UNITED STATES TELEPHONE ASSOCIATION

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March 16, 1999

Oral Presentation – Ex Parte Notice

Magalie Roman Salas
Secretary
Federal Communications Commission
445 – 12th Street, SW – TW – A325
Washington, DC 20554

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Re: CC Docket No. 96-45

Dear Ms. Salas:

On March 15, 1999, Porter Childers, Mary Henze, BB Nugent and Bill Maher, representing the United States Telephone Association (USTA), met with Paul Gallant, Legal Advisor to Commissioner Tristani of the Federal Communications Commission, to discuss USTA's position in the above-captioned docket, supporting the Commission's current universal service treatment of the Washington State Department of Information Services network. The attached material was the basis for the presentation.

In accordance with Section 1.1206(b)(2) of the Commission's rules, USTA hereby submits two copies of this notice and attached presentation materials for the above referenced proceeding, for inclusion in the public record. Please contact me if you have questions.

Respectfully Submitted,

Porter Childers
Executive Director of
Legal and Regulatory Affairs

cc: Hon. William E. Kennard
Hon. Susan Ness
Hon. Michael K. Powell
Hon. Harold Furchtgott-Roth
Hon. Gloria Tristani
Kathryn C. Brown
James L. Casserly
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THE CURRENT UNIVERSAL SERVICE TREATMENT OF THE WASHINGTON DEPARTMENT OF INFORMATION SERVICES SHOULD BE RETAINED

UNITED STATES TELEPHONE ASSOCIATION
EX PARTE PRESENTATION
CC DOCKET NO. 96-45

MARCH 15, 1999

I. The Commission Should Reaffirm the Fourth Reconsideration Order on Universal Service As It Applies To The Washington DIS Network.

A. As a state government network, the Washington network is not a "telecommunications carrier" eligible for direct "schools and libraries" support under Section 254(h)(1)(B) of the 1996 Act.

B. The Washington network does not enhance access to "advanced telecommunications services" pursuant to Section 254(h)(2)(A).

C. The current treatment of the Washington network is competitively neutral and will promote cost-effective provision of services to schools and libraries.

II. The Fourth Reconsideration Order Correctly Provides Universal Service Support For The Washington DIS Network

A. State government networks are eligible as consortia to pass along discounts when procuring supported telecommunications (4th Reconsideration Order ¶ 183).

B. State networks may receive reimbursement for providing internal connections and Internet access (4th Reconsideration Order ¶ 190).

C. The Washington DIS network is not required to contribute to universal service.

III. Following The Iowa Communications Network (ICN) Precedent, The Washington DIS Network Is Not A Telecommunications Carrier

A. The precedent of the ICN Declaratory Ruling of February 18, 1999 applies to Washington DIS.

B. Washington DIS does not provide telecommunications "to the public or such classes of users as to be effectively available directly to the public."

-- The network is limited to Washington state and local governmental agencies, including public schools and libraries.

C. Washington DIS has adopted conditions of use that restrict network connections and use to institutions authorized by Washington statute and approved by a policy committee.

D. The Commission has no authority to make a "regulatory exception" to or "waive" the statutory classification of "telecommunications carrier" for Washington DIS.

E. There is no reason to treat Washington DIS differently from ICN.

IV. There Is No Basis For Treating Washington DIS Uniquely As Enhancing Access To Advanced Telecommunications Services

A. The Commission's interpretation of enhancing access to advanced services focuses on Internet access and internal connections (now under judicial review).

B. The services listed by Washington DIS cannot be considered as "advanced" for universal service purposes or as enhancing access to such services:

- -- ISDN/Intranet
- -- Service integration and bundling
- -- Other administrative services

C. "Advanced" treatment could set a broad, costly precedent.

V. Washington DIS Should Not Receive Special Direct Support For Its Administrative Costs

A. Such support would provide no incentives to control maintenance, administrative, and marketing costs.

B. As a general matter, these costs could be reduced by outsourcing or purchasing administrative services from carriers.

C. The Universal Service program was intended to support schools and libraries, not state administrative costs and investment decisions.

D. Unlike LECs, Washington DIS is not subject to common carrier regulation.

VI. Washington DIS Is Not Uniquely Burdened By Accounting Requirements For Consortia

A. All participants in the Universal Service program bear administrative burdens:

- -- Consortia
- -- Other service providers
- -- Applicants

B. Exceptional treatment of Washington DIS based on alleged burdens would be a bad precedent.

C. Accounting requirements assure program integrity.

D. Burdens can be reduced by minimizing the state network's share of administrative overhead.

VII. Granting The Washington DIS Petition Would Not Be Competitively Neutral

A. Unlike Washington DIS, carriers must contribute to universal service.

B. It would not be competitively neutral for these carriers to support a state network that competes directly with them but does not contribute to universal service.

C. Carriers in Washington state have paid taxes to support Washington DIS.

D. Washington DIS has competitive advantages in serving eligible users because of its ability to:

-- buy large volumes of telecommunications services at advantageous rates from telecommunications carriers and

-- tailor its offerings to a exclusive class of customers.

E. As a non-telecommunications carrier, Washington DIS is not subject to state or federal regulation.

F. The current rules provide market incentives for Washington DIS to minimize administrative costs and retain customers.

VIII. The Comparative Cost Examples Presented By Washington DIS Do Not Establish That Reconsideration Would Result in Savings For the Universal Service Fund.

A. The examples wrongly assume that Washington DIS will maintain a constant level of administrative costs under the current rules:

-- To the contrary, the current rules provide Washington DIS with strong incentives to operate more efficiently.

-- If the petition is granted, Washington DIS would have no incentives to reduce administrative costs.

B. The examples do not make meaningful comparisons:

-- They do not compare Washington DIS's prices with those of a similarly sized volume-purchasing arrangement.

-- Instead, they compare Washington DIS prices with "carrier-direct" prices that a single school district would pay.

IX. Conclusion

A. The Commission should deny the Washington DIS petition for reconsideration.

B. There is no reason to provide special treatment for Washington DIS.

C. The Fourth Reconsideration Order as applied to Washington DIS promotes cost-effective provision of services and competitive neutrality.

D. Granting the petition would have negative precedential effects.