burdensome, either because it requires frequent filings or because the filings will be extensive or costly. As the supporters of the Plan point out, however, the waiver provisions are designed to coincide with the annual review process and thus to avoid duplication of effort. Moreover, a waiver may extend for two or more annual rate-making periods. A company granted such a multiple period waiver need not repeat the full process in the second year of the waiver.

Another criticism of the waiver process suggests that the treatment of the two types of waiver request--those involving transitional cost factors and those involving cost control guidelines--is improperly different in that the former may be recovered from the OCAF and OUSF and the latter only from "rate additives." We conclude, however, that the Plan provides that both may in fact be recovered from the funds.

Trigger v. Cap

A company seeking a waiver of the cost transition provisions of the Plan must show that basic residential service would be raised to a rate in excess of \$15.00 (plus the \$3.50 Subscriber Line Charge) per month as a result of the cost transfer. The intent of this trigger is to provide a reasonable estimate of a figure which will maintain universal service. It is not a "cap," however, because of the differing circumstance that may pertain to companies seeking a waiver. We thus reject the suggestion made by some of the parties that this figure, or some other, be set as a fixed limit, or cap, which defines what an inappropriately high local rate is.

Some of the parties quarrel with the specific trigger figure and either suggest some differing figure or ask that some empirical study be produced to establish what the upper limit of ratepayers' tolerance is before they abandon service. We believe the figure chosen in the stipulation is reasonable. It is based on the substantial accumulated experience of the parties to the stipulation. The flexibility inherent in the use of a trigger will allow for variations from that figure upon a specific showing of a threat to universal service at some other level. This flexibility is a better solution than either setting a cap or trying to determine through some laborious, and probably inconclusive, scientific process what an appropriate figure would be.

Universal Service

Some of the commenting parties suggest that the Plan will jeopardize our goal of maintaining the availability of affordable service. We do not agree. Many features of the Plan are designed, in fact, to prevent that eventuality. The Oregon Universal Service Fund (OUSF) is well designed to meet the goal of keeping service available. In general, the flexibility of the Plan, including the waiver provisions, provides for a balancing of the interests of the companies and those of the public and thus helps insure that service will be not be limited by financial constraints.

Treatment of Interstate USF Funding

Some of the parties allege that the Plan will misuse revenues from the Interstate USF by allocating them totally or in some inappropriate amount to reduction of access charges to long distance carriers. Thus, it is claimed, these funds are diverted from the proper task of reducing upward pressure on local exchange rates.

We agree with the stipulating parties that the Interstate USF is designed to reduce local charges but not to eliminate such charges. The Plan's treatment of them does not conflict with this aim. The Plan attempts to correct the current tendency to permit over-recovery of loop costs. Under the Plan, the Interstate USF is allocated to both local and access/toll cost categories and does not give priority to either. This treatment is appropriate.

The Plan's Impacts and Need for Additional Information

GTE challenges several features of the Plan. It requests that the Plan be rejected by the Commission in favor of a proposal based on "self-sufficient access charges (including provision for a voluntary, self-funding pool) and on a high cost fund for the appropriate support of basic local service using a broad, industry-wide funding mechanism." In the alternative, it asks that the Commission take substantial additional evidence on various issues and provide further opportunity to the parties to respond to this new evidence.

GTE asserts that the Plan would increase its company-specific terminating access rate by about 20 percent, based upon estimates using 1992 data. It claims that such an increase would increase the likelihood of bypass, especially in its Portland area service territory. It expresses doubt that the Plan's cost control mechanism would, as the Plan's proponents claim, decrease the subsidy burden over time. It notes that the waiver provisions could reduce the effectiveness of the cost-control provisions and thus could keep the subsidy surcharge high.

Moreover, GTE asserts there is no record from which to determine what a company-specific cost-based rate would be or to determine whether such rates would escalate pressure to deaverage toll rates, in conflict with the Plan's goal of decreasing pressure to deaverage. It also asks that the 1992 OCAF filing-based financial impact estimates and the 1993 OCAF financial-impact estimates be included in the record. It asks further that other evidence be taken relating to the impact of various portions of the Plan on the companies and the public.

The Commission will not require additional evidence. The parties considered extensive and recent information in developing the Plan. We believe this information is ample to support our adoption of the stipulation and Plan. As the stipulating parties note, the bypass issue is dealt with through an appropriate balance between individual LEC access rates and the size of the surcharges. The combined OCAF and OUSF surcharges will be reduced from the current OCAF rate. The OCAF is designed to enable high-cost companies to reduce access rates and thus reduce the risk of bypass. More important, the OCAF reduces access rates and thus reduces the risk of deaveraged toll rates. While the trigger figure for pursuing a waiver is necessarily a product of supposition, the flexibility of the Plan's waiver provisions is designed to allow for appropriate variance from this threshold.

We note that none of the parties opposing the stipulation has requested that an evidentiary hearing be held. GTE explains its own reluctance to request a hearing by claiming that the "burden" is on the parties proposing the stipulation. We are not persuaded that the technical notion of a "burden" is pertinent to a generic policy-making proceeding such as this. In any event, we conclude that the evidence upon which the stipulation is based is sufficient and persuasive. There is no basis for concluding that additional evidence would improve the Plan.

