

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
 COMMISSION

In The Matter of the Petition of)	
)	DOCKET NO. UT-991930
MOUNT ST. HELENS TOURS, INC.)	
)	
For Designation of a Telecommunications)	
Common Carrier to Serve an Unserved)	
Community, or Portion Thereof)	
)	
.....)	
)	
In the Matter of Designation of a Telecom-)	
munications Common Carrier to Serve)	DOCKET NO. UT-993000
WILDERNESS LAKE COMMUNITY, or)	
Portion Thereof, on the Commission's Own)	
Motion)	
)	
U S WEST COMMUNICATIONS, INC.)	
)	
GTE NORTHWEST INCORPORATED)	SIXTH SUPPLEMENTAL
)	ORDER ACKNOWLEDGING
)	SETTLEMENT AGREEMENT,
)	TERMINATING
)	INVESTIGATION AND
)	DISMISSING PROCEEDINGS
.....)	

- 1 **BACKGROUND.** On October 28, 1999, the Commission entered an Order initiating a proceeding to determine if Wilderness Lake, Pend Oreille County, is a community or portion thereof as contemplated in 47 U.S.C. §214(e)(3) and if so, to designate a telecommunications common carrier to serve Wilderness Lake. Docket No. UT-993000.

- 2 On December 7, 1999, Mount St. Helens Tours, Inc. filed a petition with the Commission seeking designation of a telecommunications common carrier to serve the unserved community at the 24 mile marker of SR 504. Docket No. UT-991930.

3 On January 14, 2000, the Commission consolidated Docket Nos. UT-991930 and UT-993000 with a third docket, Docket No. UT-991931.¹

4 **Appearances:** The following parties entered appearances in both dockets: Douglas N. Owens, attorney, Seattle, Washington, and Steven R. Beck, attorney, Denver, Colorado, represent U S WEST Communications, Inc., now known as Qwest Corporation (Qwest). Judith A. Endejan, attorney, Seattle, Washington, represents GTE Northwest Incorporated, now known as Verizon Northwest, Inc. (Verizon). Shannon Smith and Jonathan Thompson, Assistant Attorneys General, Olympia, Washington, represent Commission Staff. Robert Cromwell, Assistant Attorney General, Seattle, Washington, represents Public Counsel.

5 The following parties entered appearances in Docket No. UT-991930 only: Odine H. Husemoen, attorney, Longview, Washington, represents Mount St. Helens Tours, Inc. (Mount St. Helens). Calvin K. Simshaw, attorney, Vancouver, Washington, represents CenturyTel of Washington, Inc. (CenturyTel). Richard A. Finnegan, attorney, Olympia, Washington, represents Washington Independent Telephone Association (WITA) and Toledo Telephone Company. Reed E. Gardner, Deputy Monument Manager, pro se, represents the U.S. Forest Service.

6 The following party entered an appearance in Docket No. UT-993000 only: Richard J. Busch, attorney, Seattle, Washington, represents Sprint Spectrum L.P.(Sprint).

7 **Suspension of Proceedings.** On June 21, 2000, Qwest, Verizon, Mount St. Helens Tours, and Commission Staff filed a joint motion to continue the evidentiary hearing in the Mount St. Helens Tours matter, Docket No.UT-991930. The joint motion stated that the parties had agreed in principle to a settlement that would obviate the need for any hearing on the issues. Formal agreement depended on the outcome of judicial approval of a pending settlement agreement before King County Superior Court. Commission Staff filed a similar motion with respect to the Wilderness Lake Community matter, Docket No. UT-993000, on June 30, 2000.

8 **Stipulation for Dismissal.** On January 9, 2001, the parties to both proceedings filed a Stipulation for Dismissal. The parties stipulate that the investigations should be terminated and the proceedings should be dismissed as moot on the basis of the approval by the King County Superior Court in *U S WEST Communications, Inc. v. Washington Utilities and Transportation Commission, (Superior Court Order)*, No. 96-2-09623-7 SEA, of the plan of disposition of refunds by U S WEST

¹ Docket No. UT-991931 concerned a petition filed by Barbara Brady requesting that the exchange area boundaries of GTE Northwest Incorporated be changed to include the community of 29 families on or near SR 97 in Section 13 of Township 28 N. Range 23 E, W.M. On June 9, 2000, Barbara Brady, Commission Staff and GTE filed a settlement agreement which was approved and adopted by the Commission. *Fourth Supplemental Order Approving and Adopting Settlement Agreement*, Docket No.UT-991931, June 28, 2000.

