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 IN RESPONSE TO THE DECEMBER 3, 2013, NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS

December 23, 2013

INTRODUCTION

The Washington Independent Telecommunications Association (WITA) is submitting these comments in response to the Commission's December 3, 2013, Notice of Opportunity to File Written Comments. With that Notice, the Commission issued a draft set of rules containing its latest proposal for implementation of the state universal service program in Washington. WITA recognizes that the Commission has accommodated some of WITA's suggestions for the proposed rules. However, WITA must express its deep disappointment with the substantive outcome of the proposed rules.

As written, the proposed rules would cap the distribution of state universal service program support at approximately 3.3 million dollars.[1] Of this, approximately 1.2 million dollars is a replacement of the existing traditional universal service fund.[2] Thus, the Commission's proposal effectively provides only 2.1 million dollars in additional support. As the rule is currently drafted, the support would ratchet down over the five-year life of the program[3] to a net new support of approximately 1.7 million dollars by 2019. The reason for the declining support is not stated, nor can it be inferred from the draft rules.

WITA demonstrated that to fulfill carrier of last resort obligations and to avoid unacceptably high levels for local rates, full funding of the new universal service program is warranted. WITA submits that the proposal set forth by the Commission fails to accomplish the goals and objectives established in ESSHB 1971.

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[1] This assumes all WITA members qualify. If one or more companies do not qualify, the cap amount is lower. For this purpose, CenturyLink is not considered to be a member of WITA.
[2] The traditional universal service fund was created by the 17th and 18th Supplemental Orders in Cause U-85-23 et. al. and subsequently reaffirmed in Docket UT-971140 and confirmed in Docket UT-120853
[3] It should be remembered that under Section 212 of ESSHB 1971, the Legislature has asked for a report addressing whether the program should continue and what will happen if it is not continued.

COMMENTS

A. The Legislature saw a clear need to invest state revenues in supporting the public switched telecommunications network in rural Washington.

Under ESSHB 1971[4] (the "Legislation"), the Legislature focused on benefits that the new fund could provide to consumers served by smaller 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) of the Legislation that "[c]onsumers in all areas of the state should continue to have access to communications services at reasonable rates." Thus, a clear focus of the Legislation is on using the new universal service program to keep local rates for consumers reasonable -- that is, to reduce the upward pressure on local service rates.[5]

The concept for the Legislation was described by the Commission as meeting one of the Governor's priorities as follows:

> This decision package supports one of the Governor's stated priorities: economic security through investing in the right infrastructure. By providing rural telecommunications companies with access to funding to maintain and invest in critical telecommunications infrastructure, the decision package will ensure residential and business customers in rural communities continue to receive essential telecommunications services at fair rates.[6]

And, the Commission described the Legislation as a high priority:

> This decision package would rate as a high priority in the priorities of government process because the reliability of telecommunications services is an essential

[4] ESSHB 1971 is codified in RCW 80.36.610-700..

[5] Part of the lobbying effort associated with the state universal service program was to promote the program as in part, a replacement for the existing "traditional" universal service fund. To the extent a company loses the support of the traditional universal service support and does not gain new support, which is possible under the Commission's proposal, the Legislature's goals are not only not met, but the result goes in the opposite directions.

[6] Decision Package at p. 39

> activity of the commission - it improves the economic vitality of businesses and individuals by ensuring access to essential telecommunications services, including broadband service.[7]

The Commission described the consequences of not funding the Legislation as follows:

> If the Commission does not address the issue of a fund to transition carriers away from access charge revenues, the smaller independent companies may not have sufficient funding to remain and may need to significantly increase customer rates or go out of business. Citizens in many rural areas will see dramatically higher rates for telecommunications, or lose access to service altogether. The need for funding is confirmed by earnings reviews conducted by commission staff.[8]

The Legislature agreed with the Commission's viewpoint. In Section 201(2) of the Legislation, the Legislature described 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:

> 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.

Besides the concern over potential levels of unreasonable rates for basic telecommunications service, the possibility of interruption or cessation of service raises issues related to carrier of last resort obligations. The Legislature recognized this and concluded its findings 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." This is the second focus of the Legislature -- providing funding to meet the carrier of last resort obligations.

