

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

Policy Statement to Review State Universal Service Policies

Docket UT-100562

**INTEGRA TELECOM'S RESPONSE TO
NOTICE SEEKING COMMENT ON DRAFT LEGISLATION
TO ESTABLISH A STATE UNIVERSAL SERVICE FUND**

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Integra Telecom of Washington, Inc., Eschelon Telecom of Washington, Inc., Electric Lightwave, LLC., Advanced TelCom, Inc., Shared Communications Services, Inc., Oregon Telecom, Inc., and United Communications, Inc. (collectively referred to as “Integra” or “Integra Telecom”), respectfully submit the following comments regarding draft legislation to establish a state universal service fund.¹ Integra is a competitive communications provider operating in 11 western states, including Washington.

While Integra reserves judgment regarding the necessity of additional state universal funds for incumbent carriers in the state of Washington, Integra supports many of the concepts contained in the draft legislation for establishing a state universal service fund. These crucial concepts include limiting the size of the fund,² expanding the contribution base,³ administration by a neutral third party administrator,⁴ requiring the establishment of eligibility criteria⁵ including a minimum benchmark for basic residential service,⁶ limiting the fund to small carriers in the state of Washington,⁷ establishing an expiration date,⁸ and establishing a review to determine “whether the act served its intended purpose.”⁹

¹ Policy Statement to Review State Universal Service Policies, Docket UT-100562, Notice Seeking Comment on Draft Legislation to Establish a State Universal Service Fund, August 1, 2012.

² Universal Service Program draft legislation § 3(1), “shall not exceed XX million dollars in annual distributions.” Note that the size of the cap has not yet been established in the draft legislation.

³ Universal Service Program draft legislation § 3(1), “shall be funded on an equitable and non-discriminatory basis by every communications provider.”

⁴ Universal Service Program draft legislation § 3(2).

⁵ Universal Service Program draft legislation § 3(5), “[t]he commission shall establish eligibility criteria.”

⁶ Universal Service Program draft legislation § 3(5), “establish annual benchmarks of a reasonable amount customers should pay for basic residential service.”

⁷ Universal Service Program draft legislation § 3(5), “[o]nly incumbent local exchange carriers serving fewer than two percent of the access lines in the State of Washington... are eligible to receive support from the fund.”

⁸ Universal Service Program draft legislation § 7, “expire five years after the effective date.”

⁹ Universal Service Program draft legislation § 7.

Integra, however, is concerned with the method of assessing the “surcharge on each working telephone number rated within the state of Washington.”¹⁰ First, a numbers based surcharge methodology is burdensome as carriers would be forced to make changes to billing systems in order to charge per working telephone number. Integra’s billing systems are not set up to charge for universal service in this way.

Second, a numbers based surcharge would potentially miss contributions from certain providers of communications services. The draft legislation defines communications services as including, “telecommunications services and information services and any combination thereof.”¹¹ Not all carriers providing telecommunications services and information services necessarily utilize working telephone numbers (*e.g.* interexchange carriers). As a result a working telephone number surcharge would not be applied in an “equitable and non-discriminatory basis” as required by the draft legislation.¹²

Third, a working telephone number based system may be inconsistent with methodology adopted by the FCC in its USF Contributions Reform Proceeding¹³ and could potentially result in certain classes of communications providers paying for multiple universal service funds on the same customer base and revenue, while other communications providers are exempted from contributing at all. Integra does not believe that a state contribution methodology must necessarily follow the federal methodology, but does believe that the federal methodology should be taken into consideration as the state methodology is developed.

¹⁰ Universal Service Program draft legislation § 3(1).

¹¹ Universal Service Program draft legislation § 2(3).

¹² Universal Service Program draft legislation § 3(1).

¹³ *Universal Service Contribution Methodology; A National Broadband Plan For Our Future*, WC Dkt. No. 06-122 & GN Dkt. No. 09-51.

Fourth, a working telephone number based system can have a disproportionate impact on customers that rely heavily on numbers, such as colleges and universities. This could overly burden certain end users and result in changes in the way certain end users purchase communications services in order to avoid overly burdensome universal service contributions.

For the reasons stated above, Integra recommends that the draft legislation not dictate the contribution methodology, but allow the commission to determine the methodology prior to the effective date of the legislation.¹⁴

Integra proposes the following changes to the draft legislation:

Sec. 1. (3) As a result of the foregoing and to enable all consumers in Washington to access and benefit from a ubiquitous public network, the legislature hereby creates a universal service program that: (a) enhances the public network; (b) is funded ~~with a network connection fee paid by communications providers based upon working telephone numbers~~; (c) is administered by a neutral third party selected by the utilities and transportation commission; (d) is operated pursuant to rules adopted by the commission; and (e) advances universal service in a manner not inconsistent with the requirements of the federal telecommunications act of 1996 (47 U.S.C. Sec. 254).

Sec. 2. (2) “Communications provider” means a provider that provides Communications services ~~a working telephone number to a final consumer for intrastate wireline or wireless communications services or interconnected VoIP service.~~

Sec. 3 (1) A universal service program is hereby established which shall not exceed XX million dollars in annual distributions and shall be funded on an equitable and non-discriminatory basis by every communications provider as determined by the commission through the payment of a network connection fee for connection to the incumbent public network. ~~Initially, the fee shall be a surcharge on each working telephone number rated within the state of Washington.~~ The commission is authorized to change the develop a new ~~develop a new~~ basis for the fee as it may determine to be in the public interest. By order, the commission shall annually establish the ~~network connection~~ fee. Each communications provider may, but is not required to, pass-through to its customers the ~~network connection~~ fee or any portion thereof.

Sec. 3. (3) The ~~network connection~~ fee as ordered by the commission under subsection (1) of this section, along with any penalties imposed under section 6 of this act, and any other

¹⁴ Universal Service Program draft legislation §§ 7 & 8. The effective date is set as one year after enactment.

monies authorized to be deposited into the fund by law or order of any court with jurisdiction, shall be paid into the fund. The fund shall be administered by the administrator pursuant to rules promulgated by the commission. Monies deposited in the fund may be used only for the purposes set out in this act. The fund shall be outside of the state treasury. An appropriation is not required for expenditures from the fund.

Sec. 3. (4) In addition to such other jurisdiction as the commission may have, and notwithstanding RCW 80.66.010, the commission shall have jurisdiction over all communications providers for the following limited purposes: (a) assessment, payment and collection of fees under subsection (1) of this section; (b) enforcement of fee payment obligations; and (c) reports on the assessment, payment and collection of ~~network connection~~ fees and use of funds distributed.