

**BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

The Independent Telephone and
Telecommunications Alliance, National
Exchange Carrier Association, National
Telecommunications Cooperative
Association, Organization for the Promotion
and Advancement of Small
Telecommunications Company, and Western
Telecommunications Alliance Petition for
Clarification of Certain Universal Service
Rules

WC Docket No. 10-90

WT Docket No. 10-208

**COMMENTS
OF
THE WASHINGTON INDEPENDENT TELECOMMUNICATIONS ASSOCIATION**

February 28, 2012

INTRODUCTION AND SUMMARY OF POSITION

The Washington Independent Telecommunications Association (WITA) is a trade association representing the incumbent local exchange carriers in the State of Washington. A list of WITA's members is attached as Appendix A.

WITA is filing these Comments in support of the Petition for Clarification (Petition) filed by The Independent Telephone and Telecommunications Alliance, National Exchange Carrier Association, National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Company, and Western Telecommunications Alliance (the Petitioners). The Petition seeks clarification of 47 C.F.R. § 54.313(h) and 47 C.F.R. § 54.318(a), governing the operation of the local rate floor. Specifically, the Petitioners seek clarification that a company's status for 2012 under the local rate floor would not be held to that company's rates in effect on January 1, 2012. WITA agrees with the Petitioners' analysis.

DISCUSSION

The Commission's *USF/ICC Transformation Order and FNPRM*¹ (the Order) was released on November 18, 2011, and became effective on December 29, 2011. As part of that Order, the Commission adopted a local rate floor. The effect of the local rate floor is that if a company has local residential rates below that floor, they suffer a dollar-for-dollar reduction in high-cost fund support.² Because of the timing of the Order, companies affected by the portion of the Order related to the local rate floor had no realistic opportunity to take action to bring the rates charged to their residential customers up to the local rate floor by January 1, 2012. Thus,

¹ *Connect America Fund, et al.*, WC Docket No. 10-90, et al., *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 (rel. Nov. 18, 2011).

² 47 C.F.R. § 54.318(b).

without an opportunity to raise those rates prior to the July 1, 2012, effective date of the first round of the local rate floor, those companies are being punished without any opportunity to seek a cure.

As set out in the Petition,³ under Washington law the process for increasing local rates can take up to ten months after filing a suspended. RCW 80.04.130(1). Since the filing to change tariff rates must be made on at least thirty days advance notice, this is essentially an eleven month process. RCW 80.36.110(1).

Under the Washington Utilities and Transportation Commission's rules, a filing to raise rates must include substantial amounts of financial information. As detailed in WAC 480-07-510, those matters must include:

(1) Testimony and exhibits. The company must file with the commission nineteen paper copies of all testimony and exhibits that the company intends to present as its direct case if the filing is suspended and a hearing held,... The utility must provide an exhibit that includes a results-of-operations statement showing test year actual results and the restating and pro forma adjustments in columnar format supporting its general rate request. The utility must also show each restating and pro forma adjustment and its effect on the results of operations. The testimony must include a written description of each proposed restating and pro forma adjustment describing the reason, theory, and calculation of the adjustment.

(2) Tariff sheets. The company must file with the commission and provide to public counsel a copy of the proposed new or revised tariff sheets in legislative format, with strike-through to indicate any material to be deleted or replaced and underlining to indicate any material to be inserted, in paper and electronic format, . . .

(3) Work papers and accounting adjustments.

(a) At the time the company makes its general rate case filing, the company must provide one copy of all supporting work papers of each witness to public counsel and three copies to staff in a format as described in this subsection.
...

³ Petition at p. 4.

(d) A detailed portrayal of the development of any capital structure and rate of return proposal and all supporting work papers in the format described in this subsection.

(e) Restating and pro forma adjustments. Parties must provide work papers that contain a detailed portrayal of restating actual and pro forma adjustments that the company uses to support its filing or that another party uses to support its litigation position, specifying all relevant assumptions, and including specific references to charts of accounts, financial reports, studies, and all similar records relied on by the company in preparing its filing, and by all parties in preparing their testimony and exhibits. All work papers must include support for, and calculations showing, the derivation of each input number used in the detailed portrayal and for each subsequent level of detail. The derivation of all interstate and multiservice allocation factors must be provided in the work papers. . . .

(f) A detailed portrayal of revenue sources during the test year and a parallel portrayal, by source, of changes in revenue produced by the filing, including an explanation of how the changes were derived.

(g) If the public service company has not achieved its authorized rate of return, an explanation of why it has not and what the company is doing to improve its earnings in addition to its request for increased rates.