To move toward accomplishing these goals of funding the carrier of last resort obligation

[7] Ibid.
[8] Decision Package at p. 40

and reducing upward pressure on local rates, the Legislature authorized a state universal service fund of five million dollars a year. The Legislature was undoubtedly constrained in sizing the fund by the difficulty of the overall state budget. However, five million dollars was authorized, which is the amount recommended by the Commission.[9] The Commission's proposal for implementation of the fund falls short and reflects an unrealistic expectation of what is needed to continue to meet carrier of last resort obligations in economically unviable portions of the rural incumbent local exchange providers' service areas and to meaningfully reduce upward pressure on local rates.

B. In order to fulfill the purpose of the Legislation, additional support is needed.

Some have argued that the new state universal service program created by the Legislation is not an entitlement program. WITA agrees. Instead, the Legislature saw the need to ensure that carrier of last resort obligations are fulfilled and that upward pressure on telephone service rates is mitigated. Thus, the Legislature created the state universal service program.

WITA has clearly and unequivocally demonstrated in this proceeding that there is a need for support that exceeds the amount suggested by the Commission in its latest proposal and, indeed, exceeds the current level of support available from the universal service program. Table 1, as set forth on the next page, clearly shows that in order to even start to accomplish the objectives of the Legislation, distribution of the full funding authorized by the Legislature is needed.

[9] See, Decision Package at p. 40

Table 1

Company	Cat. 1.3 Working Loops*	Achieved ROR %	Required to Reach 11.25% ROR ($)	Monthly Local Rate Increase Needed ($) **
Asotin	1,054	0.57%	290,787	22.99
Ellensburg	14,302	4.40%	811,797	4.73
Hat Island	70	-3.96%	29,315	34.90
Hood Canal	946	-83.89%	683,214	60.18
Inland	2,394	3.11%	649,253	22.60
Kalama	2,454	-9.98%	869,963	29.54
Lewis River	4,860	-1.56%	835,666	14.33
McDaniel	3,630	1.47%	646,172	14.83
Pend Oreille	1,622	-4.14%	447,610	23.00
Pioneer	702	2.08%	715,725	84.96
Rainier Connect	3,002	-40.73%	1,317,495	36.57
Skyline	158	4.71%	193,794	102.21
St. John	585	7.35%	491,506	70.02
Tenino	2,925	-10.70%	984,219	28.04
Toledo	1,826	1.91%	1,038,550	47.40
Wahkiakum	998	0.99%	643,889	53.76
Whidbey	10,601	-4.60%	5,439,668	42.76
YCOM	8,258	-0.68%	1,028,343	10.38
TOTAL	60,387	-2.21%	17,116,966	23.62

*Year End 2012. In addition, since Cat. 1.3 Working Loops include official lines, these results understate the actual effect on local rates.[10]
**This Table does not include the effects of business and occupation taxes and Commission regulatory fees, so it understates the amount of the increase. In addition, some companies with net operating losses may have income tax effects that would need to be taken into account which further understates the amount of increase.

As an example of what could happen to local rates, the effective rate paid by Pend Oreille's customers for basic residential local service could rise to $49.82 per month. Toledo's rate for basic residential local service could go to $82.82 per month.[11] The average increase in

[10] Do not be misled by the fact that Table 1 uses the current authorized rate-of-return of 11.25 percent. Even if the authorized rate-of-return is reduced to 10 percent, the amount required to reach the 10 percent level for rate-of-return is still in excess of 15 million dollars.
[11] Calculated from the local rate increase column of Table 1, plus state sales tax at 8.7 percent added to the effective residential rate shown on Table 5, below.

local residential rates depicted on Table 1 is $25.67.[12] These levels of local rates are not acceptable.

Further, when the highest achieved rate-of-return from total regulated operations in Washington is 7.35 percent, the second highest is 4.91 percent and there are nine out of eighteen rural incumbent local exchange companies that posted net operating losses for their total company regulated operations in Washington, its clear and unequivocal that in order to have a chance to accomplish the Legislature's objectives embodied in the Legislation of mitigating upward pressure on local rates and ensuring that carrier of last resort obligations are fulfilled, additional funding beyond that proposed by the Commission is needed.

