

September 11, 2001

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VIA FACSIMILE & U.S. MAIL

Ms. Carole Washburn, Secretary
Washington Utilities and Transportation Commission
PO Box 47250
1300 South Evergreen Park Dr SW
Olympia, WA 98504-7250

**Re: Docket Number UT-003074;
Rules Relating to Washington Telephone Assistance Program**

Dear Ms. Washburn:

My client, United States Cellular Corporation (“USCC”) understands that the Washington Utilities and Transportation Commission (“Commission”) has scheduled a rule adoption hearing for September 12, 2001 to adopt changes to rules relating to the Washington Telephone Assistance Program in WAC Chapter 480-122.

A proposed revision to WAC 480-122-020 would obligate every ETC to offer the telephone assistance rates and discounts in accordance with RCW 80.36.410 through 80.36.475.

USCC was the first wireless carrier in Washington to receive “eligible telecommunications carrier” (“ETC”) status in Docket Number UT-970345, and it is now eligible for WTAP funds in limited circumstances.

While USCC is prepared to offer to eligible customers a Washington Telephone Assistance Program it does not submit to rate or service regulation by this commission. The rates to be offered through USCC’s program will not be set by this Commission because it does have the authority to regulate USCC’s rates under both state and federal law. *See* 47 U.S.C. § 332(c)(3); RCW 80.36.370(b), 80.66.010.

The statutes cited in the rule revision to WAC 480-122-020 do not mandate that the Commission establish the WTAP rate when the carrier is a wireless provider. The pertinent WTAP statute, RCW 80.36.420(3)(a) gives the WUTC only the authority to establish a “single telephone assistance rate for all local exchange companies (‘LEC’) operating in the State of Washington.” (Emphasis supplied.) USCC is not a local exchange company. The Federal Communications Commission has definitively ruled that wireless providers cannot be classified

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as LEC's. *See* First Report and Order, Docket Number 96-98, FCC 96-325, 61 FR 45475, ¶¶ 1004-1006 (released August 8, 1996).

The Commission may wish to revise the language in WAC 480-122-020 by deleting reference to "the telephone assistance rates and discounts in accordance with RCW 80.36.410 through 80.36.475."

This deletion would make the ETC obligation to provide a WTAP program technologically neutral. USCC, as a wireless carrier, could offer its WTAP program and wireline companies could offer the WTAP program pursuant to the statutes which apply to them.

USCC appreciates the opportunity to make these comments. Please contact the undersigned if you have any questions or comments. Thank you.

Sincerely,

GRAHAM & DUNN PC

Judith A. Endejan

JAE/lin
cc: Mary Davis
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