

WILLIAMS · BRADBURY

A T T O R N E Y S A T L A W

April 25, 2018

Ms. Diane Hanian
Commission Secretary
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

Re: GNR-T-17-05

Dear Ms. Hanian:

Please find enclosed for filing the original and seven copies of Reply Comments of the Idaho Cable Broadband Association in the above referenced case.

Thank you for your assistance in this matter. Please feel free to give me a call should you have any questions.

Sincerely,



Ronald L. Williams

RLW
Enclosures

RECEIVED
2018 APR 25 PM 3:10
IDAHO PUBLIC
UTILITIES COMMISSION

Ronald L. Williams, ISB No. 3034
Williams Bradbury, P.C.
P.O. Box 388
Boise ID, 83701
Telephone: 208-344-6633
ron@williamsbradbury.com

Attorneys for Idaho Cable Broadband Association

RECEIVED
2018 APR 25 PM 3:10
IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE 2017)
REVIEW OF THE IDAHO) CASE NO. GNR-T-17-05
UNIVERSAL SERVICE FUND)
) IDAHO CABLE BROADBAND
) ASSOCIATION
) REPLY TO STAFF SUMMARY AND
) REPORT**

The Idaho Cable Broadband Association (“ICBA”), pursuant to Order No. 33999 issued in this proceeding on February 23, 2018, submits this Reply to Staff’s Summary and Report filed in this case on April 4, 2018.

ICBA agrees with Commission Staff that any change to the Idaho Universal Service Fund (“IUSF”) would likely require legislation. However, ICBA disagrees with Staff that legislative action is necessary for the IUSF to continue to meet its intended original purpose of ensuring that Idahoans have access to reasonably-priced basic telecommunications services.¹

Staff also recommends that “more participants – specifically, VoIP and cell providers – must contribute to the fund if the fund’s purpose is to be maintained.”² For purposes of clarifying the record in this case, the ICBA would note that its member cable companies that provide VoIP service in Idaho in fact already contribute to the IUSF.

**I. CHANGES TO THE IUSF’S PURPOSE OR CONTRIBUTION
METHODOLOGY, POOL OF CONTRIBUTORS, OR SUPPORT OF NON-
TELECOMMUNICATIONS SERVICES REQUIRES LEGISLATION.**

¹ Staff Summary and Report, Page. 3.

² *Id.*

As discussed in ICBA's Position Paper,³ incorporated herein by reference, the IUSF's purpose is limited by statute to "maintaining the universal availability of local exchange service . . . and to promot[ing] the availability of message telecommunications service at reasonably comparable rates."⁴ In addition, only "eligible telecommunications carriers" ("ETCs")⁵ whose rates exceed the following may receive support from the IUSF:

(a) ... average residence and business local exchange service rates for one-party single line service are in excess of one hundred and twenty-five percent (125%) of the weighted statewide average rates for residence and business local exchange service rates for one-party single line service respectively; and

(b) ... average per minute charge for MTS/WATS access services it provides is in excess of one hundred (100%) of the weighted statewide average for the same or similar MTS/WATS access services.⁶

State law grants the Commission the authority to designate, in addition to basic local exchange service, *telecommunications services* that should be made available to consumers by ETCs.⁷ "Basic local exchange service means the provision of access lines to residential and small business customers . . . [for] voice communication within a local exchange calling area."⁸ Accordingly, IUSF support is limited to *only* telecommunications services, and does not include voice over Internet protocol or broadband Internet access service.

The IUSF's contribution methodology and contributors are fixed by statute. State law requires that the IUSF be funded by surcharges applied on a cents-per-line basis for local exchange service and a percentage-basis for MTS and WATS services.⁹ State law limits the application of the surcharge to only local exchange and MTS and WATS type services.¹⁰

³ ICBA Position Paper filed January 31, 2018.

⁴ I.C. § 62-610(1).

⁵ I.C. §§ 62-610(3) and 62-610(5)(D).

⁶ I.C. § 62-610(3)(a) and (b).

⁷ I.C. § 62-610C(2).

⁸ I.C. § 62-603(1).

⁹ I.C. § 62-610(2).

¹⁰ *Id.*

Therefore, ICBA agrees with Staff that any change to the IUSF's purpose, contribution methodology or pool of contributors, or the inclusion of non-telecommunications services as IUSF supported services, requires legislation.

II. THE IUSF WILL CONTINUE TO MEET ITS INTENDED ORIGINAL PURPOSE WITHOUT LEGISLATION.

ICBA disagrees with Staff that legislative action is necessary to preserve the IUSF's intended original purpose. The IUSF ensures that consumers in all areas of the State have access to basic local exchange service. At present, the IUSF disburses approximately \$1.7 million to eight (8) qualifying rural high-cost telephone companies. Neither Staff nor any participant in this case have presented evidence that this amount is inadequate for these carriers to maintain facilities necessary to deliver voice communications in high-cost areas. Further, the recipients have not demonstrated a need for such support.

