

Agenda: June 16, 2000
Item:

Docket: UT-971140
Company: Washington Exchange Carrier Association

Staff: Betty Erdahl, Policy Research Specialist
Maurice Twitchell, Regulatory Consultant
Tim Zawislak, Policy Research Specialist

Recommendation:

Defer action until the next Open Meeting currently scheduled for June 28, 2000.

Background:

On July 15 1997, the Washington Exchange Carrier Association (WECA)¹ filed with the Commission, in Docket UT-971140, revisions to its currently effective Tariff WN U-1. The Commission suspended the effect of the tariff revisions pending a hearing. On October 30, 1998, the Commission entered the *Fifth Supplemental Order Rejecting Tariff Filing* (Fifth Order). In the Fifth Order the Commission recognized that substantial issues had to be raised, addressed, and resolved before WECA could undertake any review.

The Commission required WECA, the individual company members, and Commission Staff, at a minimum, to begin informal discussions on a monthly basis to address these issues. U S WEST Communications, Inc. (U S WEST) and AT&T of the Pacific Northwest, Inc. (AT&T), and other interested parties, were offered the opportunity to participate in this process. These informal discussions continued for the better part of a year and resulted in a "Report and Settlement Agreement," dated September 8, 1999.

The Report and Settlement Agreement was filed by WECA on behalf of WECA, its member companies, and Commission Staff². The report dealt with summarizing the discussions and addressing the issue of transition³ in a new environment anticipating the advent of competition.

¹WECA is authorized under WAC 480-80-048 to collectively consider and file (or pool) certain intrastate rates, tariffs, and conditions of service. A current list of WECA's membership, by pool administered, is included as Attachment 1.

²The other participants in the informal discussions required by the Fifth Order did not object to the settlement, but were not signatories.

³Transition is a term which indicates a shift in cost recovery from Toll/Access to Local. Although it is an outdated approach in a market-based environment, the FCC recently invoked it once again through its adoption of the CALLS plan for interstate access charge reform.

The settlement agreement, on the other hand, was crafted around the concept of capping WECA's existing rates and providing a framework for membership in the pooling process. This approach was taken in large part because the parties believed that prospective resources would best be spent on, "... addressing progress in a new environment rather than debating whether access charges need to be modified under standards set forth in the U-85-23 Orders."⁴ In other words, the agreement was a way to resolve differences in the current proceeding without reaching agreement on all of the issues.

On November 30, 1999, the Commission issued its *Eighth Supplemental Order Accepting Report and Settlement Agreement* (Eighth Order). In this order the Commission recognized that changes in the environment, such as intraLATA dialing parity and the adoption of WAC 480-120-540⁵, had a substantial effect on the direction of the discussions. The Commission also noted that a number of issues remained "unresolved," and that, "[t]he parties agree that the access charge tariff filings required of the companies in compliance with the access charge reform rule, WAC 480-120-540, modify the method by which access charge rates are set and that the formula prescribed for this purpose in Cause U-85-23 is no longer valid."⁶ {Emphasis added}

The Commission's Eighth Order accomplished the following:

- A. Acceptance of the Report and Settlement Agreement.
- B. Acceptance of the Transition Analysis.
- C. Acceptance of the WECA Membership Process.
- D. Requirement for WECA to establish and file mechanisms and procedures by which pooled revenue will be allocated among its members, rates will be adjusted upon entry or exit of members from the pool, and other situations requiring adjustments of rates.**
- E. Direction to WECA to continue in its current role as fund administrator, as modified by the Settlement Agreement, until such time as new Universal Service fund legislation is adopted and effective.
- F. Direction to Staff to consider amending or repealing WAC 480-80-047.

⁴Settlement Agreement at page 8.

⁵WAC 480-120-540 is the Commission's "Terminating Access Charge" rule resulting from the rulemaking proceeding in Docket UT-970325. This rulemaking was recently affirmed by Thurston County Superior Court (98-2-02413-2), and is currently on appeal before the Washington State Court of Appeals.

⁶Eighth Order at page 7.

The subject of today's presentation is item "D." in bold above. The Commission ordered that these mechanisms and procedures were to be filed no later than March 1, 2000, for Commission approval. WECA has timely submitted its revised access plan, which it has labeled as, "Washington Consumer Access Plan," (or "WCAP").

