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September 30, 2021

**VIA E-FILING**

Ms. Amanda Maxwell, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

Re: Docket U-200281

Dear Ms. Maxwell:

The Washington Independent Telecommunications Association (“WITA”) is in receipt of your letter dated September 16, 2021. Your letter suggests that WITA has taken a position that is in “contravention of state law or rule.” WITA respectfully disagrees. This letter is divided into two parts. The first part responds to the legal issues raised in the September 16, 2021, letter. The analysis demonstrates that there is no support for the position taken by the Commission in its September 16, 2021, letter from the provisions cited by the Commission in that letter.

The second part of this response is to provide voluntary response from WITA members to the issues requested by the Commission, to the extent the information is readily available. This is a voluntary act by WITA members and is not one that is compelled by any statute or rule cited by the Commission.

PART I - ANALYSIS

WITA’s members have a statutory exemption from filing reports (other than the annual report) and data with the Commission. RCW 80.04.530(2). What the Commission is requesting in its six items listed in its September 16, 2021, letter are reports and data from WITA members. None of the statutes or the rule cited by the Commission in its letter provides sufficient support for the position taken by the Commission and none contravene or negate RCW 80.04.530(2).

RCW 80.04.070 authorizes the Commission to inspect books, papers and documents. That is not what the Commission is requesting. The Commission is requesting production of new reports and the filing of data. RCW 80.04.070 does not apply to the items listed in the Commission’s letter of September 16, 2021.

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The Commission cites to RCW 80.04.530(3) which allows the Commission to establish new reporting requirements for an individual company. However, that can only be done only after notice and hearing. There has not been a formal notice. There has not been a hearing. Further, this provision is directed at establishing a reporting requirement for an individual company on a company by company basis. It is not a basis to direct a response from the incumbent local exchange carrier industry as a whole.

The Commission cites to RCW 80.36.300. That statutory provision is simply a policy declaration and confers no additional statutory authority upon the Commission.

The Commission cites to RCW 80.36.145. It is not clear why the Commission cites this statute. There is nothing in this statute that would allow the Commission to require additional reporting.

Finally, the Commission cites WAC 480-07-175. This rule allows the Commission to order the production of documents in an investigation. The Commission is not requesting production of existing documents. The Commission is requesting the development of new reports. Moreover, this rule requires service of the request upon each intended respondent. No such service was undertaken. This rule does not provide support for the Commission's letter of September 16, 2021.

It is disappointing that the Commission is attempting to require regulated companies to go to the effort of providing reports and data when, in so far as WITA can determine, the Commission has not made that request for reporting from any of the competitive local exchange companies. To focus on one segment of the industry and impose additional costs of that portion of the industry is to create a competitive imbalance. That said, WITA does appreciate that the Commission shortened the list of items sought.

## PART II – THE RESPONSE TO ITEMS REQUESTED

The responses are set out below.

1. Please provide the total number of customers in arrears and the total dollar amounts of such arrearages during the pandemic period from March 2020 to August 2021.

RESPONSE: Unfortunately, this information is not available on an intrastate regulated service basis. The companies do not track arrearages in such a way that the information related to regulated services is available. Arrearages are tracked on a total company basis. This means that the figures include interstate services. This also means that the figures include non-regulated services such as Internet access service and cable TV or streaming video content services. In addition, the question is somewhat confusing in what it seeks. Is

it seeking the amount outstanding as of the latest available point in time? Or, is it seeking an accumulative amount even though some of it may have been repaid over time? In any event, the companies are not able to provide this information on a Washington intrastate regulated service basis.

2. Please provide the most current number of customers with past-due balances that are more than 90 days past due.

RESPONSE: Please see Exhibit 1. Exhibit 1, in part, sets out the number of customers that are ninety days or more in arrears. The WITA members assume that the question was requesting information as of August 31, 2021.

3. Please provide the number of customers disconnected for late payment or lack of payment each month during the period from March 2020 to August 2021.

RESPONSE: WITA members followed the Governor's proclamation and did not disconnect any customer from regulated services during the time period in question.<sup>1</sup>

4. Does the company charge for a disconnection and/or reconnection? If so, please provide the number of and the actual price charged to a customer for disconnections and/or reconnection during the last 18 months from March 2020 to August 2021.

RESPONSE: The disconnection and reconnection fees are tariffed services. The Commission has this information by consulting the tariffs of the WITA members that are on file with the Commission. Please note, however, that there were no disconnections from regulated services during the time period in question. There were also no reconnections fees due to disconnection for unpaid regulated services.<sup>2</sup>

5. Please identify the number of customers assessed late payment fees during the last 18 months from March 2020 to August 2021.

RESPONSE: The WITA members followed the Governor's proclamation. It does not appear that late fees were assessed on regulated services during the period in question.<sup>3</sup>

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<sup>1</sup> One WITA member had to implement a new manual process to comply with the moratorium. In implementing the new manual process there were some training issues which resulted in some disconnects. However, in all instances, the customers were reconnected without charge.

<sup>2</sup> Ibid.

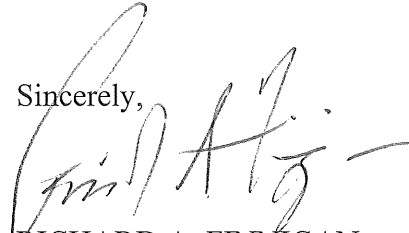
<sup>3</sup> For the member described in footnote one, in March 2020 customer service representatives were directed to credit customers for billed late payment fees per customer request via a manual process. Non-payment of such fees did not result in disconnection of service, nor did the Company require payment of such fees. The Company implemented a process to suppress the billing of all late payment fees (including non-regulated) in the state of Washington effective August 7, 2020 that eliminated the manual workaround.

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6. Please provide the total number of Lifeline customers in 2019 and in 2020.

RESPONSE: Please see Exhibit 1. Exhibit 1 sets out the number of Lifeline customers. WITA members assumed that the question was asking for information as of the year end for 2019 and 2020.

Sincerely,



RICHARD A. FINNIGAN

RAF/cs

cc: Client (via e-mail)

EXHIBIT 1

Company	Q2 Customers 90 day arrearage (or more)	Q6 Lifeline Count 2019 YE	Q6 Lifeline Count 2020 YE
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Asotin	1826*	3	4
Consolidated	1	102	103
Hat Island	6	0	0
Hood Canal	13	6	5
Inland	11	16	17
Kalama	10	6	6
Lewis River	See Asotin	23	21
McDaniel	See Asotin	25	22
Pend Oreille	19	61	62
Pioneer	8	26	22
Rainier Connect	44	12	12
Skyline	1	3	3
St. John	0	7	6
Tenino	8	23	22
Toledo	1	10	10
Wahkiakum	9	14	13
Whidbey	472**	32	35

Information is for ILEC operations and does not includes CLEC operations, if any exist for a company.

Note that Lifeline is available for either voice or broadband. Numbers reported may include broadband Lifeline customers.

\* For all three operating companies and unable to isolate regulated services.

\*\*Unable to isolate for regulated services.