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T-Mobile USA, Inc.  
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September 17, 2010

VIA E-MAIL ([records@utc.wa.gov](mailto:records@utc.wa.gov))

Mr. David Danner, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive SW  
PO Box 47250  
Olympia, WA 98504-7250

RE: T-Mobile West Corporation, d/b/a T-Mobile's Comments on the "USF Concept Paper" Submitted by the Washington Independent Telecommunications Association; Docket No. UT 100562

Dear Mr. Danner:

Please find enclosed T-Mobile West Corporation, d/b/a T-Mobile's Comments on the "USF Concept Paper" Submitted to the Washington Utilities and Transportation Commission by the Washington Independent Telecommunications Association in the above referenced docket.

Please feel free to contact us with any questions regarding this filing.

Sincerely,

David R. Conn, National Director, State Regulatory Affairs  
Teri Y. Ohta, Senior Corporate Counsel  
T-Mobile  
(425) 383-5532 (office)

Enclosures

cc: Brian Thomas, WUTC (via e-mail)

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

Policy Statement to Review State Universal  
Service Policies

Docket UT-100562

**T-MOBILE WEST CORPORATION, D/B/A T-MOBILE'S COMMENTS ON THE "USF  
CONCEPT PAPER" SUBMITTED TO THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION BY THE WASHINGTON INDEPENDENT  
TELECOMMUNICATIONS ASSOCIATION**

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**Dated: September 17, 2010**

**Comments of T-Mobile West Corporation d/b/a T-Mobile on the  
“USF Concept Paper” Submitted to the Washington Utilities and  
Transportation Commission  
By the Washington Independent Telecommunications Association**

Docket No. UT-100562

T-Mobile applauds the Washington Utilities and Transportation Commission (“UTC” or “Commission”) for its thoughtful approach to addressing potential reform of intrastate access charges in the State of Washington. By soliciting comments from interested parties and attempting to gain the maximum amount of information on best practices with respect to access charges and universal service, the Commission has placed itself on a sound course to determine what, if any, actions are necessary in this area.

The Commission should also recognize that it is not alone in its consideration of these issues. In early 2010, the National Regulatory Research Institute (“NRRI”) released its paper on the development of state high cost funds, which provides a comprehensive review of the various issues that need to be considered by state utility commissions in determining whether a state universal service fund is needed.<sup>1</sup> These are precisely the issues that the UTC should consider in this proceeding.

With that in mind, T-Mobile offers the following specific comments on the Washington Independent Telecommunications Association’s USF Concept Paper (“Concept Paper”):

1. The “Access Reform Track” proposed in the Concept Paper is, to put it simply, conceptually unsound. It is premised upon the assumption that there should be dollar-for-dollar “universal service fund” recovery of revenues decreased as a result of

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<sup>1</sup> Bluhm, Bernt, and Liu, “State High Cost Funds: Purposes, Design, and Evaluation”, National Regulatory Research Institute, January 19, 2010 (“NRRI Report”); available at: [www.nrri.org/pubs/telecommunications/NRRI\\_state\\_high\\_cost\\_funds\\_jan10-04.pdf](http://www.nrri.org/pubs/telecommunications/NRRI_state_high_cost_funds_jan10-04.pdf).

intrastate access charge reform (net of revenues increases resulting from the benchmark rate), yet there is no requirement for any test showing that such an increase is necessary to actually preserve or advance universal service. In the absence of such a test, the “Access Reform Track” serves only as a revenue guarantee to small ILECs.

2. The “Access Reform Track” is also contrary to federal law. 47 U.S.C. § 254(f) allows states to adopt programs to preserve and advance universal service in the state, and to assess providers of intrastate telecommunications services to fund such programs. There is no authority, however, to assess one provider in order to maintain the revenue levels of another provider. In the absence of specific evidence that the program is necessary to preserve universal service – that is, to prevent subscribers from leaving the network entirely – there is no basis for such a transfer of funds, and it would be unlawful under Sec. 254(f), and probably under state law as well.
3. The proposal under the “Access Reform Track” for a “simplified earnings review,” based on total company regulated revenues and expenses, is also unsound. Universal service funds would be used to support common plant providing regulated and unregulated services, and interstate and intrastate services. To the extent that revenue from those services in their totality is sufficient to avoid rates that would jeopardize universal service goals, there is no logical justification for universal service support for such common plant. Thus, even if the Access Reform Track is eventually adopted by the Commission, eligibility for such support must be tested against all revenues generated (in whole or in part) by facilities receiving universal service support, and not against a subset of those revenues. Indeed, the NRRI Report acknowledges the

propriety of recognizing such revenues in determining the need for high-cost support. NRRI Report at 48-49. The existence of “unregulated Internet or video revenue using common network assets” is one of the factors listed in the NRRI Report as reducing the need for a state universal fund. NRRI Report at 72.

4. To the extent that an ILEC is allowed to propose a transition plan to reach the benchmark rate (Access Reform Track, Item 2.e.), the ILEC should have benchmark-level revenues imputed to it for purposes of calculating its need for universal service funds. Other carriers should not be required to fund an ILEC’s decision to maintain below-benchmark rates, even for a temporary period.
5. The proposed high-cost support requirements under the Access Reform Track are also discriminatory and anticompetitive. The Concept Paper would allow only one carrier in an area to receive high-cost support. The likely effect of this is to prevent competition in these areas, since it is unlikely that an unsubsidized competitor would find it financially feasible to compete with another carrier that receives a subsidy. As a result, the customers in these areas would probably be denied the benefits of a competitive marketplace. If the Commission chooses to follow this path, however, there is a related requirement that must also be adopted: if an unsubsidized competitor enters the area where the ILEC receives the subsidy, then all USF subsidies to that ILEC must cease. Once there is competition in a subsidized area, either all competitors should receive subsidies, or none of them should receive subsidies. It is unsound policy, and likely unlawful as well, to limit subsidies to a single carrier.

6. To the extent that the Commission distinguishes between carriers based on COLR responsibilities, it should also ensure that a) those responsibilities are precisely defined and consistently enforced; and b) that an ILEC does not use tariff or rule requirements to restrict its COLR obligations (since service or line extension policies can be used to “undo” many of the requirements frequently cited as “COLR” responsibilities).
7. Access Reform Track provisions related to the transition to broadband service should not be finalized until there is a decision on the specifics of how the recommendations of the National Broadband Plan will be implemented. After such a decision, the need for additional state broadband funds should be evaluated, and any such funds should be made available through a process and in a manner consistent that decision.
8. As a whole, the High Cost Track represents a much more sensible approach to the question of universal service support than the Access Reform Track. These requirements also, however, contain provisions which may deny consumers the benefits of competition. For example, there seems to be no provision for the possibility that wireless carriers will receive high-cost support (since eligibility is limited to ILECs with 2% or more of the state’s access lines, and CLECs). As set forth in Par. 5 above, there is no reason to provide support to some carriers and not others. Either all carriers should receive support, or none should.
9. Any transition to Broadband in Phase 2 of the High Cost Track should be done consistent with the recommendations set forth in Par. 7.

The history of this issue at the federal level clearly demonstrates how changes in markets and technology can turn a series of well-intentioned incremental steps into a system that is highly

problematic. By adopting a comprehensive and systematic approach to examining the issues involved, the UTC has an opportunity to avoid many of the pitfalls that now plague the federal USF system. T-Mobile appreciates the opportunity to offer these comments, and again commends the UTC for its thoughtful review of the many issues related to access charge reform and universal service.