The financial need is clear. It is above the maximum five million dollars authorized by the Legislature. It certainly is more than what the Commission has proposed. WITA urges the Commission to authorize the use of the full amount available. A proposal to accomplish this goal is set forth in the next section.

C. WITA's alternative proposal.

In its earlier comments, WITA suggested what it believed to be a fair mechanism to help reach the goals of the Legislation. That mechanism consisted of two steps beyond the replacement of the traditional USF. The first step was recognition of the CAF funding reduction and recovering that reduction. The second step was recovery of lost access revenues. The Commission adopted a modified CAF reduction recovery proposal by using a rolling three-year

[12] This number reflects sales tax at 8.7 percent.

recovery rather than full recovery. The Commission apparently rejected the lost access revenue concept.[13]

Given the amount of financial information the Commission intends to gather through the proposed rules, which is unnecessary if all the Commission is doing is replacing the traditional USF and a portion of the CAF losses, WITA recommends that the Commission adopt an additional step that recognizes the shortfall in the financial results from total regulated Washington operations. The Commission is requesting sufficient financial data through the proposed rules to accommodate this approach. This approach makes sense since a company that is not financially healthy will have difficulty in continuing to meet carrier of last resort obligations. In addition, low or negative earnings certainly puts upward pressure on residential rates.

This approach would work as follows: Assuming that the Commission establishes for this purpose that a ten percent return on total regulated rate base in the State of Washington is the appropriate target rate-of-return, then the financial information submitted by each company would be used to calculate the actual achieved return on total regulated Washington rate base in 2013 (and then each succeeding year). This result would be compared to the revenue needed to reach the target rate-of-return and an amount would be calculated for each company to reach that target. The total amount required by all eligible companies would become the denominator (that is the difference between the achieved rate-of-return and the target rate-of-return) and each individual company's proportion of that total would become that company's numerator and the result would be a distribution ratio that would be applied to the available funds remaining after

[13] WITA is willing to review the access recovery mechanism with the Commission to see if it can be adjusted to be more acceptable.

covering the traditional universal service fund and the CAF components of the support. This result does not get the companies to a ten percent rate-of-return. It is not a make-whole provision. It is only a method to calculate relative distribution under the program.

An illustration of how this distribution ratio would be calculated is set out in Table 2. This is only an illustration. There are adjustments that would need to be made if this approach is acceptable by the Commission, some of which are footnoted below the Table.

Table 2*

Company	Rate Base ($)	NOI ($)	ROR %	Revenue Needed To Achieve Target ROR ($)	Distribution Ratio
Asotin	1,769,846	10,101	0.57%	256,751	0.016862
Ellensburg	7,698,249	338,398	4.40%	663,750	0.043591
Hat Island	137,806	(5,463)	-3.96%	26,664	0.001751
Hood Canal	675,127	(566,362)	-83.89%	670,230	0.044016
Inland	5,183,404	161,129	3.11%	549,569	0.036092
Kalama	3,188,547	(318,085)	-9.98%	808,643	0.053106
Lewis River	4,429,194	(69,056)	-1.56%	750,487	0.049287
McDaniel	4,292,694	62,927	1.47%	563,617	0.037015
Pend Oreille	2,086,631	(86,453)	-4.14%	407,481	0.026761
Pioneer	4,700,000	97,757	2.08%	572,696	0.037611
Rainier Connect	2,270,179	(924,570)	-40.73%	1,273,837	0.083657
Skyline	1,537,742	72,360	4.71%	125,255	0.008226
St. John	8,192,301	602,163	7.35%	333,958	0.021932
Tenino	3,513,631	(376,075)	-10.70%	916,647	0.060199
Toledo	6,746,655	129,169	1.91%	839,247	0.055116
Wahkiakum	4,252,298	42,104	0.99%	587,440	0.038579
Whidbey	24,826,933	(1,142,591)	-4.60%	4,962,215	0.325885
YCOM	5,715,791	(39,047)	-0.68%	918,421	0.060316
TOTAL	91,217,028	(2,011,594)	-2.21%	15,226,910	1.000000

* Calculated from the simplified earnings table developed by Commission Staff, populated using calendar year 2012 data for each company.
**Does not include the effect of business and occupation taxes and Commission regulatory fees. Nor does it take into account the income tax effects that may be present for some companies with net operating losses.

