**BEFORE THE WASHINGTON**

**UTILITIES AND TRANSPORTATION COMMISSION**

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| Policy Statement to Review State Universal Service Policies | ))) | DOCKET UT-100562**AT&T**  |

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**COMMENTS OFAT&T COMMUNICATION OF THE PACIFIC NORTHWEST, INC., NEW CINGULAR WIRELESS PCS, LLC, AND TCG SEATTLE**

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AT&T appreciates the opportunity to submit comments in response to the questions issued by the Washington Utilities and Transportation Commission (“Commission”) in its May 26, 2010 notice. Washington has a long-standing policy of ensuring universal service or access to the telephone network for all residents of the state. To continue this policy in an era with new communications services, Washington must take action to provide the necessary foundation for an all-broadband world envisioned by the Federal Communications Commission (“FCC”) report, *Connecting America: The National Broadband Plan* (“NBP”).[[1]](#footnote-1) As discussed during the Commission’s first workshop, a necessary first step in laying the foundation for a transition to this new world is for Washington to engage in the simple and straightforward steps for intrastate switched access reform. Such reform will benefit consumers in the state by providing for advance communication networks in the state, while at the same time lowering consumers’ long distance costs. The questions posed by the Commission and the responses that is receives should assist the Commission in evaluating the steps necessary to move forward with access reform in Washington.

1. **What is the role of the public switched telecommunications network operated by incumbent local exchange carriers (ILECs) in providing universal service in the state of Washington?**

The Communications Act of 1934 set forth Congress’ objective to “make available, so far as possible, to all people of the United States…a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charge.[[2]](#footnote-2) The Washington legislature has stated that its policy is to “preserve affordable universal telecommunications service” within the state.[[3]](#footnote-3)

Historically the public switched telecommunications network (“PSTN”) has been the infrastructure used to provide the services for universal telecommunications service. Traditionally, implicit subsidies were used to promote universal service: long-distance charges (and later, access charges) were set at artificially high, above-cost levels in order to generate implicit subsidies so that local service rates could be held artificially low, below-cost levels. The NBP describes that regime as follows:

. . . ICC [Intercarrier Compensation] was implemented before the advent of the Internet when there were separate local and long distance phone companies. Local companies incurred a traffic-sensitive cost to ‘switch’ or connect a call from the long distance company to the carrier’s customer. The per-minute rates charged to the long distance carrier were set above cost and provided an implicit subsidy for local carriers to keep residential rates low and promote universal telephone service.[[4]](#footnote-4)

But today consumers have a variety of choices to communicate long distances such as wireline long distance service, email, wireless phones, social networking websites, Voice over Internet Protocol (“VoIP”) providers like Vonage or Skype, and cable telephony, among others options. Many of these communications are now relying more and more on internet protocol (“IP”) or packet technologies, instead of traditional “switching”.

As a result, the old regime of implicit subsidies, which is a holdover from the monopoly era, is unsustainable. Consumers are leaving wireline long-distance and choosing alternative technologies due in part to avoid the artificial burden of implicit subsidies. Ironically, high intrastate access charges are drying up the stream of implicit subsidies that they were supposed to generate. With straightforward reforms that reduce intrastate switched access rates to more rational levels, the PSTN, or at least elements of the PSTN, can still serve a valuable role in ensuring universal, affordable service for today’s communications to an all-broadband world. In the answers that follow, AT&T presents a straightforward plan for access reform that will achieve these goals.

1. **Does the UTC need to address intrastate switched access rates to ensure universal service and the widespread availability of telecommunications services at reasonable rates in Washington?    What statutory or rule changes are needed in order to do so?**

Yes. The status quo of high intrastate switched access rates which historically have helped to keep basic local service rates artificially low in Washington cannot be sustained and, if not addressed, could hinder universal service and the widespread availability of communications service in Washington. This will slow the deployment of new technologies that will provide communications services of the 21st century.

