



Cynthia Manheim
General Attorney

16331 NE 72nd Way
Redmond, WA 98052

T: 425-580-8112
F: 425-580-8333
cindy.manheim@att.com

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

**Re: Docket UT-100562
Policy Statement to Review State Universal Service Policies**

Enclosed for filing are comments by AT&T Communications of the Pacific Northwest, Inc., New Cingular Wireless PCS, LLC, and TCG Seattle (collectively "AT&T") regarding the above mentioned docket. Please let me know should you have any questions.

Sincerely,

Cynthia Manheim by Dac with permission

Cynthia Manheim
General Attorney

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

Policy Statement to Review State) **Docket UT-100562**
Universal Service Policies)

COMMENTS OF AT&T

AT&T¹ appreciates the opportunity to provide comments on the Discussion Draft prepared by the Washington Utilities and Transportation Commission (“Commission”) and attached to the Commission’s August 1, 2012 Notice Seeking Comment on Draft Legislation to Establish a State Universal Service Fund (“Notice”). AT&T commends the Commission on devoting the time and resources to continuing to investigate the need for a narrowly tailored state universal service fund.

I. INTRODUCTION

As the Notice accompanying the Discussion Draft does not include much detail about the Commission’s rationale behind the Draft Discussion, AT&T looks forward to participating in the upcoming workshop. The Notice does, however, reference the Commission’s November 29, 2012 Report Reviewing State Telecommunications Policies on Universal Service (“USF Report”) and stating that the Report “set forth a recommended approach to establishing a state universal service fund.”

In its USF Report, the Commission recommended that, “[s]ubject to a thorough earnings review of the state’s smaller telephone companies, create a targeted state universal service fund, with rigid funding criteria and of limited duration, for the transitional support of voice services...”² The USF Report stated that the Commission would complete a thorough

¹ AT&T Communications of the Pacific Northwest, Inc., TCG Seattle, and New Cingular Wireless PCS, LLC (collectively “AT&T”).

² USF Report, p. 1.

examination of the financial condition of the state's smaller telephone companies by October 1, 2012 and then legislation consistent with the recommendation could be considered in the 2013 legislative session.³ It appears that the Commission has completed its examination of the financial condition of the telephone companies in the state with less than 2% of the access lines and is prepared to move forward with agency request legislation which would establish a state universal service fund for local exchange carriers serving fewer than two percent of the access lines in the State and meeting certain other, as yet undefined, eligibility criteria.

II. DISCUSSION

A. Universal Service in Washington:

AT&T previously advocated in this docket that there are three interrelated components that must be addressed to ensure universal service in the state of Washington: 1) reducing intrastate switched access rates; 2) rebalancing of local rates up to a statewide retail rate benchmark; and, 3) establishing a state universal fund. Although the Federal Communications Commission ("FCC") addressed intrastate terminating switched access rates in its *ICC/USF Transformation Order*⁴ there are still two areas still in need of access reform⁵ and a transitional state universal service fund.

³ *Id.*

⁴ See In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, (rel. Nov. 18, 2011) ("*ICC/USF Transformation Order*").

⁵ As the Commission is aware, the *ICC/USF Transformation Order* requires all local exchange carriers to reduce intrastate terminating switched access to parity with interstate terminating switched access rates by July 1, 2013 with the first step occurring on July 1, 2012. The Order also requires the reduction of terminating switched access and reciprocal compensation rates to bill-and-keep by July 1, 2017 for price cap carriers and July 1, 2020 for rate-of-return carriers.

First, the *ICC/USF Transformation Order* does not eliminate the traditional universal service charge (“Traditional USF Charge”) of \$0.00152 on every originating and terminating intrastate switched access minute in the state. This charge is collected by all LECs and remitted to WECA for distribution to WECA companies. The Traditional USF Charge was established in Docket No. U-85-23 and was intended to be a transitional or temporary mechanism and not a permanent source of LEC support.⁶ Over 20 years later, the Traditional USF Charge is still being assessed on every originating and terminating switched access minute in the state. The Traditional USF Charge is not to be eliminated as part of the FCC’s *ICC/USF Transformation Order* and, therefore, should be transformed into an explicit subsidy that is not discriminatorily assessed on long distance providers. The universal service fund established in the Discussion Draft should eliminate the Traditional USF Charge on all intrastate access minutes in the state.

In the *ICC/USF Transformation Order*, the FCC gave numerous reasons for eliminating per minute intercarrier charges and rebalanced these charges to end user charges and explicit support mechanism.⁷ Moreover, as intrastate switched access minutes continue to decline, the support generated by this funding mechanism will continue to erode. Previously in this docket, WITA demonstrated that WECA access minutes decreased from 42% from 2004 to 2009.⁸ In fact, in essence, by July 1, 2017 for price cap carrier and July 1, 2020 for rate of return carriers there will no longer be terminating switched access minutes as bill-and-keep will be implemented, so carriers may no longer be tracking intrastate switched access minutes.