The distribution ratio for each company would be applied to the residual available support to arrive at the additional support for that company. As noted above, this does not produce a make-whole result. Using this approach, the highest rate-of-return on total Washington regulated operations is estimated to be 7.92 percent. The estimated average return is 1.05 percent. And, there are still six companies with net operating losses after all program support is taken into account.

Table 3 depicts an illustration of the distribution of program funds using the methodology described above.

Table 3

Company	Traditional USF Support	Three Year CAF Reduction	Subtotal	Distribution Ratio	Residual Distribution	Total Program Distribution
Asotin	$ 60,030	$ 31,726	$ 91,756	0.016862	$ 27,423	$ 119,179
Ellensburg	$ -	$ 313,127	$ 313,127	0.043591	$ 70,893	$ 384,020
Hat Island	$ 2,081	$ 571	$ 2,652	0.001751	$ 2,848	$ 5,500
Hood Canal	$ 40,420	$ 59,814	$ 100,234	0.044016	$ 71,585	$ 171,819
Inland	$ 81,899	$ 174,476	$ 256,375	0.036092	$ 58,698	$ 315,072
Kalama	$ 81,383	$ 106,502	$ 187,885	0.053106	$ 86,368	$ 274,254
Lewis River	$ 4,839	$ 75,118	$ 79,957	0.049287	$ 80,157	$ 160,114
McDaniel	$ 81,497	$ 102,829	$ 184,326	0.037015	$ 60,198	$ 244,524
Pend Oreille	$ -	$ 154,600	$ 154,600	0.026761	$ 43,522	$ 198,122
Pioneer	$ 15,477	$ 64,803	$ 80,280	0.037611	$ 61,168	$ 141,447
Ranier Connect	$ 70,867	$ 70,176	$ 141,043	0.083657	$ 136,054	$ 277,097
Skyline	$ -	$ 49,581	$ 49,581	0.008226	$ 13,378	$ 62,960
St. John	$ 4,690	$ 36,701	$ 41,391	0.021932	$ 35,669	$ 77,060
Tenino	$ 78,182	$ 103,906	$ 182,088	0.060199	$ 97,904	$ 279,992
Toledo	$ 118,099	$ 126,354	$ 244,453	0.055116	$ 89,637	$ 334,091
Wahkiakum	$ 146,630	$ 110,098	$ 256,728	0.038579	$ 62,742	$ 319,470
Whidbey	$ 314,133	$ 339,868	$ 654,001	0.325885	$ 529,997	$ 1,183,998
YCOM	$ 82,706	$ 154,652	$ 237,358	0.060316	$ 98,094	$ 335,452
TOTAL	$ 1,182,933	$ 2,074,903	$ 3,257,836	1.000000	$ 1,626,335	$ 4,884,171

The rule language to address this proposal is to add a new subsection (c) to proposed (III) WAC 480-123-____ (2). The new subsection (1) could read as follows:

> (c) In addition to (a) and (b) above, providers shall receive a prorata distribution of the remaining available support based on each providers relative portion of the aggregate amount needed, in addition to realized earnings, for all such providers theoretically to achieve for the prior year a rate-of-return on total company

Washington regulated operations equal to a target rate-of-return established by the Commission to meet the Legislative goals of ESSHB 1971.

As a second alternative, the relative support generated using the replacement of the traditional universal service fund and the replacement of loss of CAF support could be used to calculate a distribution ratio. This has the advantage of simplicity. However, it may not be as equitable across the recipients as the methodology set out in Table 2. An example of the distribution is set out on Table 4.

