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IDAHO PUBLIC UTILITIES COMMISSION

BEFORE THE
IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE 2017 REVIEW OF)
THE IDAHO UNIVERSAL SERVICE FUND) CASE NO. GNR-T-17-05
)
) POSITION PAPER OF THE IDAHO
) TELECOM ALLIANCE
)

The Idaho Telecom Alliance ("ITA"), by and through its attorneys of record, Cynthia A. Melillo PLLC and Givens Pursley LLP, hereby files this Position Paper in response to the Notice of Public Workshops in Case No. GNR-T-17-05, Order No. 33951, issued on December 21, 2017. ITA is a state telephone association, and its members include both commercial companies and cooperatives. The fourteen (14) members of ITA provide advanced telecommunications and broadband services in rural Idaho. All the members (or affiliates of the members) are designated Eligible Telecommunications Carriers ("ETC") in Idaho. Eight of the members receive funding from the Idaho Universal Service Fund and claim a direct and substantial interest in this proceeding.

On January 17, 2018, the Idaho Public Utilities Commission (the "Commission") convened a workshop for interested parties and stakeholders in the Idaho Universal Service Fund ("IUSF") to discuss how the IUSF relates to the current legal and regulatory framework, the evolving telecommunications landscape, and universal telecommunications services in Idaho generally. Following the workshop, interested parties were invited to submit a position paper. The following is ITA's position on the matter of the IUSF.

Brief Historical Summary

As the Commission is aware, the ITA member companies serve areas of the state that were not served by the original Bell telephone operating companies. These areas were the non-economic leftovers the Bell operating companies elected not to serve, and thus by definition, these areas are high cost territories. The Bell operating system was able to subsidize those high cost areas that were served by the Bell operating system by using the profits from its urban service territories. The non-Bell telephone companies that served only the high cost territories had no urban territories to subsidize their high cost areas, but they were assisted by the implicit subsidies of the intercarrier compensation system that provided payments from the Bell operating companies for the origination and termination of calls to and from the non-Bell company service territories.

Following divestiture of the Bell system, technological advances subjected the Bell holding companies to competition from providers using new and cheaper technologies. Naturally, this competition occurred primarily in the low cost and higher margin urban areas. The new competitors offered services at rates below the Bell companies' tariffed rates, thereby cutting the profits the Bell companies used to subsidize their high cost areas. In this new telecommunications environment with decreasing margins and declining market share in urban areas, created by new

technologies providing services, the ITA member companies serving high cost areas could not receive enough intercarrier compensation to keep their networks economically viable. The ITA member companies serving the highest cost areas, and similarly situated companies across the country, would not have survived the economic free for all that followed the divestiture and de-regulation without a system of explicit subsidies, and thus, in order to assure continued service in their high cost rural service territories the Idaho legislature established the IUSF to enable the goal of ubiquitous service at comparable rates. In short, divestiture and de-regulation forced the historic implicit subsidies to become explicit, lest those highest cost areas lose telecommunications altogether.

The IUSF was established to maintain “the universal availability of local exchange service at reasonable rates and to promote the availability of message telecommunications service (MTS) at reasonably comparable prices throughout the state of Idaho.” Idaho Code § 62-610. The IUSF is funded by a statewide per line end user surcharge on local exchange service and a cents-per-minute surcharge on MTS and WATS type services. Idaho Code § 62-610. In a sense, this system maintains the concept of supporting high cost rural areas with low cost urban revenues with a uniform charge.

Distributions from the IUSF are available to the individual eligible telecommunications carriers in Idaho that provide basic local exchange service and meet certain other requirements as set forth in the Telecommunications Act of 1988. There are eight members of the ITA who meet these requirements and receive funding from the IUSF.¹

¹ The ITA members receiving funding from the IUSF are ATC, Cambridge, Direct, Fremont, Inland, Midvale, Rural and Silver Star.

The Commission and the stakeholders acknowledge that the IUSF funding levels have been steadily decreasing, and the future of the IUSF is in jeopardy. Based upon information provided by the Commission at the workshop, line counts have been decreasing by an average of ten percent (10%) per year over the last five years. Likewise, MTS/WATS billed minutes have declined by an average of twelve percent (12%) per year over the last five years. As the sources of funding decrease, the revenues in the fund decline. If the line count numbers and MTS/WATS billed minutes continue to decline at the pace presented at the workshop², then the current funding levels or sources will not be adequate to sustain the fund into the future.

The ITA member companies have used the federal Universal Service Fund support and the IUSF support to build networks for communications services throughout rural Idaho. The ITA member companies are also the providers of broadband services and internet connectivity to their subscribers in the rural service territories over the networks they have constructed. While in some areas, Idaho residents may have a choice between landline, wireless or broadband service providers, in most ITA member service territories there is only one network over which these various services are economically provided, and that is the network built by the ITA member companies with IUSF funding. Without continued IUSF support, these networks will fail, and that does not simply mean that the rural citizens will not have access to wireline voice services. It also means that their communications needs will not be supplied by wireless or broadband providers because these providers use the same network. Without the network that enables communications services, rural Idaho citizens will exist on the wrong side of a digital divide unable to keep pace with the rest of the country.