⁶ See Eighteenth Supplemental Order, Docket U-85-23, pg. 17 (December 30, 1986).

⁷ *ICC/USF Transformation Order*, ¶¶741-759.

⁸ Comments of the Washington Independent Telephone Association (June 16, 2010), Table 3, page 13.

Second, the *ICC/USF Transformation Order* does not reduce intrastate originating switched access rates and for rate of return carrier has not capped these rates. As such, there continues to be a need for the Commission to address originating access rates.

B. State Universal Service Fund Should be Narrowly Tailored

Any state universal service fund proposed by the Commission should be a narrowly tailored transitional access replacement fund. In this regard, there are several important concepts from the Commission's USF Report that should form the basis of the Discussion Draft. The Commission's recommended approach in the USF Report (Option 4) proposes that the fund would only "compensate the ILEC for reduced access revenues after increasing local service rates to a 'benchmark' but would not make the ILEC 'whole' relative to its overall shortfall relative to its total intrastate revenue requirement."⁹ As AT&T understands the Discussion Draft, the Commission would adopt rules with a "method for establishing the annual benchmark used to calculate the support an eligible local exchange carrier may receive from the fund."¹⁰ Although the details as to what elements would be included in the benchmark are not included in the Discussion Draft, AT&T assumes that this would be established through a rulemaking.

The second important concept from the Commission's recommended approach in the USF Report is that the universal service fund would "serve as a transitional mechanism during which ILECs could make the investments and operational adjustments necessary to further develop their networks and pursue business objectives and opportunities."¹¹ AT&T believes that this concept is captured in Section 7 of the Discussion Draft.

⁹ USF Report, p. 29.

¹⁰ Discussion Draft, Sec.4(1)(e).

¹¹ USF Report, p. 29.

In addition to these important concepts from the Commission's USF Report, the Commission must also consider the impacts of the *FCC's ICC/USF Transformation Order*. Specifically, the state USF should not be used to "make whole" any carriers that lose federal support as a result of the *FCC's ICC/USF Transformation Order* such as: (1) Updates to the corporate operations expense limitation formula for HCLS; (2) high cost support that is reduced if local rates are below a specified local rate floor; (3) Safety Net Additive Support that is phased out due to line loss; (4) high cost support that exceeds \$250 per-line per-month; and (5) high cost support that is lost due to the presence of unsubsidized competitors. Moreover, carriers should not be permitted to seek state fund recovery to offset the intrastate access revenue reductions required by the *FCC's ICC/USF Transformation Order*. AT&T is interested in learning at the upcoming workshop the methodology used by the Commission's to estimate the funding requirement.

C. Contributions to a State Universal Service Fund

In general, AT&T believes that the contribution base for a state universal service fund should be as broad as possible within the confines of the jurisdiction of the state commission. For example, to the extent the Commission elects to include VoIP services in the contribution base, it must do so in a manner consistent with the FCC's *Interim Contribution Order*.¹² Further, AT&T believes that the Discussion Draft should be modified to require the network connection fee ("NCF") to be assessed directly on the consumer such that the

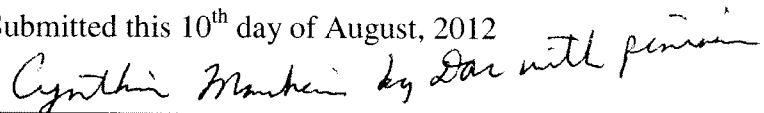
¹² See Universal Service Contribution Methodology, Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format, IP-Enabled Services, Report and Order and Notice of Proposed Rulemaking, FCC Rcd 7518 (2006) ("*Interim Contribution Order*").

communications provider is merely collecting and remitting the NCF. The Discussion Draft currently assesses the NCF directly on the communications provider that can pass-through the fee to its consumers.¹³ Any legislation should retain the ability for the Commission through a rulemaking to modify the contribution methodology as there may be reasons for additional changes, including changes that may occur at the federal level.

III. CONCLUSION

As AT&T has previously advocated in this docket, AT&T believes that a state universal service fund is needed in Washington to ease the transition away from implicit subsidies. After the FCC's *ICC/USF Transformation Order*, originating intrastate switched access rates and the Traditional USF Charge which subsidize the artificially low local retail rates still need to be addressed in Washington. AT&T believes as long as the state universal service fund in the Discussion Draft addresses these two items and is transitional it should benefit consumers in Washington.

Submitted this 10th day of August, 2012



By: Cynthia Manheim, WSBA# 26524
Representing AT&T Communications of the Pacific
Northwest Inc., New Cingular Wireless PCS, LLC,
and TCG Seattle
PO Box 97061
16331 NE 72nd Way
Redmond, WA 98073-9761
Telephone: (425) 580-8112
Facsimile: (425) 580-8652
Email: cindy.manheim@att.com

¹³ See Discussion Draft, Sec. 3(1).