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July 10, 1998

24375.105

Ms. Carole E. Washburn
Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Dr. S.W.
Olympia, WA 98504

Re: Attachments to Transmission Facilities
Docket No. UT-97073

Dear Ms. Washburn:

This letter will respond to the July 2, 1998 Notice and Invitation to Comment on Potential Delay Pending FCC Action on behalf of TCI Cablevision of Washington, Inc ("TCI-Wash").

TCI-Wash would not support delaying action on this rulemaking pending FCC action for several reasons. Resolution of this rulemaking is long overdue, as it is required by Washington and federal law. The Washington State Legislature adopted Chapter 80.54 in 1979. RCW 80.54.060 requires the Commission to "adopt rules, regulations and procedures relative to the implementation of this chapter." Furthermore, in order to perfect Washington's certification to the FCC that the state would regulate pole attachment rates, the Commission needs to issue and make effective rules and regulations implementing the state's regulatory authority over pole attachments, including a specific methodology for such regulation.

TCI-Wash filed its petition for rulemaking on April 28, 1997. Since that time, this Commission has received numerous rounds of comments from interested parties on the issues raised by this rulemaking. TCI-Wash advocated in its initial petition, and continues to advocate, that this Commission adopt the current FCC rate methodology for all pole attachments (both telecommunications and video/cable), as it is most consistent with Washington State law. See RCW 80.54.040. The existing FCC rate formula will remain in effect until at least 2001.

TCI-Wash has no reason to believe that any modification to the current rate formula underway in FCC Docket CS-97-98 will significantly alter the existing rate formula. Nor does TCI-Wash have any reason to believe that the FCC will issue final rulings in the timeframe contemplated

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by this Commission's notice. Given the inevitability of petitions for reconsideration in the numerous FCC dockets examining the question of pole attachment rates, regulatory finality in this area is a moving target.

Accordingly, because this state has its own independent authority to adopt a pole attachment methodology, it is free to adopt the existing rate methodology developed by the FCC as it currently stands. That is what two other regulatory bodies have done, most recently in New York and Massachusetts.¹

Further delay is both unnecessary and unwise because it perpetuates uncertainty on a critical issue needed to encourage facilities-based competition. Should the FCC in the future make major changes to the existing formula, the interested parties will no doubt bring this matter to the attention of this Commission and seek to review the rule. TCI-Wash submits that this Commission has sufficient information and comments in this docket already to allow it to issue a rule consistent with the FCC methodology and RCW 80.54.040. Therefore, TCI-Wash urges the Commission to act expeditiously rather than to defer action pending the outcomes of FCC rulemakings which are so uncertain.

Thank you for the opportunity to submit these comments.

Yours truly,

WILLIAMS, KASTNER & GIBBS PLLC



Judith A. Endejan

END:psb

cc: Interested Parties

¹See Footnote 3 to TCI-Wash's comments filed in response to the March 31, 1998 Notice of Opportunity to File Comments in this docket.

CERTIFICATE OF SERVICE

PENNY S. BLOMGREN, under penalty of perjury of the laws of the State of Washington, declares that she did cause the above document to be served by placing it in the United States Mail, first class postage prepaid on the 10th day of July, 1998, to the following parties:

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SIGNED this 10th day of July, 1998, at Seattle, Washington.


PENNY S. BLOMGREN