Communications, Inc., as described in the Court's Order dated August 4, 2000, and Attachment thereto.²

9 The parties stipulate that as a result of the *Superior Court Order*, there is now as to both of the above proceedings, a common carrier, namely Qwest Corporation, that will provide the services that are supported by Federal universal service support mechanisms in the areas designated in the Petition in Docket No. UT-991930 and the Order Instituting Investigation in Docket No. UT-993000, on terms as set forth in the attached court order. There being a common carrier that is willing to provide the statutory services in accordance with applicable law, the parties stipulate that no justiciable issues remain for resolution by the Commission under state or federal law.

10 The parties further stipulate that the circumstances of this resolution of the issues are unique and nothing in this agreement may be used as precedent or evidence of any admission in any other legal or regulatory proceedings. The parties further stipulate that this agreement shall not be construed as precedent with respect to the establishment of any legal obligation to provide telecommunications services in any geographic area other than those covered by this stipulation.

11 **COMMISSION DISCUSSION AND DECISION:** The Commission has jurisdiction over the parties and the subject matter of these proceedings. As a result of the *Superior Court Order* approving the plan for disposition of refunds by Qwest, Qwest will extend facilities to, and provide telecommunications service to, the Mount St. Helens Tours area and the Wilderness Lake area. Qwest's commitment to extend and provide services to the two areas identified in this proceeding leaves no justiciable issues for Commission resolution. Accordingly, the proceeding should be dismissed as moot.

ORDER

12 The investigations for designation of a telecommunications common carrier to serve the Mount St. Helens Tours area and the Wilderness Lake area are terminated, and the proceedings are dismissed.

²The Court's Order and Attachment are attached to this Order and incorporated herein.

DATED at Olympia, Washington, and effective this 25th day of April, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION


MARILYN SHOWALTER, Chairwoman


RICHARD HEMSTAD, Commissioner

NOTICE TO PARTIES: This is a final Order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this Order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-09-820(1).

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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

U S WEST Communications, Inc.,
a Colorado corporation,

Petitioner,

v.

Washington Utilities and Transportation
Commission,

Respondent.

NO. 96-2-09623-7 SEA

PA
[PROPOSED] ORDER GRANTING JOINT
MOTION REGARDING FINAL REFUND
DISPOSITION

This Court has before it the Joint Motion of Respondent, the Washington Utilities & Transportation Commission, Petitioner, U S WEST, Public Counsel, and intervenors AARP (American Association of Retired Persons) and TRACER ((Telecommunications Ratepayers Association for Cost-Based and Equitable Rates) Regarding Final Refund Disposition. The Court has reviewed the Joint Motion and supporting Affidavit of Theresa A. Jensen and Attachments thereto, and the file in this action, and has heard argument of counsel. The Court retained jurisdiction over this matter pursuant to prior orders, and by order of the Supreme Court of the State of Washington. The Court hereby

ORDERS that the relief requested in the Joint Motion is granted; and

[PROPOSED] ORDER GRANTING JOINT
MOTION REGARDING FINAL REFUND
DISPOSITION - 1

{13141-0049/B-A003685.263}

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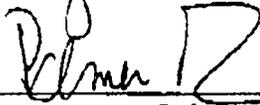
ORDERS that, pursuant to RCW 63.29.080(2) and RCW 63.29.190, U S WEST shall remit to the Washington State Department of Revenue the funds associated with refund checks that have been returned to U S WEST from customers; and

ORDERS that the settlement reached by the parties to the Joint Motion as to the disposition of any further U S WEST refund liability is appropriate and lawful, and is hereby approved in accordance with the conditions set forth in the Joint Motion, and Attachments B (revised version submitted at the hearing) and C to the Affidavit of Theresa A. Jensen (dated June 27, 2000), copies attached hereto and incorporated herein. Such funds are not subject to escheat to the state under any state statute, and this Court hereby approves the parties' proposed settlement and distribution under the cy-pres doctrine and orders disposition of the \$26 million fund as set forth in the Joint Proposal; and further

