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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF ISSUES RELATING)
 TO UNIVERSAL SERVICE AND LIFELINE)
 ASSISTANCE FUND ADMINISTRATION) CAUSE NO. 42144 S3
 ARTICULATED IN CAUSE NOS. 40785,)
 42144, AND 43082, AND THE PROVISIONS) APPROVED:
 SET FORTH IN HEA 1279, CODIFIED AS IC)
 8-1-36)

OCT 10 2012

ORDER OF THE COMMISSION

BY THE COMMISSION:

David E. Ziegner, Commissioner
David E. Veleta, Administrative Law Judge

On March 17, 2004, the Commission issued an Order in Cause No. 42144 which, among other things, required the Commission to undertake a triennial review of the Indiana Universal Service Fund ("IUSF"). The purpose and scope of the triennial review is to: 1) ensure the operations of the IUSF are meeting the Commission's objectives of preserving and advancing universal service in Indiana; 2) ensure that universal service is continuing to be made available at rates that are just reasonable and affordable and reasonably comparable to rates for basic residential and single line business local exchange service in urban areas; 3) ensure that the processes, funding levels, size, operation and administration of the IUSF remain adequate and sufficient; and 4) review the operation of IUSF relative to the federal universal service fund as may be appropriate.

On August 11, 2010, the Presiding Officers issued a Docket Entry in this matter seeking input from the Parties with respect to which issues should be addressed during the triennial review of the IUSF. In an effort to guide the Commission's review and consideration of these issues, the Presiding Officers developed a preliminary issues list in this matter. Upon review of all the filings submitted for this purpose, the Presiding Officers developed a final issues list of matters to be reviewed in this proceeding.

On November 18, 2010, the Presiding Officers issued a Docket Entry in this proceeding requesting the Parties file responses to the final issues list on or before December 17, 2010. On April 7, 2011, the Presiding Officers issued a Docket Entry in this proceeding scheduling a Prehearing Conference in order to discuss the final issues list further and to develop a procedural schedule.

On August 23, 2011, the Indiana Telecommunications Association ("ITA"), the Indiana Exchange Carrier Association ("INECA"), United Telephone Company of Indiana, Inc., d/b/a CenturyLink, CenturyTel of Central Indiana, Inc., d/b/a CenturyLink and CenturyTel of Odon, Inc., d/b/a CenturyLink (collectively "CenturyLink"), Indiana Bell Telephone Company,

Incorporated d/b/a AT&T Indiana, Frontier Communications of Indiana LLC, Frontier Communications of Thorntown LLC, Frontier Midstates, Inc., and Frontier North, (collectively “Frontier”), Northwestern Indiana Telephone Company, Inc., and, tw telecom of indiana lp., (collectively the “Settling Parties”) filed the Joint Submission of Settlement Agreement (“Settlement Agreement”) in this Cause. The Settlement Agreement stated among other things that “given the imminent changes to the federal USF regime to be enacted by the Federal Communications Commission, no changes are necessary to the IUSF at this time.” Furthermore, the Settling Parties requested that if the Federal Communications Commission (“FCC”) issued an order regarding the Universal Service Fund (“USF”) and intercarrier compensation (“ICC”), the Commission should convene a technical conference to review what changes, if any, should be made to the IUSF.

On November 18, 2011, the FCC issued an order concerning the USF and ICC. *Connect America Fund*, 26 FCC Rcd 17663 (2011) (“*USF/ICC Transformation Order*”). On November 29, 2011, an evidentiary hearing in this Cause was held to consider the Settlement Agreement.

Pursuant to 170 IAC 1-1.1-22(d), the Commission may reopen a proceeding for receipt of further evidence. The Presiding Officers determined that it was necessary to reopen the record in this Cause to review what changes, if any, should be made to the IUSF based on the FCC’s *USF/ICC Transformation Order*. In order for the Commission and the parties to discuss how to proceed with this matter, the Commission convened an Attorneys’ Conference on July 30, 2012 at 1:30 p.m. in Room 222 of the PNC, 101 West Washington Street, Indianapolis, Indiana.

Pursuant to notice and as provided for in 170 IAC 1-1.1-15, proof of which was incorporated into the record by reference and placed in the official files of the Commission, the Commission convened an evidentiary hearing in this Cause at 1:30 p.m. on August 28, 2012 in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. The ITA, Frontier, and the Indiana Office of Utility Consumer Counselor (“OUCC”) appeared and were represented by counsel. No members of the general public appeared or sought to testify at the evidentiary hearing.

The Commission, based upon the applicable law and the evidence of record, now finds as follows:

1. Notice and Jurisdiction. Proper, legal and timely notice of the hearing in this Cause was given and published by the Commission as provided for by law. The proofs of publication of the notice of the hearing have been incorporated into the record of this proceeding. The Commission also has jurisdiction pursuant to Indiana Code § 8-1-2.6-13(d)(5). Thus, the Commission has jurisdiction over the subject matter of this Cause.

