



August 10, 2012

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

Re: UT-100562 - Comments on Draft Legislation

Dear Mr. Danner:

The Washington Independent Telecommunications Association (WITA) welcomes the opportunity to comment on the draft legislation pursuant to the Notice issued August 1, 2012 in the above referenced docket.

WITA appreciates the fact that the Commission is undertaking this initiative to establish a State Universal Service Fund. Commission Staff and the Commission itself have put a great deal of effort into investigating and confirming the need for this fund and we applaud the results.

Overall WITA feels that the draft is well written and we support moving forward with the legislation. However, there are areas where WITA would like to see changes.

WITA would much prefer a sunset clause that would extinguish the fund if the Commission found that the fund was no longer necessary. As it is now drafted, in order for the fund to continue, it would have to go through the full legislative process again. As we all know, political processes are rife with uncertainty.

In Section 7, there are delayed effective dates. It may not be immediately apparent, but from the experience that some WITA members have with universal service funds in other states, there are certain activities that have to occur before a state fund can be implemented. As the legislation is currently written the Advisory Board needs to be established and functioning prior to the selection of the fund administrator. Collection of monies for the fund needs to start in advance of distributions so that the monies are in place and there is at least a small reserve in the event that collections suddenly fall off precipitously.

In light of these administrative necessities WITA believes that having an effective date one year after the enactment of the legislation would unduly delay implementation of the fund. For this reason WITA suggests that the first two sentences of Section 7 be deleted and be replaced with the following language:

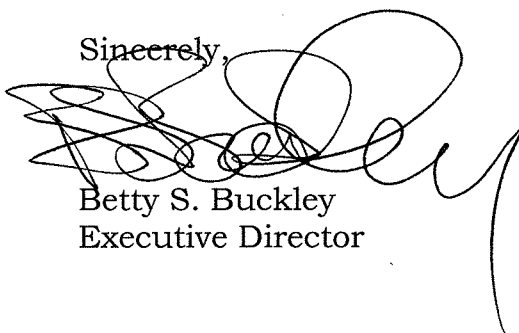
NEW SECTION. Sec. 7. The Advisory Board shall be appointed no later than July 1, 2013. The administrator shall be selected no later than September 1, 2013. Contributions into the fund should begin no later than October 1, 2013. The fund shall be fully operational no later than December 31, 2013.

Another point is that the concept of a benchmark which is discussed both in Section 3(5) and in Section 4(1)(e). Because it is discussed in both places, there are potential ambiguities. For example, it could be argued that since the benchmark is discussed in both locations, there must be two aspects of the benchmark that are in play and differ between Section 3(5) and Section 4(1)(e). In order to remove this possible ambiguity, WITA suggests that the clause in Section 3(5) that reads "including annual benchmarks of a reasonable amount customers should pay for basic residential service provided over the incumbent public network supported by the fund" be deleted. It appears that the reference to the benchmark is fully covered by the rulemaking authority in Section 4(1)(e).

WITA does have some concerns about the administration of the fund. For example, how does the fund accommodate a situation in which a company is not eligible the first year of fund, but could be eligible the second year of the fund? However, those can be addressed at the appropriate time, once the legislation authorizing the state USF has been enacted.

WITA looks forward to participating at the workshop to be held on August 14, 2012.

Sincerely,

A handwritten signature in black ink, appearing to read "Betty S. Buckley", written over the typed name. The signature is fluid and cursive, with a long vertical stroke extending downwards from the end.

Betty S. Buckley
Executive Director