* 1. ***Washington must act expeditiously to ensure the stability and advancement of communications networks in Washington and to protect consumers and competition in the state.***

*Access revenues are rapidly declining:* Access minutes of use are quickly decreasing as more and more consumers shift their usage away from traditional long distance services to alternatives not saddled with the same access subsidy obligations. As traditional landline minutes are transitioned to email, social networking, wireless[[5]](#footnote-5) and IP-based alternatives, access revenues are diminishing. As discussed above, access revenues have historically been a source of “implicit subsidies” for artificially low local residential retail rates. The erosion of these subsidies and ultimate loss of access revenues for the incumbent local exchange carriers (“ILECs”) threatens universal service and rural investment, which puts rural connectivity at risk. As consumers shift their calling away from traditional wireline telephone networks, the ILEC companies are strained to recover largely fixed costs from a shrinking customer base. In its recent NBP, the FCC noted that “fewer terminating minutes ultimately mean a smaller revenue base for intercarrier compensation…[[6]](#footnote-6) The FCC further noted that, “[e]ven rate of return carriers… acknowledge that the current system is ‘not sustainable’ and could lead to a ‘death spiral’ as higher rates to offset declining minutes exacerbate arbitrage and non-payment.”[[7]](#footnote-7)

The loss of access revenues is occurring nationally and Washington is having the same impact as well. According to FCC data, “total minutes of use of incumbent carriers decreased from 567 billion minutes in 2000 to 316 billion minutes in 2008, a drop of 56%.”[[8]](#footnote-8) In Washington State the total intrastate access minutes of use for all LECs has decreased from over 5 billion in 2000 to roughly 3.5 billion in 2008.[[9]](#footnote-9) The result is a substantial decrease in the access revenues received by companies in Washington over this same period of time. As such, Washington must act to provide stability for the rural LECs in order to ensure the continuation of universal service in the state.

The problems created by inflated switched access charges are numerous. Years ago, the FCC took significant steps to reduce implicit subsidies from interstate access rates, by reducing ILEC rates and “capping” CLEC rates at the level of the corresponding ILEC rates.[[10]](#footnote-10) AT&T proposes that the Commission initiate state reform by: (i) requiring ILECs to reduce their intrastate switched access rates to parity with the corresponding interstate rates; and, (ii) capping CLEC at the level of the corresponding ILEC rates.

*Excessive intrastate switched access rates harm consumers, impede competition, and unjustly discriminate against certain market segments.* Switched access charges are a principal component of the cost of providing wireline long-distance service. Thus, high access charges keep the price for in-state wireline long distance service inflated. Because long distance rates are geographically averaged over the state, high intrastate access charges harm all Washington consumers, regardless of the access rates of an individual LEC.

Long distance providers compete against email, instant messaging, wireless carriers, VOIP providers and social networking sites which, as discussed above, generally do not have the same high access charges that the long distance providers pay (or do not pay them at all). If the artificial burden of high intrastate access charges were reduced to mirror the interstate rates and structure, wireline long-distance providers could compete more aggressively on a more level playing field. In turn, other competing technologies will be forced to become more efficient, more innovative, and more attuned to consumer needs. The results will be a more competitive, consumer-focused Washington communications market – a clear win for consumers who will be reaping the benefits of full and fair competition.

*Interstate and intrastate access functions are the same yet have vastly different rates.* There is no material technical difference in functionality between originating and/or terminating an interstate call versus originating and/or terminating an intrastate call, yet there is a large difference in rates between the intrastate and interstate switched access rates. Charging radically different prices for materially the same functionality leads to arbitrage, substantial expense, waste, and inefficiency, resulting in decreased value for consumers.

“Call pumping” also called “traffic pumping,” is a prime example of the arbitrage that is encouraged by the present access charge regime. The term refers to practices by which some LECs have artificially stimulated additional phone traffic (for which they bill access charges). For example, the NBP observes, “companies have established ‘free’ conference calling services, which provide free services to consumers while the carrier and conference call company share the [access] revenues paid by interexchange carriers.”[[11]](#footnote-11) High access rates create powerful incentives for LECs to engage in traffic pumping – and the record shows that at least one LEC

* 1. ***Washington should not be left behind.***

As discussed in more detail below in response to question 14, the Washington Commission a number of years ago established two rate elements that are assessed on intrastate switched access that are generally thought of as providing universal service support. This universal service support mechanism is unsustainable as these rate elements are only assessed on one segment of the industry, long distance providers, and as discussed above the minutes of use for intrastate switched access are in rapid decline. Legislation was previously introduced which would have created a state universal service fund, but this was ultimately not enacted by the legislature. These actions all occurred over a decade ago and the communications marketplace has changed dramatically in that time period.

Other states have already implemented some form of intrastate access reform. A number of states have required intrastate switched access rates to mirror interstate access rates in a number of different ways (via statute, commission order, or as a condition of alternative regulation) and the application may be for some or all of the LECs in the state; nevertheless, their essential policy choice has been the same. During the Commission’s first workshop CenturyLink provided examples of a number of states that have already engaged in intrastate access reform.[[12]](#footnote-12)

Reforming Washington’s high intrastate access rates will yield profound benefits to Washington consumers and ensure that Washington remains competitive in the new economy. When access rates are reformed, consumers can enjoy a fuller array of competing services. They can expect savings and innovation from the local exchange carriers and more efficient and improved services at the best possible price, as all providers – regardless of technology – will be afforded the opportunity to compete fairly.