Discussion:

On May 15, 2000, the Commission issued a Notice of Hearing and Opportunity to Submit Written Comments, for parties of record and the general public to express their views and any proposed modifications to WECA's plan at this Open Meeting (*June 16, 2000*). Parties were encouraged to submit written comments by June 7, 2000. A summary of parties' responses and Staff's review are included below:

Comments of U S WEST Communications, Inc.

On June 7, 2000, U S WEST submitted written comments supporting the Pend Oreille Transition and opposing the continuation of the Traditional USF Pool. U S WEST's reasons for opposing the continuation of the Traditional USF Pool are that:

1. The Traditional USF Pool has no basis in current USF funding needs.
2. USF funding should be based on a verifiable showing of need.
3. USF funding should be based on a clear set of USF cost guidelines.
4. The Commission, the industry, and the legislature need to develop a new universal service cost methodology and recovery mechanism that serve all telecommunications providers pursuant to the guidelines provided in the Telecommunications Act of 1996.

In the interim, U S WEST suggests that until a permanent USF funding mechanism is available to all companies, on equal terms and conditions, the WECA companies should be required to satisfy their USF needs through the interim USF element(s) allowed under the Commission's terminating access rule, WAC 480-120-540. U S WEST would not oppose a reasonable transition period, similar to the Pend Oreille transition, with a review of revenue objectives within one year. Additionally, U S WEST suggests that companies that currently tariff and recover the Traditional USF element should be required to discontinue the recovery by removing the element from their respective tariffs.

Comments of Sprint Corporation

On June 7, 2000, Sprint Corporation, on behalf of United Telephone Company of the Northwest and Sprint Communications Company, L.P. (collectively, "SPRINT") submitted written comments pointing out inconsistencies between WECA's proposal and the Settlement Agreement. SPRINT goes on to recommend revisions to WECA's proposal which would address and resolve these inconsistencies, as well as additional improvements.

SPRINT recommends in its summary that the, "Commission follow the spirit of the Settlement Agreement and cap WECA's CCL, interim, and traditional USF rates; however, the cap should not constrain entry by new participants as long as rate adjustments are made on a revenue-neutral basis. Sprint recommends against closing the traditional pool so that the Commission can preserve its option of collapsing the interim and traditional USF and allowing other LECs to participate in the pool at their option. Each of the three pools should be managed separately, rather than tying participation in the Interim USF pool to participation in the CCL pool. In order for the pooling mechanism to be fair, distribution ratios should be changed concurrent with the effective date of filings, and companies should not have to wait a year to enter or exit the pool, or to make rate adjustments, to the extent adjustments are permitted. If a pool entrant exits any of the funds, including the traditional USF fund, then rates should be reduced promptly. Any reduction in revenue objective for a participant that arises out of a Commission order, or an approved rate rebalancing, should likewise result in a pool rate reduction."

Comments and Clarifications from WECA

On June 9, 2000, WECA filed a letter⁷ providing comments and clarifying certain aspects of its proposed plan along with a redlined version⁸ of the plan. In addition, WECA provided a clean version of its revised plan incorporating the clarifying language available to date.

Staff's Review and Recommendations

Staff's review of WECA's proposal as revised by the June 9, 2000, clarification letter, reveals that the plan is consistent with the settlement agreement with one exception. That exception is the requirement for new companies to use a historical test year in paragraph 6.d. (and for any company in paragraph 22.). In order to remedy this inconsistency with the settlement agreement Staff proposes that the second sentence in paragraph 6.d. be deleted, and that paragraph 22. end after the phrase, "... shall file supporting workpapers[.]" The use of a historical test year and reliance on the FCC's 47 CFR Part 69 procedures are undue burdens for new entrants and companies volunteering to serve unserved areas. Additionally, this lack of flexibility would make it unnecessarily difficult for companies to pool line extension charges, as well.

⁷Letter from Richard A. Finnigan dated June 9, 2000, included as Attachment 2.

⁸Entitled, "Washington Carrier Consumer Access Plan," included as Attachment 3.

