

# WILLIAMS · BRADBURY

A T T O R N E Y S   A T   L A W

October 4, 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 to Staff's Second Summary and Report 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

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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE</b>	)	<b>CASE NO. GNR-T-17-05</b>
<b>2017 REVIEW OF THE</b>	)	<b>ICBA'S REPLY TO STAFF'S</b>
<b>IDAHO UNIVERSAL</b>	)	<b>SECOND SUMMARY AND</b>
<b>SERVICE FUND</b>	)	<b>REPORT</b>

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The Idaho Cable Broadband Association (“ICBA”) respectfully submits this Reply to Staff’s Second Summary and Report (“Report”) filed in this case September 7, 2018.

**I. IT IS PREMATURE TO DISCUSS STATE USE LEGISLATION**

In its Report, Staff provides stakeholders the opportunity to propose legislative changes for consideration at an informal settlement meeting at which the parties would agree to additional process, or after which Staff will compile a final report to the Commission.<sup>1</sup> The ICBA has no legislative proposal at this time.

As the ICBA stated in its initial position in this proceeding, “any change to the present contribution mechanism requires legislation.”<sup>2</sup> However, as stated in its reply comments, “ICBA recommends that the Commission first determine the necessary cumulative cost of eligible high-

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<sup>1</sup> Report, p. 6.

<sup>2</sup> ICBA Position Paper, p.3; January 31, 2018.

cost support. Once that amount is determined, only then should the Commission explore the various options Staff and commenters offer to “modernize” the IUSF.”<sup>3</sup> (emphasis added)

Notwithstanding Staff’s invitation seeking legislative proposals, until the Commission conducts a comprehensive assessment of need, it is premature to propose or discuss legislation that would amend the IUSF to add assessments or expand disbursements to additional providers. At this point in time, neither Staff, nor any other party, has provided sufficient facts, evidence and expert analysis to support any such legislative proposal.

For these reasons, ICBA therefore recommends that the Commission first conduct audits of the recipients, then provide an opportunity for review (including of confidential info, pursuant to NDAs) and challenge, followed by evidentiary hearings to determine the cumulative amount of high cost support needed in Idaho, pursuant to exiting law. Simultaneously, the Commission should direct Staff to expand its analysis to consider the present state of competition within the telecommunications industry, as well as costs and revenues (from all sources related to the recipients) of providing supported services in high cost areas. Until these two tasks are completed, the Commission should freeze IUSF contributions and distributions at current levels.

## **II. INCUMBENT PROVIDERS ARE RECEIVING SUBSTANTIAL AMOUNTS OF FEDERAL HIGH-COST SUPPORT**

The federal government is investing heavily in ensuring that many rural areas have access to broadband which, in nearly all cases, also ensures they have access to voice service. Since 2011, the FCC has provided or committed to provide more than \$30 billion in high-cost support for the deployment of broadband-capable facilities through the federal Universal Service Fund. To the extent the robust market forces already active in expanding broadband service to more parts of the state still leave pockets without adequate service options, such federal support programs will have

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<sup>3</sup> ICBA Reply Comments, p. 3; April 25, 2018.

an important role in increasing access and availability. Idaho's incumbent providers are receiving substantial amounts to deploy advanced networks capable of delivering voice and broadband services to high-cost areas of the state.<sup>4</sup> Over the last ten (10) years, through August 2018, Idaho's incumbent carriers received over half a billion dollars in federal support for the maintenance of existing legacy networks and the deployment of advanced networks.<sup>5</sup>

CenturyLink received and continues to receive annually for six years, beginning in 2015, about \$6.3 million in federal Connect America Fund ("CAF") Phase II model support.<sup>6</sup> Similarly, Frontier received and continues to receive annually for six years about \$5.3 million in CAF funds for in state high-cost deployment.<sup>7</sup> Collectively, CenturyLink and Frontier will deploy advanced networks to 22,379 presently unserved locations in Idaho. Rural incumbents, including those that receive IUSF support, were offered about \$20.8 million in annual A-CAM model based support for a period of ten (10) years.<sup>8</sup> In addition, resulting from the CAF Phase II Auction, more than \$14.3 million dollars over the next ten (10) years has been awarded to three providers to deploy broadband to 10,921 extremely high-cost locations in the state where CenturyLink and Frontier declined CAF Phase II model support.<sup>9</sup>

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<sup>4</sup> See ICBA Position Paper filed January 31, 2018, pp. 3-5; and ICBA Reply Comments, pp. 3-4.

<sup>5</sup> Idaho Funding Disbursement Search Results, High Cost Program, Universal Service Administrative Co. (Sep. 27, 2018), <https://www.usac.org/hc/tools/disbursements/default.aspx>.

<sup>6</sup> See CAF II - Price Cap Carriers - CAM 4.3, Accepted Price Cap CAF II Offers of Model Based Support, FCC (Aug. 28, 2015).

<sup>7</sup> *Id.*

<sup>8</sup> See CAF - A-CAM 2.3.1 - Report Version 8.0, FCC (Aug. 15, 2016) The following rural incumbent carriers 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.; May, Bott et al. Holding Company; Project Mutual Telephone Cooperative Association; TDS; and Western Elite Incorporated Services.

<sup>9</sup> Connect America Fund Phase II: Assignments - Total Assigned by State, Public Reporting System, FCC (Sep. 27, 2018), [https://auctiondata.fcc.gov/public/projects/auction903/reports/total\\_assigned\\_by\\_state](https://auctiondata.fcc.gov/public/projects/auction903/reports/total_assigned_by_state).

The FCC also plans to make additional funds available through future auctions to address extremely high-cost rural broadband deployment. To accomplish this, the FCC has announced a second reverse auction in which \$15 billion will be made available nationally and it is advisable for Idaho consider how it can participate and can encourage companies offering service and interested in offering service Idaho to participate in this auction, expected to occur in 2021.

Before making changes to the current system, Staff and the Commission must get a firm handle on what federal funds have been made and will be made available to support telecommunications service and broadband in rural areas of this state. Once it has this information, it would be reasonable to conduct a formal proceeding to determine whether these amounts are sufficient in themselves or whether state monies continue to be needed.

Federal and state universal service funding is akin to a tax levied on Idaho consumers. The federal fund has existed for more than twenty (20) years. The federal assessment for the fourth quarter of 2018 will be over 20% on customers' interstate charges.<sup>10</sup> Any additional increase in universal service fund charges at the state level would effectively be a *tax increase* on customers who are already burdened by substantial universal service fees as well as 911 and other public purpose program fees. Therefore, ICBA urges the Commission to direct Staff to gather data concerning the effect of the existing federal high-cost programs that fund deployment of advanced networks capable of delivering both voice and broadband before approaching the legislature about a shortfall in IUSF funding for voice support, or embarking on similar efforts to deploy broadband to high-cost areas of the state. The Commission should not consider legislation without determining this critical threshold matter.

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<sup>10</sup> See <https://www.fcc.gov/document/fourth-quarter-usf-contribution-factor-201-percent>.

### III. CONCLUSION

ICBA appreciates the opportunity to participate in this proceeding as the Commission investigates issues concerning the IUSF program. ICBA looks forward to further discussions regarding the IUSF, with a focus on evidence-based decisions concerning the collection, disbursement and administration of the IUSF.

Dated this 4<sup>th</sup> day of October, 2018.

Respectfully submitted,



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



## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4<sup>th</sup> day of October, 2018, I caused to be served a true and correct copy of the foregoing document upon the following individuals at the emails addresses indicated below:

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