

WITA WASHINGTON INDEPENDENT TELECOMMUNICATIONS ASSOCIATION

December 29th, 2010

Mr. Dave Danner
Executive Director and Secretary
Washington Utilities & Transportation Commission
Richard Hemstad Building
PO Box 47250 – MS: 47250
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250

2011 JAN -3 AM 9:12

Dear Mr. Danner:

Re: Docket No. UT-100562 – Report on Universal Service

The Washington Independent Telecommunications Association (WITA) would like to thank the Washington Utilities and Transportation Commission (WUTC) for attempting to bring together multiple and often opposing interests around the complex and important issue of universal service. While WITA has several concerns with the report, we look forward to continuing our work with the WUTC on improvements to the regulatory environment that guides our efforts to provide affordable telecommunications services in Washington.

WITA members appreciated the opportunity to work with WUTC staff by providing information and context for the report's central mission – to assess the status of the universal service system and how Washington should prepare to continue its long standing commitment to provide universal telecommunications service to residents in Washington regardless of whether they live in downtown Seattle or at the end of a rural eastern Washington road.

The concept of a universal service fund (USF) is not new. It is part of the social compact that ensures everyone has access to affordable telecommunications service. The USF is a tool to provide comparable services for comparable rates to all customers, regardless of their location. Companies who receive funds are obligated to be the carrier of last resort and must serve in areas where no other telecommunication company would.

Attached is a chart listing specific WITA comments on the report. Briefly, there are a few key areas where we believe the report does not meet the challenges of a changing marketplace.

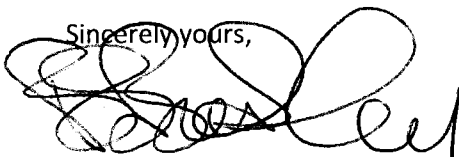
- WITA agrees that the WUTC's oversight reasonably includes review of financial information before a state USF is established. During the workshops WITA provided a great deal of financial information regarding its members' regulated operations. This information clearly showed that all but one WITA company was earning less than allowed for under current rate of return rules. We also provided sufficient information to estimate the size of the fund. The WUTC, however, chose to focus on relatively small unregulated revenue sources, instead of the challenge of providing universal service.

- The report criticized WITA companies for not proactively addressing financial challenges. WITA companies view the current processes for requesting rate adjustments as being, in most instances, far more expensive and time-consuming than could be justified by any potential revenue increase. Further, our companies are experiencing significant competition in the more densely populated areas we serve. Traditional rate making does not work in a competitive environment.
- The WUTC's report appears to suggest WITA companies look to non-regulated revenue streams as a means of subsidizing regulated wireline operations. We disagree. While newer lines of business like cable TV sound like a ready source of additional revenue, suggesting they represent yet untapped sources of earnings ignores the reality of programming, operational, and franchise costs, not to mention the current trend away from cable TV and toward online video streaming.

WITA does not believe its members can adopt a wait and see approach on universal service. But, we recognize that the current economic environment makes establishment of a state universal service program at this time difficult. We propose that we move ahead with many of the objectives outlined in the report, which are obtainable now, without an explicit universal service fund. We believe it is time for rebalancing regulatory requirements, reducing regulation where it is no longer necessary or fair, and streamlining unnecessarily cumbersome processes to facilitate modern approaches to the social compact while still protecting consumers.

WITA looks forward to continuing our work with the Commission as part of our effort to achieve our mission of serving the end users of our services with efficiency and integrity.

Sincerely yours,



Betty S. Buckley
Executive Vice-President

cc: Commissioner Jeff Goltz, Chair
Commissioner Pat Oshie
Commissioner Phil Jones
Senator Jim Kastama
Senator Joseph Zarelli
Senator Phil Rockefeller
Senator Jim Honeyford
Representative John McCoy
Representative Larry Crouse

Comments from the WUTC Report on a state USF	WITA Response
<p>The Commission concluded their review of the need for a state universal service fund by stating the potential need for “a small universal service fund, of limited duration....”</p>	<p>While WITA appreciates the WUTC’s recognition that there is a need for a state USF, it concerns us that the proposed fund is so limited in scope. A “small fund” implies that large ILECs would not be qualified to apply for funds despite their on-going carrier of last resort obligations and other regulations that put them at a disadvantage with their unregulated and less regulated competitors. A fund “of limited duration” implies that there would be no future support for the public switched telephone network which now carries broadband, wireless and traditional voice traffic. The most rural parts of our state are currently served by this network and this network alone, because there is no business case or regulatory requirement that they receive broadband or wireless service. Our companies have worked diligently to make universal service a reality even in areas of Washington where the unsupported cost of providing basic phone service could result in rates of more than twenty times the rates paid by consumers in dense urban areas. Dismissing the on-going financial realities of serving these high-cost communities puts WITA companies and the communities we serve at further economic risk.</p>
<p>The report states “...given the paucity of information presently made available by WITA, the scope and scale of such a fund cannot accurately be determined.”</p>	<p>WITA did provide sufficient information to size a potential state USF, including an estimate of the size of the fund.</p>
<p>“First, the policy approach we support here must recognize that...rates in remote and rural areas should be reasonably comparable to those assessed on consumers in more dense urban areas of the state.”</p>	<p>WITA companies and many wireless carriers receive federal universal service funds to offset some of the cost of building out voice services in rural and high cost areas while maintaining comparable rates. In exchange, WITA companies have agreed to be the “carrier of last resort” in these areas, meaning that they must provide voice services to anyone in their service area, almost without exception.</p>