* 1. ***Intrastate Access Reform Overview***

AT&T believes that Washington should take the first simple, common-sense to reform intrastate switched access rates as follows:

* All Washington LECs should be required to immediately and fully reduce and maintain intrastate switched access rates to mirror that company’s corresponding interstate switched access rate level and rate structure; CLECs should be required to immediately cap their intrastate access rates at the intrastate access rates of the ILECs with which they compete.
	+ All intrastate pools would be eliminated and funding will be made up from retail rates (imputed up to benchmark) and/or state universal service fund (where necessary).
* A statewide uniform retail rate benchmark for local rates should be established to determine how much of the ILEC access revenue reduction would be recovered from retail rates or the Washington Universal Service Fund (“WUSF”).
	+ ILECs would be allowed to rebalance their access revenue reductions with retail rate increases up to the benchmark. No rate case proceeding would be required.
	+ ILECs would not be required to increase retail rates up to the benchmark; if an ILEC does not raise its retail rates to the benchmark, the benchmark rate would be imputed for calculation of ILEC’s WUSF support.
	+ A transition may be necessary.
* A WUSF should be established.
	+ The contribution methodology should mirror the federal USF contribution methodology. If in the future the FCC changes the federal contribution methodology, changes should be made to the Washington contribution methodology as well.
	+ Contributors to the state universal fund should be allowed to recover their contributions from end user customers, such as through a separate line item on the retail end user customer bills.
	+ ILECs that have Carrier of Last Resort (COLR) obligations should be eligible for WUSF support subject to the above benchmark mechanism. There should be only one COLR per geographic area.
	1. ***Statutory/Rule Changes Necessary for Intrastate Access Reform***

The Commission has exercised its authority on a number of previous occasions in individual cases to lower intrastate access rates.[[13]](#footnote-13) In addition, the Commission promulgated the terminating access rule (WAC 480-120-540). However, in order to use universal service support as a transitional tool to implement intrastate access reform pursuant to the process outlined in the section above, the Washington legislature will need to authorize a WUSF.[[14]](#footnote-14)

1. **Should there be a Washington Universal Service Fund (WUSF)? If so, what factors should the State of Washington consider in weighing the need for establishing a WUSF? Commenting parties are encouraged to address the following factors:**
	1. **trending reductions to incumbent carrier’s intrastate access charge revenues,**
	2. **the need for comprehensive or streamlined earnings review including determination of the effective intrastate or overall rates of return of recipients of WUSF funding,**
	3. **revenues from regulated services,**
	4. **revenues from both regulated and unregulated services,**
	5. **carrier of last resort obligations of potential WUSF recipients,**
	6. **any other factors that should be used in determining the need for establishing a WUSF.**

A state universal service fund is an important component of intrastate switched access reform in Washington. As discussed in response to question 2, intrastate access revenues are rapidly decreasing in the state. As set forth above, intrastate access reform will provide stability to telecommunications service in rural areas of the state and, as discussed in more detail below, is a necessary first step to transitioning to an all-broadband world.

As discussed in response to question 9, there are a number of factors that must be considered in determining the size of the WUSF. To keep the size of the fund as small as possible, support from the WUSF should be limited to ILECs that: 1) have COLR obligations, and, 2) are not able to rebalance their reduced access revenues arising from taking their intrastate access rates to interstate levels entirely through retail rate adjustments up to a statewide retail rate benchmark.

AT&T does not believe that it is necessary for the Commission to conduct an earnings review of carriers prior to allowing those carriers to receive WUSF support. Instead the factors listed in response to question 2 and 9 should be used to evaluate the amount of WUSF available to a carrier.

