

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET UT-971140
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	ORDER 10
)	
v.)	
)	
WASHINGTON EXCHANGE)	ORDER TERMINATING
CARRIER ASSOCIATION,)	TRADITIONAL USF FUND
)	
Respondent.)	
)	
.....)	

BACKGROUND

- 1 On June 28, 2000, the Washington Utilities and Transportation Commission (Commission) entered the Ninth Supplemental Order in this docket approving the Washington Exchange Carrier Association’s (WECA) Washington Carrier Access Plan (Plan). The Plan covers WECA’s operations in administering three pools of funds derived from rate elements for intrastate switched access charges, including the “universal service support pool” created in Docket U-85-23 (“Traditional USF”). Paragraph 4 of the Plan provides, “At such time as the legislature adopts legislation authorizing a new universal service program that applies to WECA’s members and such new universal service plan has been implemented, the Plan shall be reviewed to determine if modifications are appropriate.”
- 2 In 2013, the legislature adopted legislation authorizing a state universal communications services program (State USF Program).¹ The Commission has proposed rules in Docket UT-131239 to implement that program beginning July 1, 2014, as the statute requires. Pursuant to those rules, distributions from the State USF Program will include amounts that eligible WECA members otherwise would have received from the Traditional USF.
- 3 On April 4, 2014, the Commission issued a notice that it has reviewed the Plan in light of the enactment and implementation of the State USF Program and proposes to

¹ RCW 80.36.630 through 80.36.700.

modify the Plan to terminate the Traditional USF coincident with the effectiveness of the State USF Program on July 1, 2014. The Commission requested written comments by May 5, 2014, and scheduled a hearing on the proposal for May 15, 2014.

- 4 The Commission received written comments from WECA, Frontier Communications Northwest Inc., CenturyLink, and AT&T Corp., New Cingular Wireless PCS, LLC, and Teleport Communications America, Inc. All of these commenters support or do not oppose terminating the Traditional USF as the Commission proposes.
- 5 WECA, however, also expresses two concerns. First, WECA observes that there will be a lag between the final payment from the Traditional USF in July and the first payment from the State USF Program in January, resulting in a cash flow problem for its members. Second, WECA states that it must undertake a substantial amount of work to close down its administration activities after Commission terminates the Traditional USF, and WECA will need the funds to complete that work.
- 6 CenturyLink points out that it draws from, as well as contributes to, the Traditional USF fund and seeks to lessen the adverse impact of the loss of that funding. CenturyLink construes the termination of the Traditional USF access pool as an end to the designation of the Traditional USF rate element as a universal service support element. CenturyLink requests that the Commission find that rate element is an access element, the revenues from which could then be recovered through the Access Reduction Charge (ARC) the Federal Communications Commission's (FCC) authorized as part of the phase down of intrastate access charges it required in FCC Order No. 11-161.

DISCUSSION AND DECISION

- 7 The Commission terminates the Traditional USF. That fund has served the purpose for which it was created, and the legislature has established a replacement mechanism for providing support to small incumbent local exchange carriers (ILECs) to assist them as they transition to the modern telecommunications market. That market has changed dramatically since we approved the Traditional USF. Access charges assessed to long distance carriers are in decline as telecommunications users increasingly shift to alternative services and technologies to meet their communications requirements. Consequently, subsidy mechanisms such as the Traditional USF have outlived their purpose and must give way to more explicit

funding approaches like the State USF Program. Carriers that have historically been the beneficiaries of such support should increasingly look to their own customers for recovery of a greater portion of their costs. All stakeholders in this proceeding concede that now is the time to terminate the Traditional USF. We agree.

8 Accordingly, we require that WECA cease collecting funds to distribute to its members that are generated from the Traditional USF switched access charge rate element that local exchange carriers (LECs) charge after June 30, 2014. We address WECA's concerns with the resulting cash flow issue in our order in Docket UT-131239 adopting the rules governing the State USF.

9 We agree with WECA, however, that it should have the funds necessary to close its administrative operations. WECA estimates it will need \$180,000 for this purpose and that the Traditional USF rate element should generate that amount in 30 days. Accordingly, we require all LECs to continue to collect and remit to WECA the revenues from the Traditional USF rate element for an additional 30 days beyond July 1, 2014, and authorize WECA to retain those funds to terminate its administration of the Plan, subject to a true-up and to a Staff review and confirmation of the reasonableness of the actual costs WECA incurs for that purpose. Effective August 1, 2014, LECs will no longer be required or authorized to include the Traditional USF rate element in their intrastate access charges.

10 We decline to recharacterize the Traditional USF rate element as CenturyLink proposes. The sole purpose of that rate element has always been to fund the Traditional USF. We stated less than two years ago that this rate element "is a universal service support element . . . and is not an access element that will be terminated or otherwise modified under the FCC's order No. 11-161."² The termination of that rate element does not change its nature, and we find no reasoned basis for altering our prior determination.³ Recharacterizing the Traditional USF rate

² *In re Petition of WECA for Tariff Revisions on Less than Statutory Notice and Confirmation of the Continuation of the Traditional Universal Service Fund Rate Element*, Docket UT-120853, Order 01 ¶ 19 (July 2, 2012).

³ We are also uncomfortable recharacterizing the Traditional USF rate element as an access rate element the instant we terminate it just so CenturyLink can represent to the FCC that the lost revenues should be included in the ARC. Such sleight of hand arguably is inconsistent with the intent of FCC Order No. 11-161, and while we have our reservations about the FCC's action in

element, moreover, would enable every other Washington ILEC to increase its ARC, even though no other ILEC is losing Traditional USF funding, and we have no desire to create such a windfall opportunity. Our goal is to shift state universal service funding from the Traditional USF to the State USF Program, not to facilitate increases to the ARC.

ORDER

THE COMMISSION ORDERS that:

- 11 (1) The traditional “universal service support pool” included in the Washington Exchange Carrier Association’s Washington Carrier Access Plan is terminated effective July 1, 2014.
- 12 (2) The Washington Exchange Carrier Association shall not distribute to its members any funds collected from the rate element that has been used to fund the traditional “universal service support pool” that local exchange carriers include in their intrastate switched access charges after June 30, 2014.
- 13 (3) All local exchange carriers shall continue to collect and remit to the Washington Exchange Carrier Association the revenues from the intrastate switched access charge rate element that has been used to fund the traditional “universal service support pool” that local exchange carriers charge from July 1, 2014, through July 31, 2014, and the Washington Exchange Carrier Association is authorized to retain those revenues for the sole purpose of funding the termination of the Washington Exchange Carrier Association’s administration of the Washington Carrier Access Plan.
- 14 (4) After July 31, 2014, no local exchange carrier is authorized to include the rate element in the carrier’s intrastate switched access charges that has been used to fund the traditional “universal service support pool.”
- 15 (5) The Washington Exchange Carrier Association shall submit a report detailing the activities and associated costs incurred for terminating administration of the Washington Carrier Access Plan, including a proposal for distribution of

that order, we must respect and comply with both the letter and the spirit of FCC orders as long as they are the law.

any retained funds that remain unspent, within 30 days after completing those activities. Commission Staff shall review the report and recommend whether the Commission should accept that report as being in compliance with this Order or require modifications to that report.

- 16 (6) The Secretary is authorized to approve, require modifications to, or resolve any disputes concerning the Washington Exchange Carrier Association's report on terminating its administration of the Washington Carrier Access Plan or the distribution of any unspent funds retained to terminate that administration.

Dated at Olympia, Washington, and effective May 23, 2014.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

PHILIP B. JONES, Commissioner

JEFFREY D. GOLTZ, Commissioner