² The ITA would like additional information regarding reported line counts. Based upon the collective knowledge of the ITA members, the line count numbers reported by the Commission at the workshop do not appear on their face to accurately reflect line counts. Can the Commission provide a list of line counts by company?

The Continuing Need for the IUSF

The position of the ITA is that the IUSF must be maintained, and that the Commission and interested stakeholders work together to continue toward the goal of providing ubiquitous service to all Idahoans at comparable prices. While the telecommunications landscape has evolved since the Telecommunications Act of 1988 and voice services look very different today than they did in 1988, universal telecommunications services in Idaho should remain a priority to continue to bridge the divide between the urban population and Idaho's rural population. The IUSF is needed to sustain necessary services in high cost areas. Because of the IUSF, many areas in Idaho that would not have communication services, now have those services. If IUSF support were to cease, the provision of communications services to these high cost areas in Idaho would not be sustainable over time. If a provider is forced to maintain the current rate structure and simply sustain the losses, over time the provider would cease to be viable, its network would fail, and Idaho citizens would suffer. It might be suggested that the provider could charge the actual cost of service to customers in the high cost areas. That not only would defeat the goal of ubiquitous service at comparable costs throughout all regions of the state, the cost to the customer would be prohibitive, the customer base would shrink, and the network would not be sustainable. Either way, rural areas ultimately would lose communications capabilities. The argument that urban Idahoans should not have to support rural Idahoans access to telecommunications because rural Idahoans choose to live in these areas, is as simplistic as saying that rural Idahoans should not have to pay taxes that fund infrastructure in primarily urban areas. Just like highway infrastructure, communications infrastructure is useful both to those who live in these areas and to those traveling through.

In addition to the necessity of IUSF funding to sustain services already provided in high cost areas, the need for IUSF funding likely will exist as long as high cost areas exist. The Federal

Communications Commission (“FCC”) recently announced the Connect America Fund Phase II Auction (Auction 903) to award nearly \$2 Billion to service providers that will commit to offer voice and broadband services to fixed locations in unserved high-cost areas. The list of unserved high cost locations includes over 2,000 such locations for the state of Idaho. (See FCC Fact Sheet – Connect America Fund Phase II Auction (Auction 903) – Public Notice – AU Docket NO. 17-182, issued January 9, 2018). Many of these areas received no bids in earlier auctions because even with federal funding, many bidders believed the areas were too expensive to serve and the likelihood of all such areas in Idaho being awarded funding in the Auction 903 is slim.

Next Steps for the IUSF

As noted above, ITA recognizes that the current funding sources or funding levels for the IUSF are not adequate to sustain the fund into the future. ITA acknowledges that change needs to occur, and short of simply increasing the per line/per minute charges, any change will require legislation and rulemaking. With the primary goal of maintaining ubiquitous and affordable service to the residents of Idaho, ITA is open to exploring all reasonable recommendations that will allow the continued viability of the fund. Idaho is not the first state to examine the issue and certainly not the only state to have a high cost universal service fund. Other states have different funding mechanisms and may not be affected by decreasing line counts, and other states have recently made changes to their universal service funds to address issues the IUSF is now facing. Changes include increasing funding levels and/or sources of funding, and also address expanding the pool of eligible recipients of funding or otherwise providing for limited distributions to currently ineligible recipientsto ensure adequate service in eligible high cost areas.

If the IUSF is in fact failing because of decreases in line counts and presumably a decrease in the use of traditional landline voice services, perhaps the Commission needs to

consider a broader, technologically neutral IUSF. Perhaps any provider of communication services that has ETC status and obligations should be eligible for funding the network in the highest cost areas. Perhaps also all customers who use communication services that are delivered over the network should pay for the network.

The ITA acknowledges that not all unserved or underserved areas located within Idaho are within the service territories of those companies currently receiving IUSF funding. ITA believes in the overall goal of ubiquitous service at comparable costs for all Idahoans, and perhaps expanding the pool of eligible recipients is a fair approach to accomplishing that goal. The Commission would have to consider what the requirements might be for these companies to receive funding that would be comparable to the requirements placed upon the current recipients.

In summary, ITA continues to support the goal of universal service for all Idahoans at comparable rates. That goal can only be reached if the IUSF is maintained. The IUSF can only be maintained if the contribution base of the fund is expanded. With the growth of the contribution base, ITA is open to expanding the potential recipients of funding. Finally, the ITA would like to see this case expanded beyond the remaining scheduled workshop. The ITA believes it would be beneficial for the Commission to guide discussions to enable all interested stakeholders to seek agreement on basic terms upon which legislative action may be commenced.

ITA respectfully submits this Position Paper as of this 30th day of January 2018.

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