1. **What is the role of the National Broadband Plan in evaluating the need for a WUSF? If Congress and the Federal Communications Commission (FCC) implement the recommendations in the National Broadband Plan, what would be the role of a state USF? What are the possible effects on Washington consumers of the changes to federal rules contemplated in the National Broadband Plan if there is no state universal service fund? Does the National Broadband Plan alleviate or intensify the need for Washington to address intrastate access charge reform and universal service issues at this time?**

The NBP sets forth a series of comprehensive recommendations proposed to bring about Congress’ goal of universally available and affordable broadband service throughout the nation.[[15]](#footnote-15)

[u]biquitous [broadband] connections are means, not ends. It is what those connections enable that matters. Broadband is a platform to create today’s high-performance America – an America of universal opportunity and unceasing innovation, an America that can Continue to lead the global economy, an America with world-leading, broadband-enabled health care, education, energy, job training, civic engagement, government performance and public safety.[[16]](#footnote-16)

The NBP’s recommendations include a proposal to redirect its public policy goals and mechanisms away from legacy telephone services and networks and to focus them solely on achieving a fully-broadband world. The transition to a fully-broadband world will take some period of time to achieve, and can only come about through private investment working in concert with federal and state policy makers and through appropriate reform of laws, policies, regulations and incentives.

As the NBP further explains, intercarrier compensation (“ICC”) has not been reformed to reflect fundamental, ongoing shifts in technology and consumer behavior, and it continues to include above-cost rates.[[17]](#footnote-17) But, as discussed in response to question 2, consumers today can choose from many communications options that are not subject to the same intercarrier compensation obligations applicable to traditional circuit switched wireline long distance and interexchange services.[[18]](#footnote-18) As a result, the existing access charge regime is rapidly going the way of the dinosaur. To bring about widespread broadband deployment ICC reform, including intrastate switched access reform, it is necessary to provide stability to the LECs revenue streams. These revenue streams are necessary to ensure that the telephone service infrastructure is ultimately available for broadband service. As the FCC noted in its NBP, “[t]he current per-minute ICC system was never designed to promote deployment of broadband networks. . . .[[19]](#footnote-19) The FCC has, therefore, recommended that per-minute rates for the origination and termination of traffic ultimately be eliminated in 3 stages over a 10-year period.[[20]](#footnote-20)

States like Washington have a particularly important role to facilitate the transition to an all-broadband world. There is no reason for Washington to await action by the FCC on the NBP’s ICC recommendation. Washington can facilitate universally available broadband services throughout the state by moving expeditiously to reform the existing unsustainable access charge regime. Specifically, by reforming ILECs’ intrastate switched access rates to mirror their respective interstate access rates and rate structure, and by capping CLEC rates at the level of the corresponding ILEC rates, the Commission would be taking steps recommended by the NBP.

The national reform proposed in the NBP intensifies the need for Washington to act on ICC reform. The FCC has proposed to cap the federal support mechanisms such that the federal funding available to address access reform is likely to be limited as it will be competing with many other federal funding priorities, including direct support for broadband through the proposed Connect America Fund and Mobility Fund. (Consequently the more aggressively states address access reform, the more federal support will be available for broadband.) Moreover, the current federal support mechanisms will be reviewed as part of the NBP recommendations and are unlikely to retain the legacy high-cost support mechanisms,[[21]](#footnote-21) so states should quickly move to address ICC to ensure that network infrastructure remains viable until the new policy framework and incentives are in place.

1. **If the UTC addresses intrastate access charge reform, to what extent is there a need for a WUSF to replace some or all intrastate access charge revenues of ILECs in order to preserve and advance the telecommunications network in the State of Washington? Are statutory changes necessary in order to do so?**

See responses to question 2, 3 and 9.

1. **What direct benefits, if any, will there be to consumers in Washington by addressing intrastate switched access and universal service reform? If intrastate access charge reform is implemented, how will access charge cost reductions realized by current interexchange carriers in Washington be flowed through to Washington consumers?**

There will be numerous benefits to Washington consumers by addressing intrastate switched access and universal service reform. First, as discussed above, by reforming the existing unsustainable access charge regime (which is a holdover from the monopoly era) such reform will provide more revenue stability to rural LECs and is the first step in facilitating the transition to an all-broadband network for consumers in Washington. Second, as discussed in more detail below, intrastate switched access charges feed higher prices for retail long distance service so reforming intrastate access rates will (all else equal) result in lower long distance prices for the benefit of Washington consumers. Third, access reform benefits business customers by decreasing their long distance communications costs. Fourth, access reform decreases the disparity in the competitive playing field as wireless, VoIP, and other technologies do not pay intrastate access rates to the same extent as long distance carriers, or in some cases, do not pay access charges at all. Fifth, access reform promotes investment in different technologies on the basis of economic merit rather than regulatory advantages or disadvantages. Last, access reform would reduce the incentives for socially wasteful arbitrage activities such as call-pumping (e.g. sham businesses paying kickbacks to people to call into chat rooms set up to drive access charges against long distance providers) and traffic shifting (misrepresenting the jurisdictional nature of traffic so that it appears to fall into a more favorable regulatory jurisdiction).