Table 4

Company	Traditional USF Support	Three Year CAF Reduction	Subtotal	Distribution Ratio	Residual Distribution	Total Program Distribution
Asotin	$ 60,030	$ 31,726	$ 91,756	0.028165	$ 45,805	$ 137,561
Ellensburg	$ -	$ 313,127	$ 313,127	0.096115	$ 156,315	$ 469,442
Hat Island	$ 2,081	$ 571	$ 2,652	0.000814	$ 1,324	$ 3,975
Hood Canal	$ 40,420	$ 59,814	$ 100,234	0.030767	$ 50,038	$ 150,272
Inland	$ 81,899	$ 174,476	$ 256,375	0.078695	$ 127,984	$ 384,359
Kalama	$ 81,383	$ 106,502	$ 187,885	0.057672	$ 93,794	$ 281,679
Lewis River	$ 4,839	$ 75,118	$ 79,957	0.024543	$ 39,915	$ 119,872
McDaniel	$ 81,497	$ 102,829	$ 184,326	0.056579	$ 92,017	$ 276,343
Pend Oreille	$ -	$ 154,600	$ 154,600	0.047455	$ 77,178	$ 231,778
Pioneer	$ 15,477	$ 64,803	$ 80,280	0.024642	$ 40,076	$ 120,356
Ranier Connect	$ 70,867	$ 70,176	$ 141,043	0.043293	$ 70,410	$ 211,453
Skyline	$ -	$ 49,581	$ 49,581	0.015219	$ 24,751	$ 74,333
St. John	$ 4,690	$ 36,701	$ 41,391	0.012705	$ 20,663	$ 62,054
Tenino	$ 78,182	$ 103,906	$ 182,088	0.055892	$ 90,900	$ 272,988
Toledo	$ 118,099	$ 126,354	$ 244,453	0.075036	$ 122,033	$ 366,486
Wahkiakum	$ 146,630	$ 110,098	$ 256,728	0.078803	$ 128,160	$ 384,888
Whidbey	$ 314,133	$ 339,868	$ 654,001	0.200747	$ 326,482	$ 980,482
YCOM	$ 82,706	$ 154,652	$ 237,358	0.072858	$ 118,491	$ 355,849
TOTAL	$ 1,182,933	$ 2,074,903	$ 3,257,836	1.000000	$ 1,626,335	$ 4,884,171

WITA is also willing to work with the Commission to explore other possible approaches and modifications.

D. The traditional USF support should continue without an eligibility test.

Part of the lobbying support for the Legislation was to use it, in part, to replace the existing traditional universal service fund. In 2012, this fund provided support for rural incumbent local exchange carriers of approximately 1.2 million dollars. Based on the 2010 Commission-approved revenue objectives for this fund, the 1.2 million dollars represents a shortfall of approximately $440,000.[14] The traditional universal service fund should have produced approximately 1.6 million dollars of support based on full recovery of Commission-approved revenue objectives.

In Section 201(2) of the Legislation, significant changes in federal regulation concerning intercarrier compensation and eligibility for federal universal service fund support and migration of customers to the use of broadband for a number of communications applications are described. The Legislation then states:

> 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.

Given this basis for the universal service program, it cannot be credibly asserted that the Legislature intended that a rural incumbent local exchange carrier meeting the access line threshold should lose the traditional universal service support that currently goes to helping meet carrier of last resort obligations and reducing upward pressure on residential rates. Thus, WITA asks that the draft rules be revised to reflect the replacement of the traditional universal service fund without adding an eligibility test for that portion of the program.

[14] This shortfall amount is applicable to the rural, incumbent local exchange carriers identified on Tables 1through 5.

E. Unregulated operations should not be part of the financial analysis.

The Commission's review of the financial standing of a provider to determine eligibility should be based solely on the results derived from total regulated operations in the State of Washington. The Commission should not look to unregulated activities to determine eligibility.

The dual focus of the Legislation is meeting carrier of last resort obligations and maintaining reasonable rates for basic residential exchange service. As stated in Section 201(2) of the Legislation: "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." Those carrier of last resort obligations are tied to regulated operations. It is the provision of telecommunications that is at the heart of meeting the carrier of last resort obligations.

The second focus of the Legislation as stated in Section 201(2):

> Significant changes are occurring in the communications marketplace, including: (a) The migration from customer reliance on access lines for voice service to the use of broadband for a number of communications applications; and (b) changes in federal regulations governing: How communications providers compensate other providers for the use of the network; and eligibility for federal universal service funds. 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.

