

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

In the Matter of

Rulemaking to consider amending and adopting rules in WAC 480-120, telephone companies, and WAC 480-123, universal service, to implement legislation establishing a state universal communications service program.

Docket No. UT-131239

**COMMENTS
OF
THE WASHINGTON INDEPENDENT
TELECOMMUNICATIONS ASSOCIATION
IN REPLY TO COMMENTS OF AT&T**

August 13, 2013

The Washington Independent Telecommunications Association ("WITA") submits these Reply Comments to respond to the Comments filed by AT&T Corp., New Cingular Wireless PCS, LLC, and Teleport Communications America, Inc. (collectively "AT&T").

In its comments, AT&T recommended that part of the new universal service fund would be used to replace the traditional USF rate element applicable to intrastate access minutes.¹ WITA agrees with this aspect of AT&T's Comments. It has clearly been the understanding that the traditional USF access rate element would be replaced by the new universal service fund.

However, AT&T goes beyond that recommendation and makes a further recommendation that the new universal service fund be used to lower originating access rates.² Under the AT&T proposal, there would be absolutely no replacement of lost access revenue relating to the federal reforms and due to access bypass and call termination problems. Instead, the entire fund would be used to benefit AT&T and other interexchange carriers. There would be no benefit to Washington consumers. AT&T's recommendation would simply increase the profit margin for AT&T and would do nothing to help keep local rates affordable.

AT&T's recommendation to use the new state universal service fund to reduce originating access rates is decidedly not in keeping with the purpose and intent of the legislation creating the new universal service fund.³ Under ESSHB 1971, the Legislature focused on benefits that the new fund could provide to consumers served by rural incumbent local exchange

¹ Rulemaking to consider amending and adopting rules in WAC 480-120, telephone companies, and WAC 480-123, universal service to implement legislation establishing a state universal communications service program, Docket UT-131239, Comments of AT&T, (Aug. 2nd, 2013) at p. 2-4

² Comments of AT&T, at p. 5

³ See, Second Engrossed Second Substitute House Bill 1971, Part II, § 201, *et seq.* ("ESSHB 1971").

benefits that the new fund could provide to consumers served by rural incumbent local exchange carriers.

For example, in Section 201(1)(a), the Legislature made the finding that:

"The benefit that all consumers and communications providers derive from connection to the legacy public telephone network is enhanced by a universal service program that enables as many consumers to be connected to the public network as possible. . . ." (emphasis supplied).

The Legislature went on to find in Section 201(1)(b) that "Consumers in all areas of the state should continue to have access to communications services at reasonable rates." (emphasis supplied). The clear focus of the legislation is on using the universal service fund to keep local rates reasonable for consumers, not to lower rates for interexchange carriers.

The Legislature went on in Section 201(2) to describe changes that are occurring in the communications field, including changes in federal regulations governing intercarrier compensation and federal universal service support. With that backdrop, the Legislature found that:

"These changes are adversely affecting the ability of some communications providers to continue to offer communications services in rural areas of the state of Washington at rates that are comparable to those prevailing in urban areas. These changes, absent explicit federal and state universal service support for such communications providers, may lead, in the short term, to unreasonable telephone service rate increases or cessation of service for some Washington consumers." (emphasis supplied).

The Legislature went on to conclude as follows: "Therefore, it is in the best interest of the state to ensure that incumbent local exchange carriers are able to continue to provide services as the carrier of last resort." It is clear that the purpose of the new universal service fund is not to benefit AT&T and other interexchange carriers. Reducing originating access rates does nothing to help keep local rates reasonable.

In addition, based upon analysis that has been done for calendar years 2011 and 2012, using the format developed by Commission Staff known as the "RLEC Model," particularly focusing on Attachment 2 of that RLEC Model, there is a very high likelihood that without additional support from the state universal service fund, it will, in the terms used by the Legislature, lead to "unreasonable telephone service rate increases."⁴ Indeed, nine of the eighteen Washington rural incumbent local exchange carriers had a negative rate-of-return in 2012.⁵ Using a revenue neutral approach as advocated by AT&T would not provide any support to those companies to maintain local service rates at reasonable levels, which is the express intent of the legislation.⁶ AT&T's recommendation should be rejected out of hand.

Respectfully submitted this 13th day of August, 2013.

WASHINGTON INDEPENDENT
TELECOMMUNICATIONS ASSOCIATION

By: 

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⁴ ESSHB 1971, Section 201(2).

⁵ WITA is close to being able to provide data with supporting analysis as part of this docket. WITA expects to file data in the near term. In the meantime, the above statement is based upon the preliminary analysis of the information submitted by member companies.

⁶ ESSHB 1971, Section 201.