Intrastate access fees are the single most important component of the overall cost of providing in-state long distance service, representing as much as 75 percent of the retail price that consumers pay for in-state long distance service. Empirical evidence demonstrates that when access fees are reduced long distance prices decrease, even when there is no require to “flow-through” the reductions to consumers. For example, as a result of FCC action between 2004 and 2008 average interstate switched access fees nationwide fell by 40%. During that same time, interstate long distance prices, which are unregulated, fell by over 40%. Further, as explained in more detail in the attached paper by Dr. Aron, AT&T’s retail intrastate long distance prices are on average thirty-one (31) percent lower in states that have undergone access reform as compared to states that have not.[[22]](#footnote-22) Dr. Aron’s paper also describes a statistical analysis that she conducted of AT&T’s data which shows that in states that have undergone access reform, 100 percent of the decreased access expenses are passed through to consumers.

1. **Should intrastate switched access reform apply to all providers of intrastate switched access in Washington? What statutory or rule changes would be necessary?**

Yes. For incumbent LECs, the monopoly-era policy of implicit subsidies is obsolete and unsustainable in today’s competitive market. For the CLECs, the rationale for the implicit subsidies was never applicable. Unlike the ILECs, CLECs need not serve all customers, nor have they had their retail prices regulatorily constrained as the ILECs. Further, the CLECs have been able to choose the geographic areas and customer segments they wish to provide service in a manner that maximizes the CLECs’ profits. Recognizing the harm that CLEC access rates produce, the FCC has adopted reforms on the interstate side, requiring CLECs to “cap” their interstate switched access rates at the level of the predominant ILEC rates.[[23]](#footnote-23) Likewise, in Washington the Commission should take the simple, common-sense first step of capping CLEC intrastate switched access rates at the level of the corresponding ILEC with whom the CLEC competes. The CLECs in Washington already have pricing flexibility and, therefore, can raise their local service rates, if necessary, to adjust for any decrease in intrastate switched access rates**.**

1. **Assuming implementation of the National Broadband Plan, is there a need for a state WUSF during the period in which federal universal service support transitions to support for broadband?**

Yes. See response to question 4.

1. **If a WUSF is established, what should be the criteria for eligibility to draw from the fund? How should the size of the fund be determined? What should be the basis of the amount of support to be received?**

To be eligible to withdraw from a WUSF a carrier must: 1) serve as a COLR; and, 2) the per line access shift, as described below, when added to basic local rates must be higher than the state-wide local exchange service rate benchmark (“Benchmark”).

The following should be the basis of the amount of support that a carrier can receive from the fund. The total size of the fund will be determined by adding together the WUSF fund requirements for all eligible ILECs.

1. Determine ILEC’s Total Access Revenue Shift (“Access Shift”) by calculating for a prescribed base period, the difference between the ILEC’s total intrastate switched access revenues at current rates and the switched access revenues the ILEC would have collected had it applied its interstate switched access rates for the provision of intrastate switched access service (i.e. when intrastate switched access rates are decreased to mirror their interstate levels and structure).
2. Each ILEC’s Per Line Access Shift will be determined by dividing the ILEC’s Access Shift, as calculated in step 1 above, by the number of local exchange lines the ILEC had in service as of the base period.
3. Establish a Benchmark applicable to all local exchange lines in service. Each ILEC should have pricing flexibility to increase its price for any basic local exchange service to the benchmark level. Some transition period may be necessary.
4. For each eligible ILEC, provide state WUSF support in an amount equal to the difference between their current local rates plus Access Shift (Step 1) and the Benchmark (Step 3).

As these steps demonstrate, the size of the WUSF will depend, in large part, on the level at which the statewide uniform retail benchmark is established (e.g. $16, $18, $20 and so forth). AT&T believes that the best way for the Commission to determine the Access Shift per line is to issue a protective order and gather information to make such a determination. AT&T has provided as **Attachment B** an example of a data request that could be issued to determine the Access Shift.

1. **What, if any, is an appropriate contribution basis for a WUSF? To what extent should other telecommunications providers, including wireless and VoIP service providers (nomadic and fixed) contribute to a WUSF? If so, on what basis should they contribute?**

AT&T believes that in order to ensure national uniformity and lessen the burden of establishing a universal service fund, states should mirror the contribution methodology that is in place at the time for the FUSF. The FUSF is currently funded based on a percentage of interstate and international telecommunications retail revenues. So, today the WUSF should be funded based on intrastate telecommunications retail revenues. If in the future, the FCC changes the federal USF contribution methodology, changes should be made to the Washington contribution methodology as well.