2. Evidence Presented. The ITA offered into evidence the testimony of Alan I. Matsumoto as Respondent’s Exhibit 1. No party objected to the admission of the ITA’s evidence and it was accepted into the record.

Mr. Matsumoto testified that the OUCC, the ITA, INECA, CenturyLink, AT&T Indiana, Frontier, tw telecom of indiana lp., Verizon, and Sprint, represented by their respective counsel,

participated at the July 30, 2012 Attorneys' Conference. Mr. Matsumoto noted the parties acknowledged the FCC issued its USF/ICC Transformation Order, but there is uncertainty regarding the final outcome and implementation of the Order, given the pending Petitions for Reconsideration and Clarification and court challenge. Mr. Matsumoto testified that INECA noted one area that has moved forward, the capping of intrastate switched access rates and the transition to mirroring of certain interstate switched access rates largely did not affect the rural Incumbent Local Exchange Carriers ("ILEC") and IUSF recipients, given the Commission's standing policy on mirroring interstate access rates. Mr. Matsumoto testified no party proposed any changes to the IUSF at the Attorneys' Conference and furthermore, the parties did not see a need to schedule a technical conference. Based on the discussion at the July 30, 2012 Attorneys' Conference, Mr. Matsumoto testified the parties recommend the Commission maintain the status quo for the IUSF, at this time.

Mr. Matsumoto noted that the parties at the Attorneys' Conference represent large and rural ILEC, Competitive Local Exchange Carrier ("CLEC"), Interexchange Carrier ("IXC"), and wireless carrier business interests, in addition to the OUCC's representation of the public. He indicated these diverse interests reflect the composition of the IUSF Oversight Committee and all agree that the Commission should preserve the status quo for the IUSF at this time.

Mr. Matsumoto testified that the parties recommend the Commission issue an Order concluding its IUSF Triennial Review. He noted on January 4, 2011, the Commission approved the Qualifications Tests submitted by the IUSF recipient carriers and established a January 2011 implementation date for new disbursements.

Mr. Matsumoto testified that concluding the IUSF Triennial Review would not foreclose any changes to the IUSF prior to the Commission's next triennial review. He indicated that with the Commission's continued authority over universal service, any party could raise an IUSF issue with its representative on the IUSF Oversight Committee. He stated if a party is not satisfied with issue resolution by the Oversight Committee, it could still address its concerns directly with the Commission through a petition, and the Commission would determine whether any IUSF changes are warranted.

3. Commission Discussion and Findings. The ITA recommends the Commission issue an Order concluding the IUSF Triennial Review. The basis for its recommendation is the continued lack of clarity surrounding the final outcome and implementation of the FCC's *USF/ICC Transformation Order*. All of the parties, including the IUSF Oversight Committee, agree that until there is greater certainty at the federal level concerning universal service, no changes to the IUSF should be made. Thus, the ITA recommends the Commission maintain the status quo for the IUSF, at this time.

The Commission, having reviewed the ITA's recommendation, finds considerable merit in the recommendation. The Commission is aware of the substantial amount of uncertainty as to the implementation of the *USF/ICC Transformation Order*, which is not likely to be resolved in the near future. Because of the uncertainty at the federal level, determining the appropriate changes to be made to the IUSF is extremely difficult. In addition, making changes now to the IUSF that may, or may not, be consistent with the final outcome of the appeals to the *USF/ICC*

Transformation Order would not only be speculative, but also not a very good use of the Commission's resources. Thus, in order to avoid potential inconsistencies between the changes at the federal level and the IUSF, the most reasonable solution is to wait for resolution of the issues at the federal level.

In addition, as noted by Mr. Matsumoto, our conclusion of this IUSF Triennial Review does not foreclose the Commission from making any changes to the IUSF prior to the next Triennial Review should the Commission determine it appropriate to do so. Therefore, although the next Triennial Review is not scheduled to begin until 2015, the Commission may consider future changes to the IUSF before the next Triennial Review, once the final outcome and implementation of the FCC's *USF/ICC Transformation Order* are determined, or in the event certain other developments impacting IUSF may occur. In addition, we note that the parties continue to retain the right to raise any issue that may arise prior to the next Triennial Review with the IUSF Oversight Committee or the Commission. Therefore, we conclude that the status quo for the IUSF shall be maintained at this time.

Accordingly, the ITA's recommendations shall be approved, as set forth herein.

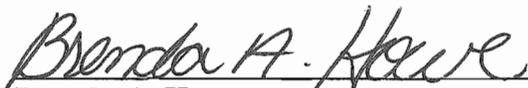
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Consistent with the findings above, the Commission approves maintaining status quo for the IUSF at this time.
2. The Commission hereby concludes the 2010 IUSF Triennial Review.
3. This Order shall be effective on and after the date of its approval.

LANDIS, MAYS, AND ZIEGNER CONCUR; ATTERHOLT AND BENNETT ABSENT:

APPROVED: **OCT 10 2012**

I hereby certify that the above is a true and correct copy of the order as approved.



Brenda A. Howe
Secretary to the Commission