The provision of basic telecommunications service at reasonable rates is a regulated service operation. The focus of reducing upward pressure on local service rates is a regulated operations concern, not an unregulated service function.

If a company happens to have a successful unregulated operation, such as a data cloud business or cable TV business unassociated with its regulated operations, the Commission should not be looking to those operations to, in essence, provide the financial support for the carrier of last resort obligations and regulated rates. That would be like telling Boeing that the state is not going to provide them with a tax break for their commercial airplane operations because of the amount of money they are making on their federal defense contracts. One does not have anything to do with the other. The Commission's proposal to base eligibility in part on earnings from non-regulated services is, in essence, subsidizing carrier of last resort obligations and basic telecommunications service rates with those unregulated operations. What this action produces is the incentive to stop offering regulated operations. That is a result which is inconsistent with the intent of the Legislation.

On this basis the reference to calculation of a return on equity on a total company basis contained in draft (II) WAC 480-123-___ (e)(iv) and the reference to the consideration of return on equity referenced in (III) WAC 480-123-___ (1) should be dropped.

F. The formula for adding access lines or equivalents should be revised.

As it now stands, the definition of affiliate contained in the Commission's rules would broadly sweep in wireless operations and combine them with wireline operations. As a practical matter, the existing definition will mean that the TDS operating companies, Asotin, Lewis River and McDaniel, will be disqualified from eligibility because of the number of accounts that US Cellular Corporation has in Washington. As can be seen from Table 1, none of those three companies is what could be described as financially healthy.[15] Without a modification to the definition of affiliate, the Commission would be requiring cellular operations to be imputed to meet wireline carrier of last resort obligations. That is not appropriate.

[15] This would also mean that the companies would lose the traditional universal service support, further worsening the financial status of those rural companies.

In its October 10, 2013 comments, WITA proposed a modification of the calculation of affiliation to address this issue. WITA's suggestion, which it reasserts, is to have (I) WAC 480-123-___ (3) read as follows:

> (3) In calculating access lines under this section, the access lines or equivalents must be counted as a single threshold, if the lines or equivalents are located in Washington. For the purpose of this calculation, an affiliate of a wireline communications provider is another wireline communications provider that falls within the definition of an affiliate and an affiliate of a wireless communications provider is another wireless communications provider that falls within the definition of an affiliate.

This change is consistent with the language used in the Legislation on this point. Section 203(3)(a) states that a communications provider is eligible to receive a distribution from the program if:

> The communications provider is: (i) An incumbent local exchange carrier serving fewer than forty thousand access lines in the state; <u>or</u> (ii) a radio communications service company providing wireless two-way voice communications service to less than the equivalent of forty thousand access lines in the state. For purposes of determining the access line threshold is this subsection, the access lines <u>or</u> equivalents of all affiliates must be counted as a single threshold, if the lines <u>or</u> equivalents are located in Washington. (Emphasis supplied).

Thus, the Legislature created two distinct categories: wireline and wireless. This distinction is underscored by the fact that the Legislature did not use "and" as the direction for counting access lines and equivalents. The Legislature used "or." This logically suggests the access lines of one wireline affiliate are to be added to the count of access lines of another wireline affiliate. However, the "equivalents" of a wireless provider are not added to the access lines of a wireline provider. WITA urges that the change be made to avoid unintended consequences of depriving support for the carrier of last resort obligations for some providers who happen to have a totally separate wireless affiliate.

G. The Commission should not use the residential rate benchmark as an eligibility threshold.

As written, the Commission's draft rules uses the residential benchmark rate as an eligibility threshold. A company with rates below the threshold is not eligible for program support. See, proposed (I) WAC 480-123-___ (1)(d).

As pointed out in WITA's August 2, 2013 comments, the effective rate paid by residential customers in Washington for basic exchange service is already very high. Table 5, as set forth on the next page, sets out the existing bare residential basic exchange service rate for WITA members and what the actual, effective rate for that service once the additional applicable fees and surcharges of the subscriber line charge, the access recovery charge, E-911 assessments, mandatory EAS and state sales tax are included.[16]

[16] Toll charges for long distance service are not included. Neither is voice mail included nor vertical features such as call waiting or caller ID.