Proposals to change the federal USF contribution methodology have long been pending before the FCC.[[24]](#footnote-24) AT&T has advocated that the federal methodology be changed from the current interstate and international telecommunications revenues-based methodology to one based upon telephone-numbers or telephone numbers and dedicated connections.[[25]](#footnote-25) Nevertheless, until the FCC actually changes the methodology for the federal USF contributions, the WUSF contributions should be based on intrastate telecommunications retail revenues, consistent with the existing federal methodology.

With respect to contributions by VOIP providers, AT&T supports the notion that VOIP providers should pay into a state universal service fund; however, this cannot be implemented until the FCC provides clear guidance that states are not preempted from requiring such contributions. This matter is currently pending before the FCC for a ruling. On July 6, 2009, the Nebraska Public Service Commission (“Nebraska PSC”) and the Kansas Corporation Commission (“Kansas CC”) petitioned the FCC for a declaratory ruling that the FCC has not preempted states from assessing universal service charges on the intrastate revenues of providers of nomadic VoIP service.[[26]](#footnote-26) Comments have been submitted.

By way of background, in the 2004 *Vonage Order[[27]](#footnote-27)* the FCC preempted the Minnesota Commission from applying its statute requiring contributions to its state universal service fund to Vonage’s DigitalVoice service and “other IP-enabled services having the same capabilities.[[28]](#footnote-28) Subsequent to the *Vonage Order,* the Nebraska PSC imposed a state universal service fund requirement on nomadic interconnected VoIP providers; this was appealed to the courts. The United States Court of Appeals for the Eighth Circuit affirmed a district count decision that the FCC had preempted the Nebraska Commission from imposing its state universal service contribution requirements on nomadic interconnected VoIP providers.[[29]](#footnote-29)

1. **What is the role of carrier of last resort in a state universal service fund? Should any carrier that receives support from the universal service fund be required to assume the obligations of carrier of last resort with respect to traditional voice services, with respect to broadband service, or both? Should the fund support more than one provider per geographic area? How should "area" be defined?**

In order to keep the WUSF size as small as possible and what consumers are ultimately asked to bear for WUSF charge, AT&T believes that only a single carrier per geographic area that has COLR obligations should be eligible to receive support from the WUSF.[[30]](#footnote-30)

If the WUSF is at some point transitioned to a broadband fund, the Commission at that time will need to establish the eligibility requirements for communications providers to receive support. It would be premature for the Commission to establish requirements at this time.

1. **Should a state universal service fund include a local rate benchmark? If so, for what purpose and how should it be determined?**

Yes. A statewide uniform retail rate benchmark should be established as described in response to questions number 2 and 9.

1. **Should there be a transition period from the current state universal service mechanism to a new WUSF? If so, how long should the transition period be?**

In answering this question, AT&T assumes that the reference to the “current state universal service mechanism” refers to the Interim Terminating Access Charge (“ITAC”) and the Traditional USF rate elements. As stated above, AT&T believes that all LECs should reduce intrastate switched access rates to mirror their interstate switched access rates and rate structures. The ITAC, Traditional USF and the Common Carrier Line charge[[31]](#footnote-31) are subsidies assessed on a per minute basis on originating and/or terminating intrastate long distance calls. [[32]](#footnote-32) As these are not rate elements included in the ILECs interstate switched access rates, AT&T believes that these elements should be eliminated immediately. The amount of WUSF support that the carrier should receive should be determined by following the principles/steps in response to questions 2 and 9.

1. **Currently intrastate universal service support consists of at least two elements that are incorporated into intrastate access charges billed to intrastate interexchange carriers (the Universal Service rate element that is billed by all LECs on both originating and terminating intrastate interexchange usage and the Interim Terminating Access Charge (ITAC) that is billed only on terminating minutes by some carriers but not all). The administration of the traditional USF is currently performed by the Washington Exchange Carrier Association (WECA); but the LECs each administer their own ITACs. Should WECA continue to administer all of the ITACs in conjunction with the Traditional USF? Should WECA continue to administer any USF (traditional or otherwise)? Should the WECA Board be expanded to include the interests of contributors?**

As described in response to question 13, the Traditional USF and the ITAC should be eliminated and any support requirements for an ILEC should be transitioned to the WUSF.