Orders that this Order, requiring the returned checks amount to be turned over to the Department of Revenue, and ordering disposition of an additional approximately \$26 million according to the parties' Joint Proposal, is approved as U S WEST's full and final refund liability in this case, and U S WEST is hereby discharged from any further liability; and further

Orders that the Court retains jurisdiction to address any issues that may arise in connection with carrying out the settlement approved herein. It is so

ORDERED this 4 day of August, 2000

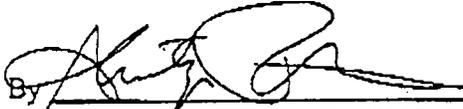


Judge Palmer Robinson

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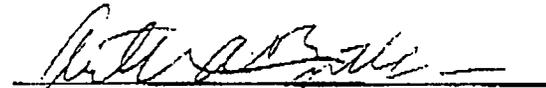
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By 
Sherilyn Peterson, WSBA #11713

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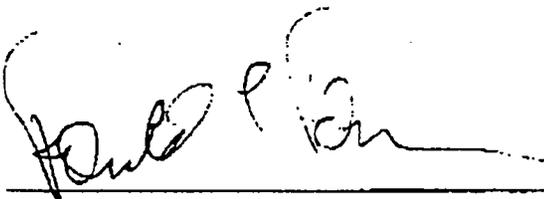

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**[PROPOSED] ORDER GRANTING JOINT
MOTION REGARDING FINAL REFUND
DISPOSITION - 3**

[13141-00-19/BA003683.263]

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[PROPOSED] ORDER GRANTING JOINT
MOTION REGARDING FINAL REFUND
DISPOSITION - 4

{13141-0049/BA003683.263}

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Att. B

The Joint Proposal

The WUTC, U S WEST, Public Counsel, TRACER, and AARP respectfully submit this Joint Proposal whereby U S WEST would contribute \$26 million to fund programs described below.

E911 Network Improvements: \$5,300,000

The E911 network improvement would modify the existing E911 telecommunications network to allow for recognition of new area codes and telephone numbers ported from new telecommunications carriers. The current state E911 system was designed based on a single telephone number area code per geographic area and assumed a single telecommunications carrier. With the advent of multiple telecommunications carriers serving within the same geographic area, two new problems in the operation of the state E911 service have occurred. The first is the need for the system to recognize that telephone numbers are no longer specific to a single telecommunications carrier and may in fact involve multiple carriers. When a carrier moves a customer's telephone number from its prior carrier to the new carrier's service, the number is "ported" to the new carrier. The E911 system needs to know the ultimate location of the ported number. This requires the deployment of new software by U S WEST, Customer Premise Equipment ("CPE") modifications at the Public Safety Answering Point ("PSAP") location and rearrangement of existing E911 trunks by the PSAP agency. The second problem requires recognition of multiple telephone number area codes within the same geographic area. This also requires software enhancements to the E911 network, to the E911 switch and to the PSAP CPE. The cost of these system and network enhancements is estimated at \$5,300,000. \$3,600,000 of this amount will be spent on U S WEST E911 network enhancements and \$1,700,000 will be reserved for PSAP trunk rearrangements and PSAP CPE modifications.

Deployment of these network and CPE E911 enhancements will protect the integrity of the E911 system and the data it relies upon to ensure efficient and expedient dispatch of fire, police and aid to Washington residents. Seven E911 selective routing switches require a network upgrade; they are located in Yakima, Vancouver, Tacoma, Seattle, Spokane, Bremerton and Pasco. At least one hundred and nine PSAPs require CPE modifications. Approximately 1,640 PSAP trunk rearrangements may be required.

Community Voice Mail: \$650,917

Community Technology Institute is a not-for-profit organization based in Seattle, Washington that has helped more than thirty communities across the country (and six in Washington State) install community owned and operated voicemail systems. These resulting programs, known as Community Voice Mail, act as a communication link for thousands of homeless and phoneless people, essentially a temporary substitute for dialtone for those in transition. Community Voice Mail sites purchase telecommunications services from local telecommunications companies which are then connected to voice messaging software. These

Community Voice Mail sites remove the barrier to opportunity for homeless and/or phoneless individuals seeking employment, housing, health care and safety.