Therefore, if further action is contemplated by the Commission, ICBA recommends that the Commission first determine the necessary cumulative cost of eligible high-cost support. Once that amount is determined, only then should the Commission explore the various options Staff and commenters offer to "modernize" the IUSF.

ICBA agrees that the IUSF should be supported equitably among functionally equivalent services subject to statutory amendment. However, the Commission should not seek to expand the size of the fund absent necessity. The public interest is served only when the Commission makes fact-based decisions to disburse public funds in support of well-planned and targeted objectives.

III. PLANNING TO INCLUDE BROADBAND AS A SUPPORTED SERVICE IS PREMATURE.

Efforts to "modernize" the IUSF should not include broadband Internet access service as a service eligible for high-cost support. Even though State law does not today permit IUSF support for non-telecommunications services, State universal service support for broadband would duplicate federal efforts.

Idaho's incumbent carriers are receiving considerable amounts to bring broadband to high-cost areas of the State.¹¹ CenturyLink receives annually approximately \$6.3 million in federal

¹¹ See ICBA Position Paper filed January 31, 2018, pp. 3-5.

Connect America Fund (“CAF”) Phase II model support to deploy broadband to high-cost areas of Idaho.¹² Similarly, Frontier receives annually approximately \$5.3 million in CAF funds for in state high-cost broadband deployment.¹³ In addition, thirteen (13) Idaho rural incumbents were offered approximately \$20.8 million in annual A-CAM federal model based support for a period of ten (10) years.¹⁴ More federal funding will become available to these same carriers through the CAF Phase II reverse auction,¹⁵ the Mobility Fund, and the Remote Areas Fund.

The Commission should gather data concerning the effect of the existing federal high-cost broadband deployment programs before engaging the Legislature to duplicate similar efforts at the state level. Ultimately, if the Legislature permits the IUSF to support broadband, deployment subsidies should only be awarded to unserved areas where there is no unsubsidized competitor.

IV. CONCLUSION

ICBA appreciates Staff recognizing the Commission’s jurisdiction to make comprehensive changes to the IUSF is limited. Additionally, ICBA appreciates this opportunity to partner with Staff and other stakeholders to provide the foregoing comments in pursuit of the Commission’s universal service goals.

Dated this 25 day of April, 2017.

Respectfully submitted,



Ronald L. Williams
Williams Bradbury, P.C.
Attorneys for the Idaho Cable Broadband Association

¹² See CAFII - Price Cap Carriers - CAM 4.3, Accepted Price Cap CAF II Offers of Model Based Support, FCC (Aug. 28, 2015).

¹³ *Id.*

¹⁴ See CAF - A-CAM 2.3.1 - Report Version 8.0, FCC (Aug. 15, 2016) The following RLECs were offered federal model based support: Albion Telephone Company; Blackfoot Telephone Cooperative; Cambridge Telephone Company; Farmers Mutual Telephone Company; Horizon Communications; Mud Lake Telephone Cooperative Association; Midvale Telephone Exchange, Martell Enterprises, Inc.; Martell Enterprises; May, Bott et al.; Project Mutual Telephone Cooperative Association; TDS; and Western Elite Incorporated Services.

¹⁵ See *Wireline Competition Bureau Releases List and Map of Eligible Census Blocks for the Connect America Fund Phase II Auction (Auction 93)*, AU Docket No. 17-82, WC Docket No. 10-90, DA 17-1219, FCC (rel. Dec. 19, 2017) (List of eligible census blocks available at: <https://www.fcc.gov/files/caf2auctionpublishblockcsv>).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25 day of April, 2017, I caused to be served a true and correct copy of the foregoing document upon the following individuals at the emails addresses indicated below:

Alyson_anderson@msn.com
cam@camlawidaho.com
james.farr@centurylink.com
john.stuart@mtecom.com
dhoover@pmt.coop
krm@givenspursley.com
rwiggin@ctctele.com
jwescott@ctctele.com
mestess@apublicpolicy.com
jeff.kuhns@gmail.com
mamotzkus@silverstar.net
bpatterson@cityofammon.us
mdetura@ctia.org
baron@CTIA.org
john.sisemore@att.com
jharrison@idahocities.org
sgrigg@idcounties.org
jon.barrett@irp.idaho.gov



Ronald L. Williams
Williams Bradbury, P.C.
Attorneys for the Idaho Cable Broadband Association