WECA should not administer the new WUSF. WECA is only authorized to administer its access charge pools consistent with its administration plan on file with the Commission. That plan is attached to the Ninth Supplemental Order (“Plan”) in UT-971140. The Plan itself allows for its adjustment, and potentially its elimination, at such time as the “legislature adopts legislation authorizing a new universal service program that applies to WECA’s members and such new universal service plan has been implemented.[[33]](#footnote-33)

AT&T, however, would not oppose a proposal by WECA to continue to pool the access revenues of their members at the revised levels described herein.

**15. In designating entities to be eligible for WUSF funding, should there be an eligible telecom carrier (ETC) designation process that is distinct from the existing federal ETC designation process, or should they be combined?**

The process to determine which carriers are eligible to receive support from the WUSF should be determined in accordance with the steps outlined in response to questions 2 and 9. As the existing federal ETC designation process has different requirements that process should be separate from the process utilized to determine WUSF support.

**16. What other kind of oversight, if any, should the UTC have over administration of the WUSF?**

The Commission should utilize a competitive process to select a neutral, third party administrator to administer the fund. The Commission should also establish standards so that it or a third party can review compliance with the WUSF.

1. Issued March. 16, 2010. [↑](#footnote-ref-1)
2. 47 C.F.R. 151 [↑](#footnote-ref-2)
3. RCW §80.36.600 [↑](#footnote-ref-3)
4. NBP at 142. [↑](#footnote-ref-4)
5. Pursuant to FCC rules, wireless carriers pay access charges on calls between Major Trading Areas (“MTAs”) but not for calls within an MTA. In Washington there are three MTAs with one of the MTAs covering the entire Puget Sound area. See <http://wireless.fcc.gov/auctions/data/maps/mta.pdf>. [↑](#footnote-ref-5)
6. NBP, at page 142. [↑](#footnote-ref-6)
7. Id. [↑](#footnote-ref-7)
8. Id.

 [↑](#footnote-ref-8)
9. See presentation of Mark Vasconi, Manager – Telcom for the Washington Utilities and Transportation Commission on May 5, 2010 Universal Service Workshop, pg 8. AT&T’s calculation has access minute reduction from 4.5 billion in 2000 to between 2 and 2.5 billion in 2008. Regardless of the precise number the reduction in intrastate access minutes in Washington is significant. [↑](#footnote-ref-9)
10. See In re Access Charge Reform & Reform of Access Charges Imposed by Competitive Local Exchange Carriers, Seventh Report and Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd. 9923 (2001)(*“FCC Order Capping CLEC Access Charges”*). [↑](#footnote-ref-10)
11. NBP at page 142. [↑](#footnote-ref-11)
12. See presentation of John F. Jones, Vice President State Government Affairs, CenturyLink. [↑](#footnote-ref-12)
13. See Qwest rate case UT-905200, AT&T v. Verizon complaint UT-020406, and Verizon v. Embarq complaint UT-081393. [↑](#footnote-ref-13)
14. RCW §80.36.600 directs the commission to plan and prepare to “implement a program for the preservation and advancement of universal telecommunications service which shall not take effect until the legislature approves the program.” [↑](#footnote-ref-14)
15. American Recovery & Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, div. B, tit. VI, § 6001(k)(2) (Feb. 17, 2009). [↑](#footnote-ref-15)
16. NBP at page 3. [↑](#footnote-ref-16)
17. NBP at page 142. [↑](#footnote-ref-17)
18. Consumers today can order goods and services over the Internet; social-network through Internet-based services, like Twitter, Facebook, and MySpace; send a friend a text message via mobile phone; or obtain government forms and information through a website with a mouse click. And while consumers today still have voice communications, voice service is available not only from local phone companies and long-distance carriers, but also from cable operators, wireless providers, and over-the-top VoIP providers such as Vonage or Skype. [↑](#footnote-ref-18)
19. NBP at page 142. [↑](#footnote-ref-19)
20. NBP, Recommendation 8.7 at page 148; *see also id.*, Exhibit 8-F: Roadmap for USF/ICC Reform. [↑](#footnote-ref-20)
21. The sources of intrastate cost support provided by the federal universal service fund (“FUSF”) are: the high cost loop (“HCL”), including Safety Net Additive (“SNA”) and Safety Valve Support (“SNS”); Local Switching Support (“LSS”); and, the High Cost Model (“HCM”) mechanism.