Under this proposal, \$650,917 would be designated to community voice mail projects managed by the Community Technology Institute for telecommunications product and services and related equipment. Of this, \$435,684 would be reserved for six new community voice mail sites. \$98,700 would be reserved for technical assistance requirements related to the telecommunications projects. \$103,533 would be reserved for program expansion at six existing sites. \$13,000 is required for network expansion requirements associated with this project. The remainder of the funds would be for toll free message retrieval services.

Collectively, the Washington State Community Voice Mail programs connect more than 5,000 people every year via more than 150 social service agencies. Six additional Washington State Communities are currently organizing themselves for Community Voice Mail installation and operations. This proposal would provide for a communication link for twelve total communities (six new communities) and an estimated 7,000 people every day. The communities that would receive new installations under this proposal include Everett/Snohomish County, Whidbey Island/Island County, Chehalis/Lewis County, Walla Walla, Colville and Skagit Valley. This proposal would also fund the expansion of existing Community Voice Mail operations in Seattle/King County, Spokane, Bellingham, Vancouver, Tacoma/Pierce County and Yakima Valley.

Telemedicine Services: \$3,928,660

Northwest TeleHealth Services is a unique telemedicine network sponsored by Inland Northwest Health Services, a not-for-profit organization comprised of Deaconess Medical Center, Holy Family Hospital, Sacred Heart Medical Center and Valley Hospital and Medical Center. The program objectives include promoting the exchange of resources among regional partners, tracking patients in their home communities for improved outcomes and/or until more complex and comprehensive health care is required, linkage of rural health care providers with appropriate consultants and other resources in tertiary centers, continuing professional education opportunities and community health education programs.

Under this proposal, \$2,728,660 would be designated to Northwest TeleHealth Services to improve healthcare delivery systems to rural patients in Eastern Washington. This would fund telecommunications related projects at twenty-six new sites which include the addition of Walla Walla General, St. Mary's Hospital, Dayton General, Sunnyside Community Hospital, Mid-Valley Hospital, Kadlec Hospital, Central Washington Hospital, Martin Hall, Airway Heights, Walla Walla State Penitentiary as well as several care providers in these communities which include Richland, Wenatchee, Pasco, Kennewick, Deer Park, Ritzville, Ione and Clarkston. The funds would be designated to digital telecommunications networks, equipment and services and related administrative costs.

The remaining \$1,200,000 will be designated to the University of Washington Telemedicine Program to fund equivalent telemedicine projects in Western Washington.

Att. B

Washington State K-20 Program: \$5,028,000

Telecommunications infrastructure and services are a critical component to providing more effective and efficient delivery of educational resources for students and training for teachers. Yet, the use of telecommunications technology in these areas has generally been lacking in comparison to the potential benefits due to insufficient resources (funding for many of these expenditures would generally come from tax dollars), the high cost of deploying services in rural areas, or the cost of purchasing those services.

Under this proposal, \$5,028,000 would be designated to the Washington Department of Information Services ("DIS") for K-20 Phase III telecommunications projects of general benefit to public libraries. The K-20 Phase III project is currently not funded by the legislature due to budget constraints. Approval of this proposal would establish funding for the installation and ongoing transport of telecommunications and internet services to library systems across Washington. These systems would interconnect with DIS sites in Spokane, Olympia, Seattle, Vancouver, and Yakima to provide statewide internet access and connectivity. \$3,000,000 would be designated for telecommunications products, services or equipment and operations expenses. \$1,300,000 would be designated for telecommunications related projects which include operations expense and consumer education. \$728,000 would be designated for U S WEST network infrastructure improvements necessary to support the individual K-20 projects.

Community Economic Development: \$5,000,000

Telecommunications infrastructure and services are a critical component to economic development opportunities in today's economy. Yet, the use of telecommunications technology in these areas has generally been lacking in comparison to the potential benefits due to insufficient resources (funding for many of these expenditures would generally come from tax dollars), the high cost of deploying services in rural areas, and the cost of purchasing those services.

Under this proposal, \$5,000,000 will be designated to support telecommunications projects of general benefit to economic development in the state of Washington. Projects within U S WEST's serving area or with a strong community, regional (within the state) or statewide benefit shall receive priority. Under this proposal, the Washington State Community Economic Revitalization Board ("CERB") shall be directed to solicit community economic development proposals for a period not to exceed 150 days from the date of the court's order. The Board shall make all funding decisions within 150 days after the solicitation period.