Disincentives to LEC Self-Sufficiency

GTE notes that it has successfully pursued increases in productivity and efficiency with the goal of attaining self-sufficiency as to local and access services. Because these efforts have been successful, it is seeking primary toll carrier (PTC) status in docket UT 113. It claims that the Plan's artificial access rates would be set at a level below what GTE and other LECs can presently achieve on their own without significant shifts to local or toll rates. It argues also that the Plan's exclusion of all PTCs from the access pool and OUSF, while at the same time requiring companies to increase their own access rates and their imputed toll costs to support the pool members, would discourage companies from pursuing self-sufficiency or PTC status.

The Commission is not persuaded by these concerns. The basic access billing rate for the OCAF in the Plan balances the desire for statewide uniformity and the desire for a reduction in surcharge levels. It was not determined by reference to GTE's rates or those of any other company. The evidence indicates, in fact, that seven companies now have effective, pre-transition access rates lower than the rate proposed in the Plan. We agree with the Plan's exclusion of PTCs from participating in the OCAF or OUSF as a means of preventing cross subsidy between interexchange carriers.

Unresolved Generic Issues/Relationship to Other Dockets

GTE raises issues relating to its application to become a Primary Toll Carrier (PTC) in UT 113: the "clearinghouse" issue relating to how a PTC would be billed by other LECs for terminating access service and how payment should be made; the designation of points of presence (POPs) by PTCs; and the use of terminating to originating (T/O) ratios, as opposed to actual minutes of use, to calculate access minutes to be billed to LEC carriers. GTE notes that these issues are of significance to any LEC's proposal to become a primary toll carrier and asks that they be fully resolved in this docket.

We conclude that the issues raised by GTE are best addressed in UT 113, which focuses on issues pertaining to PTCs and can therefore treat them more thoroughly than it would be possible to do here. We will consider amendments to the Plan based on what develops in that docket.

Our docket relating to telecommunications costing and pricing, UM 351, may have implications for the Plan. MCI asks that the Plan itself contain language, as does the stipulation, affirmatively stating that costing methods adopted by the Commission in UM 351 will be integrated into the Plan. The stipulating parties express no objection to this suggestion. We agree and direct that the language in the stipulation to that effect also be inserted in the Scope section of the Plan.

MCI asks that the Plan also direct that all pricing innovations be consistent with UM 351. That issue and other conclusions which may develop from UM 351 will be

considered for incorporation in the 1994 OCAP as appropriate following conclusion of that docket.

OCAF Rate Development

The Plan contains a provision which states that the "difference between revenues generated by these rates and the LEC's company-specific intrastate switched access revenue requirements" shall be recovered from the OCAF. MCI argues that the sentence should contain a phrase explicitly indicating that the provision becomes effective only "If a shortfall exists."

We agree with the stipulating parties that both revenue shortfalls and overages are to be aggregated during the development of the OCAF and that MCI's suggestion is therefore inapposite.

Whom does the OUSF Support

MCI avers that the statement in the Plan that the "OUSF is intended to provide support for the cost of basic local exchange services" is misleading in that the fund is designed to support companies, not customers.

The exact purpose of MCI's comment is not clear. In any event, we note that the purpose of the OUSF is to help keep basic local exchange rates down and thereby to preserve universal service. That aim is supportive of the interests of customers, as well as those of the companies.

800 Portability and 900 Information Calling

MCI asks, and the stipulating parties agree, that the Commission should affirm that revenues derived from 800 portability and 900 information calling services should be credited against the switched access revenue requirement. We agree and so state.

Criteria for Rate Additives

MCI requests that we set out guidelines or criteria for consideration of requests for company-specific rate additives. We conclude, however, that doing so would reduce our flexibility. The basic standard is that the company must show that the increases in its switched access revenue requirement exceed the cost controls. An attempt to provide specific criteria would interfere with the Commission's ability to evaluate the particular circumstances with which the company must deal and would be an impediment to our consideration, not a benefit.

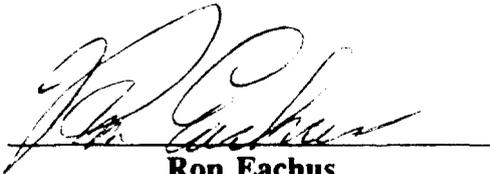
The Role of the Plan Administrator

The Plan makes OECA the Administrator of the Plan and provides that the Administrator may "engage and determine the compensation of such professional and technical assistance as may, in its judgment, be necessary . . ." Costs of administration are to be borne by the pool. MCI expresses concern that the latitude given to the Administrator is excessive. However, Part VI.C. of the Plan provides that the Commission will approve the funding rate for such costs. We believe this review provides an adequate safeguard against excessive expenditures.

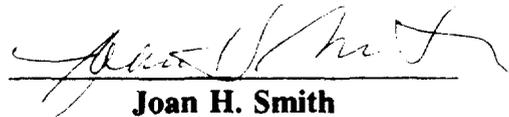
ORDER

IT IS ORDERED that the stipulation and Plan, as modified by this order and attached as Attachment are adopted.

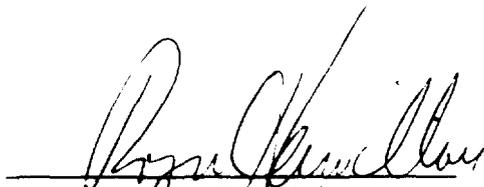
Made, entered, and effective **AUG 12 1993**



Ron Eachus
Chairman



Joan H. Smith
Commissioner



Roger Hamilton
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A party may appeal this order pursuant to ORS 756.580.