The HCL mechanism provides intrastate loop support for rural ILECs whose loop costs exceed 115% of the national average cost per loop (“NACPL”). HCL support provides a rural ILEC 65% of its total loop cost between 115% and 150% of the NACPL and 75% of its total loop cost above the NACPL. When combined with the carrier’s federal interstate loop support (which provides 25% of the carrier’s total loop cost), a rural ILEC receives FUSF loop support equaling 90% of its total loop cost between 115% and 150% of the NACPL and 100% of its total loop cost above 150% of NACPL. SNA and SVS provide additional intrastate loop support when a carrier has made new significant in their loop plant. SNA and SVS limit or remove the impact of the FCC’s cap on the size of the primary HCL fund.

LSS offsets intrastate switching costs by applying a weighting factor to the interstate switching costs. A carrier with fewer than 10,000 access lines receives two times its interstate switching costs from the FUSF LSS mechanism. The weighting factor for carriers with 10,001 to 20,000 lines is 1.5, and carriers with between 20,001 and 50,000 lines receive an amount equal to their interstate switching costs for the LSS. A rural carrier is thus allowed to recover up to 85% of its total switching costs from the combination of its interstate switching cost recovery and its LSS.

Finally, the HCM mechanism provides support to non-rural carriers in a limited number of states; however, HCM support is not available in Washington. [↑](#footnote-ref-21)
22. See Attachment A. [↑](#footnote-ref-22)
23. FCC Order Capping CLEC Access Charges, 16 FCC Rcd. 9923, ¶31. [↑](#footnote-ref-23)
24. Most recently, in October 2008, the FCC proposed and sought comments on such a methodology. *See* Order on Remand & Report and Order & Further Notice of Proposed Rulemaking, *In the Matter of High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal State Joint Board on Universal Service*, CC Docket No. 96-45 *Lifeline and Link Up*, WC Docket No. 03-109, *Universal Service Contribution Methodology*, WC Docket No. 06-122, *Numbering Resource Optimization*, CC Docket No. 99-200, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Intercarrier Compensation for ISP-Bound Traffic, IP-Enabled Services*, CC Docket No. 99-68, *IP-Enabled Services*, WC Docket No. 04-36, FCC 08-262, Appendices A (Chairman’s Draft Proposal), B (Narrow Universal Service Reform Proposal) & C (Alternative Proposal)(FCC released November 5, 2008). [↑](#footnote-ref-24)
25. See AT&T Petition for Immediate Commission Action to Reform Its Universal Service Contribution Methodology, *In the Matter of Universal Service Contribution Methodology*, WC Docket No. 06-122 (FCC filed July 10, 2009). [↑](#footnote-ref-25)
26. See *Petition for Declaratory Ruling of the Nebraska Public Service Commission and the Kansas Corporation Commission for Declaratory Ruling or, in the Alternative, Adoption of Rule Declaring that State Universal Service Funds May Assess Nomadic VoIP Intrastate Revenues*, WC Docket No. 06-122 (filed July 16, 2009). [↑](#footnote-ref-26)
27. See *Vonage Holdings Corporation Petition for Declaratory Rulings Concerning an Order of the Minnesota Public Utilities Commission*, Memorandum Opinion and Order, WC Docket No. 03-211, 19 FCC Rcd 22404 (2004)(“*Vonage Order”*). [↑](#footnote-ref-27)
28. *Vonage Order* at ¶¶ 1, 10 and n.28. Specifically in a footnote listing Minnesota laws that the FCC ultimately preempted in the *Vonage Order*, the FCC included Minnesota’s statute directing the state commission to establish a state universal service fund and require contributions from all providers of telephone service. *Vonage Order*, n.28. [↑](#footnote-ref-28)
29. *Vonage Holdings Corp. v. Nebraska Pub. Serv. Comm’n*, 564 F.3d 900 (8th Cir. 2009). [↑](#footnote-ref-29)
30. Further, as the WUSF should only be to support the shift of access support from implicit to explicit subsidies there should not be a minimum broadband speed requirement. [↑](#footnote-ref-30)
31. The CCL should also be eliminated. The local loop or “common line” connects the customer’s home or business to the LEC’s end office. The cost of the loop does not vary by usage. LECs incur local loop costs for each subscriber by virtue of that subscriber’s interconnection into the local network. The per-minute CCL charge was created as a mechanism to aid in recovery of some loop costs. These costs, however, are LEC costs, regardless of whether they are recovered directly from end users or recovered indirectly through long distance carrier payments. [↑](#footnote-ref-31)
32. The Traditional USF rate element is billed by LECs on both originating and terminating intrastate switched access; the ITAC is billed on terminating minutes by some, but not all, LECs. [↑](#footnote-ref-32)
33. See Plan at 1-2, para. 4. [↑](#footnote-ref-33)