The following criteria would apply to the project selections made by the Board:

- All projects identified to receive funds must be related to telecommunications in Washington State.
- The funds disbursed by the Board must be spent on telecommunications services, equipment or U S WEST network infrastructure improvements necessary for the

Att. B

project. Funds may also be designated for operations expense associated with telecommunications related development projects.

- Preference will be given to projects advancing the broad public interest and providing community, statewide or intrastate-regional benefits.

Consumer Education and Outreach: \$2,000,000

The recent changes in the telecommunications environment across the nation have created new demands for telecommunications related consumer education and outreach programs. Consumers, particularly many small and medium sized business customers, and residential customers, are frequently confused by numerous choices available to them from multiple telecommunications providers for a variety of telecommunications services. Consumers also need help understanding the variety of special taxes, surcharges and miscellaneous fees that frequently appear on their telephone bills. Under this proposal, \$2,000,000 would be granted to the Seattle Foundation to support consumer education and outreach projects of general benefit to consumers in the state of Washington. Under this proposal, the Seattle Foundation shall be directed to solicit consumer education and outreach proposals for a period not to exceed 180 days from the date of the court's order. The Foundation shall make all funding decisions within twelve months after the solicitation period. A minimum of three separate entities shall receive these designated awards. The total amount to be awarded will be the \$2 million plus any interest earned thereon, less any fees or charges by the Seattle Foundation to administer this grant approval process.

The following criteria would apply to the project selections made by the Foundation:

- All projects identified to receive funds must provide consumer education and/or outreach on telecommunications services and/or policy issues affecting residential, business or low income consumers in Washington State. These services and/or policy issues include rates, services, service quality, competitive choice, marketing and consumer protection, and participation in, and understanding of, state telecommunications policymaking proceedings.
- Only non-profit or governmental agency projects are eligible. Recipients of funds will be required to certify that they have no affiliation with, and do not receive any funds from, telecommunications services providers. Applicants must demonstrate the ability to properly account for the use of the funds, must establish how such funds will be administered and will provide a final report to the Seattle Foundation of how the funds were utilized that includes an evaluation of the results within 24 months of the fund disbursement.
- The funds disbursed by the Foundation must be spent on consumer education and outreach programs that provide consumers with information on telecommunications related issues. Funds may also be designated for operations expense associated with such projects.

Att. B

- Preference will be given to projects advancing the broad public interest and providing community, statewide or intrastate-regional benefits.

U S WEST will disburse funds to the Seattle Foundation upon court approval of this Joint Proposal. Once the Seattle Foundation has designated all funds, in accordance with the above criteria, the Foundation will notify the parties to this settlement of the disposition of funds and conclusion of the project.

The Provision of Telecommunications Services to Unserved Washington

Areas: \$900,000

Customers currently are unable to obtain telecommunications services due to the lack of an assigned telecommunication provider, as well as a lack of telecommunications facilities, in two areas in Washington. These areas are in eastern and southwestern Washington and are located in geographic areas outside any telecommunications carrier's service territory, including U S WEST. These customers have been unable to obtain service due to the high cost to both the customer and available telecommunications carriers to extend facilities. The cost of these two projects is estimated at \$900,000.

Under this proposal, U S WEST would agree to extend new facilities and reinforce its existing facilities to serve customers located within these unserved areas. Customers located in these areas would receive service under the same rates and conditions as customers currently served by U S WEST. The first area is known as Wilderness Lake. It is located north of the U S WEST Elk exchange, in Pend Oreille County. There are approximately 10-20 residences. The cost to provision service to these customers is approximately \$500,000.

The second area is located near Mt. St. Helens. The location is approximately 15 miles northeast of the U S WEST Castle Rock exchange (north of Vancouver) in an area currently not assigned to any telecommunications carrier. No facilities are currently available from any registered telecommunications carrier other than wireless telecommunications service. There are currently less than five residences and approximately five commercial businesses. Cost to provision service would be approximately \$400,000.

Network Infrastructure Improvements (Analog Carrier System Replacement):

\$3,192,423

The remaining funds (estimated at about \$3,192,423), less any escrow fees associated with the separate escrow account that are not offset by interest earnings on that account, would be designated for U S WEST network infrastructure improvements to replace existing analog carrier systems with digital carrier systems, as allowed for based on these limited funds. The WUTC believes that the old analog carrier systems are a frequent source of network trouble and limit the ability of the network to provide modern digital based services to rural areas. Approximately seventy-eight systems would be replaced across Washington.