Table 5

Company	Residental Rate	Effective Customer Rate (+)
Asotin - Asotin	$14.20	$27.21
Anatone	$14.00	$24.82
Ellensburg	$14.00	$24.82
Hat Island	$15.00	$25.91
Hood Canal	$14.00	$24.82
Inland - Dewatto	$22.00	$32.37***
Prescott	$16.50	$27.54
Roslyn	$14.00	$24.82
Uniontown	$15.00	$25.91
Kalama	$14.00	$24.82
Lewis River	$26.00*	$36.23**
McDaniel	$14.30	$24.85
Pend Oreille	$14.00	$24.82
Pioneer	$14.00	$24.82
Rainier Connect	$14.00	$24.82
Skyline	$19.50	$31.80
St. John	$14.00	$24.82
Tenino	$14.00	$24.82
Toledo	$21.00****	$31.30***
Wahkiakum	$14.00	$24.82
Whidbey	$14.00	$24.82
YCOM	$16.00	$27.39

*Flat rate EAS option.
**Assumes no ARC.
***Assumes $0.50 ARC.
****Asumes one EAS route.

(+) Uses 8.7% as sales tax rate.

A company should have some rate flexibility to be able to manage its own situation. Certainly the Commission can impute the difference between the actual rate and the benchmark rate as a reduction to what a company is eligible to draw from the state universal service program. That is what is done under the federal universal service fund. However, to set a benchmark rate as an eligibility threshold is a more draconian approach to the benchmark rate issue than is necessary.

The uneven obligations, chief among which is the carrier of last resort obligation, of an incumbent local exchange carrier when compared to its wireless or VoIP based competitors, leads to a situation where raising local service rates across an entire service area promotes the defection of customers to competitors in areas where density is the highest and costs are the lowest. The reason this can happen is because those competitors have the freedom to choose to serve where density is the highest and cost is the lowest and that is what they do. Therefore, expecting an incumbent local exchange carrier to raise local rates exacerbates the loss of customers and revenues in those portions of its service areas where there are large, well-funded entities that provide competitive alternatives. This, in turn, creates a need for more universal service support in the low-density portions of the incumbent's service areas. Since additional universal service support is not available, this points in the direction of service failure and stranded customers in low-population areas. Pricing flexibility is needed and mandatory price levels should not be created.

H. Operations outside of the area to which the carrier of last resort obligation applies should not be included.

It is not crystal clear how this issue is addressed under the Commission's proposal. However, as a matter of principle, WITA believes that financial results from operations outside of the area in which the carrier of last resort obligation applies should not be included in the Commission's analysis. There are several companies that have competitive operations and Whidbey Telephone Company has a Supplemental Service Area that is outside of the area for which it has been designated as an eligible telecommunications carrier for purposes of the federal universal service fund. The Commission should rightfully be concerned that ILEC operations do not subsidize competitive operations. The Commission will have the information through the review of the allocation of expense process to do so. On the other hand, the Commission should not expect competitive operations to support incumbent carrier of last resort responsibilities, nor should operations for which no state universal service program support is received be required to comply with state universal service program requirements.

I. Other items.

There are a number of other items that should be addressed. For example, the rules require that a carrier that is applying for support has to certify that it will unconditionally continue to provide service during the entirety of the calendar year in which the provider is applying for support, whether it gets the support or not. That statement should apply only if support for the full calendar year is provided. See, proposed (II) WAC 480-123-___ (1)(h).

WITA has attached a markup of the proposed rules that contains comments and redline suggestions to address many of these items. The attachment is listed as Exhibit 1.

CONCLUSION

WITA welcomes a continuing discussion of the issues involved in how the state universal service program should be implemented. These are not easy matters. However, WITA believes that it has demonstrated the need to use the full fund authorization in light of the unexpectedly devastating effects of recent changes in federal policies. WITA urges the Commission to adopt the proposals contained in these comments.

Respectfully submitted this 20th day of December, 2013.

WASHINGTON INDEPENDENT
TELECOMMUNICATIONS ASSOCIATION

By:______________________
Betty S. Buckley, Executive Director