(h) A representation of the actual rate base and results of operation of the company during the test period, calculated in the manner used by the commission to calculate the company's revenue requirement in the commission's most recent order granting the company a general rate increase.

(i) Supplementation of the annual affiliate and subsidiary transaction reports as provided in rules governing reporting requirements for each industry, as necessary, to include all transactions during the test period. The company is required to identify all transactions that materially affect the proposed rates.

(4) Summary document. The company must file with the commission a summary document that briefly states the following information on an annualized basis, if applicable. In presenting the following information, the company must itemize revenues from any temporary, interim, periodic, or other noncontinuing tariffs. The company must include in its rate change percentage and revenue change calculations any revenues from proposed general rate change tariffs that would supersede revenue from noncontinuing tariffs. The summary document must also include:

(a) The date and amount of the latest prior general rate increase authorized by the commission, and the revenue realized from that authorized increase in the test period, based on the company's test period units of revenue.

- (b) Total revenues at present rates and at requested rates.
- (c) Requested revenue change in percentage, in total, and by major customer class.
- (d) Requested revenue change in dollars, in total, and by major customer class.
- (e) Requested rate change in dollars, per average customer, by customer class, or other representation, if necessary to depict representative effect of the request. The summary document must also state the effect of the proposed rate increase in dollars per month on typical residential customers by usage categories.
- (f) Most current customer count, by major customer class.
- (g) Current authorized overall rate of return and authorized rate of return on common equity.
- (h) Requested overall rate of return and requested rate of return on common equity, and the method or methods used to calculate rate of return on common equity.
- (i) Requested capital structure.
- (j) Requested net operating income.
- (k) Requested rate base and method of calculation, or equivalent.
- (l) Requested revenue effect of attrition allowance, if any is requested.
- ...
- (6) Cost Studies. The company must file with the commission any cost studies it performed or relied on to prepare its filing, identify all cost studies conducted in the last five years for any of the company's services, and describe the methodology used in such studies.
- ...

What this means is that it was impossible for a local exchange company to meet the standards of statute and rule under Washington law to increase rates between November 18,

2011, the release date of the Order, and January 1, 2012. To penalize these companies is not fair, nor does it comport with due process.

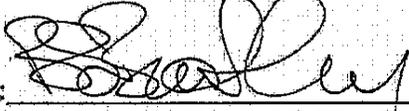
It should also be noted that some of the affected Washington companies are acting in good faith to meet the standards of the local rate floor. For example, Pioneer Telephone Company filed a tariff before the Washington Utilities and Transportation Commission in Docket UT-120129 to increase its rates immediately to \$10.00 and to \$14.00 by January 1, 2013. A similar filing has been submitted by St. John Co-operative Telephone and Telegraph Company. See Docket UT-120116.

The Commission should not penalize companies by adopting a new concept and informing companies that, in essence, it is already too late to do anything about it and, thus, you, the company, will suffer a penalty no matter what you do. That approach flies in the face of fundamental fairness.

As a result, WITA respectfully requests that the Commission move forward to afford the level of fundamental fairness that should be provided by granting the Petition filed by the Petitioners.

Respectfully submitted this 28th day of February, 2012.

WASHINGTON INDEPENDENT
TELECOMMUNICATIONS ASSOCIATION

By: 
Betty Buckley, Executive Vice President

APPENDIX A

Asotin Telephone Company d/b/a TDS Telecom
CenturyTel of Cowiche, Inc., d/b/a CenturyLink
CenturyTel of Inter-Island, Inc., d/b/a CenturyLink
CenturyTel of Washington, Inc., d/b/a CenturyLink
Ellensburg Telephone Company d/b/a FairPoint Communications
Frontier Communications Northwest, Inc.
Hat Island Telephone Company
Hood Canal Telephone Co., Inc. d/b/a Hood Canal Communications
Inland Telephone Company
Kalama Telephone Company
Lewis River Telephone Company, Inc. d/b/a TDS Telecom
Mashell Telecom, Inc. d/b/a Rainier Connect
McDaniel Telephone Co. d/b/a TDS Telecom
Pend Oreille Telephone Company, d/b/a RTI Pend Oreille Telecom
Pioneer Telephone Company
St. John Co-operative Telephone and Telegraph Company
Tenino Telephone Company
The Toledo Telephone Co., Inc.
Western Wahkiakum County Telephone Company d/b/a Wahkiakum West
Whidbey Telephone Company
YCOM Networks, Inc. d/b/a FairPoint Communications