<p>WITA companies have demonstrated an "apparent hesitancy or disinterest in proactively addressing some of the financial challenges associated with their businesses . . ." To the WUTC, this "may imply that company revenues were sufficient to meet costs, plus provide a sufficient return on investment."</p>	<p>WITA companies view the current processes for requesting rate adjustments as being far more expensive and time-consuming than, in most instances, could be justified by any potential revenue increase. In addition, revenue and cost information provided to the WUTC during the workshop process clearly showed that all but one WITA company was earning less than allowed for under current rate of return rules.</p>
<p>According to the WUTC report, if WITA companies were to look at all their revenue streams, and expand their businesses with services such as Cable TV, only the smallest WITA companies would need any type of subsidy.</p>	<p>Unfortunately, this theory does not account for the majority of WITA companies which have already expanded their broadband penetration to more than 90 percent of their service area and added additional revenue generating services wherever those have made good business sense.</p>
<p>"...the Legislature could enact legislation that would direct those companies with fewer than two percent of the access lines in the state to provide all relevant financial and operational information the WUTC deems necessary in order to review their earnings for the specific purpose of determining which companies would be eligible to receive monies from a state fund and to determine the overall size of the fund."</p>	<p>Currently, the WUTC has the authority to compel any and all WITA companies to present their earnings and costs for intrastate regulated services. What the Commission is requesting can be accomplished under current state law unless the WUTC's goal is to expand its jurisdiction.</p>
<p>And while new service providers either lease or interconnect with assets owned by traditional phone companies, the relationship between these new providers and traditional wireline companies are not governed or regulated in the same manner...</p>	<p>All WITA companies compete with wireless providers, and many of our companies compete head-to-head with cable providers, and yet they are subject to multiple regulations which do not apply to their competitors. The WUTC only lightly regulates CLECs, and does not regulate cable and wireless companies. This lack of parity puts WITA companies at a competitive disadvantage.</p>
<p>...when a wireless customer places a call using a cellular phone, that call uses not only the cell tower and wireless antennas provided by the cellular company, but also high capacity circuits and possibly switching resources owned and maintained by traditional incumbent telephone</p>	<p>As the WUTC points out, cellular services cannot function without the incumbent wireline network. Therefore it is essential not only for WITA companies but for the Washington telecommunications industry as a whole that we find a balance that ensures these rural networks remain healthy and viable in this increasingly</p>

<p>companies.”</p>	<p>competitive environment.</p>
<p>“WITA companies provided tangible evidence surrounding the challenges facing their businesses, particularly the substantial declines in intercarrier compensation that its member companies are experiencing as a consequence of intercarrier compensation arbitrage, access avoidance (often referred to as phantom traffic), and dramatic declines in intrastate access charge usage as a result of minutes shifting to other technological platforms.”</p>	<p>WITA members believe that one of our greatest challenges is dealing with increasing volumes of unbillable traffic that is being completed using our network. The Commission has offered to review the issue of phantom traffic, and WITA looks forward to working with the WUTC in the coming months to develop a solution that allows its members to bill and collect revenues from those providers that have been availing themselves of our members’ networks without paying for that use.</p>
<p>After months of working with WITA and other telecommunications providers, the WUTC concludes that “it is prudent essentially to adopt a ‘wait-and-see’ approach and move slowly with consideration of any comprehensive state universal service mechanism that would include support for broadband deployment as one of its objectives.”</p>	<p>We agree with the WUTC that market conditions have created an environment which forces “regulators to reassess existing approaches.” We strongly believe that this is true on the state level as well as the federal level. However, given the pace at which the telecommunications industry is changing and evolving, we cannot “wait and see” but must move forward to create a regulatory environment that puts us more on par with our competitors. This more market-driven approach to regulation will help us respond to changes in the current market but it is not the only piece of the puzzle necessary for the long-term survival of our companies. Following this, we will then need to work together on the state universal service mechanism which is essential for the long-term survival of our companies and their networks. These networks are critically important to the continued provision of voice, broadband and wireless services to Washington’s rural citizens.</p>