Att. B

General Provisions

1. Infrastructure Expenditures

U S WEST agrees to create within its financial system an account for \$8,433,423 associated with U S WEST specific infrastructure improvements for the E911, Unserved Washington Areas, K-20, Community Voicemail and Analog Carrier System Replacement projects discussed above. This separate account will provide record keeping which will separately identify charges against such amount. The Company agrees to make records available for the inspection of the signatories to this agreement and will provide such parties with a status report at the end of the year 2000, and quarterly status reports thereafter.

U S WEST shall complete the E911, and Analog Carrier System Replacement infrastructure projects, by no later than January 1, 2001, except for the E911 work associated with the Pasco central office switch (which shall be completed by no later than May 18, 2001 in accordance with the Settlement Agreement in Docket No. UT-991358) and the Unserved Area Project (which shall be completed by no later than January 1, 2002.) Any of the \$7,692,423 funds for the E911, Unserved Washington Areas and Analog Carrier System Replacement Projects remaining in the separate account after January 1, 2002 shall be moved to the escrow account (discussed below). The other \$886,000 is for customer specific projects and may be incurred after January 1, 2002.

The parties agree that U S WEST's total infrastructure obligation is limited to \$8,433,423. Should any individual project (other than the Analog Carrier System Replacement project) require more infrastructure investment than anticipated, the parties agree that the Analog Carrier System Replacement project infrastructure amount shall be reduced accordingly.

U S WEST shall set aside into this infrastructure account the amounts for each program shown under the "Infrastructure" column on Attachment C.

2. Escrow Account

Within thirty days following the Court's approval of the programs set forth in Attachment B and the parties' Joint Motion, U S WEST agrees to deposit \$15,566,577 into an interest bearing escrow account at a financial institution of its choosing from which disbursements of funds for purposes described in Attachment B will be made (except that (1) the Consumer Education and Outreach programs will not be funded by this escrow account, but will be separately funded by a direct grant to the Seattle Foundation and (2) funding for Unserved Washington Areas, Analog Carrier System Replacement, and the infrastructure elements of E 911, K-20 and Community Voicemail, will be not be funded by this account but will be separately funded as described under the "Infrastructure Expenditures" paragraph above). Escrow fees shall be paid from the escrow account. Interest earned on the account shall be added to the principal and be available for payment of escrow fees, or disbursement. Disbursements shall be made on the joint approval of authorized U S WEST, WUTC and Public Counsel representatives upon receipt of bona fide directions from the awarded agency.

Att. B

Escrow account records shall be available to the signatories of the Joint Motion for their inspection. The escrow account shall remain open until all funds have been disbursed.

U S WEST shall deposit into the escrow account the amounts for each program shown under the "Customer" column on Attachment C.

3. Remaining Funds

Should there be any funds remaining after completion of any of the above projects, such funds, plus any interest earned on moneys placed in escrow, shall be allocated for use to the K- 20 program.

4. Allocation of Funds

The allocation of funds to these projects (specifically including but not limited to the K-20, CERB, E911 and the University of Washington Telemedicine programs) is conditioned on the funds not being used for projects otherwise budgeted by the legislature, nor are they to replace appropriated funds. Furthermore, some of these funds may be subject to the Budget, Accounting and Reporting Act and recipients should consult, as applicable, with the Office of Financial Management regarding any budget requirements if received by a state agency. There should be no expectation of additional funding for these programs from this source in the future. The purpose of these monies is not to replace appropriated funds, but is to provide additional, not otherwise available, benefits to consumers.

and/or other Acts

<u>Project:</u>	<u>Infrastructure</u>	<u>Customer</u>	<u>Grant Program</u>	
E911	\$3,600,000	\$1,700,000		\$5,300,000
K-20	\$728,000	\$4,300,000		\$5,028,000
Voice Mail	\$13,000	\$637,917		\$650,917
TeleHealth		\$2,728,660		
UW TeleHealth		\$1,200,000		
Unserved Areas	\$900,000			
Analog Carrier	\$3,192,423			
CERB		\$5,000,000		
Seattle Foundation			\$2,000,000	
	<u>\$8,433,423</u>	<u>\$15,566,577</u>	<u>\$2,000,000</u>	Total: <u>\$26,000,000</u>