Staff has discussed these additional proposed revisions with WECA's counsel, however those changes could not be made until after consideration by the WECA Board which will meet again early next week. Staff urges the WECA Board to consider these changes, as well as all issues brought up by the Commission and/or presentations made by interested parties during the course of this inquiry (both written and oral comments) that deal with clarifications to the plan in order to be consistent with the settlement agreement. WECA should respond to such requests for clarification, along with appropriate revisions to the plan, by no later than June 21, 2000.

This item may then be brought back before the Commission at its June 28, 2000, Open Meeting, for final Commission action.

Although there are numerous other legal, policy, and technology issues (outside the scope of the settlement agreement) which are also ripe for discussion and which continue to create new issues relating to universal service, staff recommends those items be referred to another process.

Some issues may result in a need for amendments to WECA's plan⁹, yet other amendments may be desirable for other reasons such as practicality or reducing administrative functions. In addition, there are tangential activities that are currently underway at both the state and federal level which include (but are not limited to):

- Rural Task Force and Federal State Joint Boards on Universal Service and Separations
- FCC Decisions Relating to Universal Service, Access Charges, and Separations
- Impact of the FCC's CALLS Decision
- Appeal of the Commission's Terminating Access Charge Rule
- Legislative Possibilities Regarding a State Universal Service Fund

Staff is open to discuss these issues (and any others) with the industry and other stakeholders, to report to the Commission with any recommendations, and to facilitate a new proceeding if warranted. Staff believes that a Notice of Inquiry proceeding would be the most appropriate vehicle to foster such discussions. However, Staff would also be willing to participate in a WECA docket process should the Commission favor that approach.

Conclusion:

Staff therefore recommends that the Commission allow for discussion of WECA's proposal at today's Open Meeting, but defer final action until the June 28, 2000, Open Meeting.

⁹Permitted by paragraph 26 of WECA's plan and WAC 480-80-048(4) of the Commission's rules.

WECA POOL MEMBERSHIP LIST

	COMPANY NAME	<u>Traditional USF</u> <u>\$0.00152</u> <u>per MOU</u>	<u>Interim USF</u> <u>\$0.05587</u> <u>per Term MOU</u>	<u>Common Line</u> <u>\$0.01000</u> <u>per Orig MOU</u>
1	Asotin Telephone Company (Asotin/TDS)	X	X	X
2	CenturyTel of Washington, Inc. (Century/PTI)	X	X	X
3	CenturyTel of Cowiche, Inc. (Century/Cowiche)	X	X	X
4	Ellensburg Telephone Company (Ellensburg/MJD)	X	X	X
5	Hat Island Telephone Company (Hat Island)	X	X	X
6	Hood Canal Telephone Company, Inc. (Hood Canal)	X	X	X
7	Inland Telephone Company (Inland)	X	X	X
8	Kalama Telephone Company (Kalama)	X	X	X
9	Lewis River Telephone Company (Lewis River/TDS)	X	X	X
10	Mashell Telecom, Inc. (Mashell)	X	X	X
11	McDaniel Telephone Company (McDaniel/TDS)	X	X	X
12	Pend Oreille Telephone Company (Pend Oreille)	Hybrid		
13	Pioneer Telephone Company (Pioneer)	X	X	X
14	St. John, Co-operative Telephone and Telegraph Company (St. John)	X	X	X
15	Tenino Telephone Company (Tenino)	X	X	X
16	The Toledo Telephone Company, Inc. (Toledo)	X	X	X
17	Western Wahkiakum County Telephone Company (Wahkiakum)	X	X	X
18	Whidbey Telephone Company (Whidbey)	X	X	X
19	Yelm Telephone Company (now Y-COM Networks)	X	X	X
20	Electric Lightwave, Inc. (ELI) *	X *		
21	GTE Northwest, Inc. (GTE-NW) *	X *		
22	Rainier Cable, Inc. (Rainier) *	X *		
23	TCG of Seattle, Inc. (AT&T/TCG) *	X *		
24	United Telephone Company of the Northwest, Inc. (Sprint/United) *	X *		
25	U S WEST Communications, Inc. (U S WEST) *	X *		

* Note: Although these companies contribute into the Traditional USF Pool, by collecting and remitting the rate to WECA, they do not receive any distributions.

