

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

Policy Statement to Review State Universal Service Policies

Docket UT-100562

INTEGRA TELECOM'S REPLY COMMENTS

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Dated: July 15, 2010

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 reply comments in response to the comments of AT&T,¹ Comcast,² Public Counsel,³ Sprint Nextel,⁴ Verizon⁵ and the Washington Independent Telecommunications Association (“WITA”).⁶

Introduction

With the merger of the largest ILECs with the largest Interexchange Carriers (“IXCs”) (i.e. AT&T and Verizon), the disparate voices on switched access rates have turned into a chorus for “reform” that is primarily an attempt by the largest payers of access to reduce their expenses to the detriment of Washington’s local exchange companies (“LECs” – both ILECs and CLECs) and their end-user customers in Washington. The Commission should carefully scrutinize the motivations behind the various party recommendations in this docket as the decisions made here can radically alter the industry landscape. For example, Rural ILECs, faced with a continued reduction of access lines and access minutes are glad to replace a falling revenue stream for a more “reliable” source such as a Universal Service Fund (“USF”).⁷ IXCs such as AT&T and

¹ Comments of AT&T Communications of the Pacific Northwest, Inc., New Cingular Wireless PCS, LLC, and TCG Seattle, June 24, 2010. (“AT&T Comments”)

² Comcast’s Response to the WUTC’s Questions Concerning Appropriate Universal Service Policies in Washington, June 16, 2010. (“Comcast Comments”)

³ Initial Comments of Public Counsel, June 16, 2010. (“Public Counsel Comments”)

⁴ Sprint Nextel Corporation’s Response to the WUTC’s Questions Concerning Appropriate Universal Service Policies in Washington, June 10, 2010. (Sprint Nextel Comments”)

⁵ Verizon Letter to Mr. Danner, June 16, 2010, (“Verizon Comments”)

⁶ Comments of the Washington Independent Telecommunications Association, June 16, 2010. (“WITA Comments”)

⁷ WITA Comments, p. 20.

Verizon are simply attempting to reduce the dollars they pay to utilize the networks of carriers in Washington.⁸ The large IXCs propose to reduce what they pay today to carriers serving Washington end-users without any promise of benefit to the Washington end-users. If the proposals of large IXCs are adopted, their cost reductions will come at the expense of Washington end-users. CLECs, such as Integra, simply request that the Commission refrain from radical change that would force CLECs to alter business plans that they have been implementing over the past ten plus years. CLECs operate in a competitive market that has already been excessively turbulent due to regulatory change, crisis of financial markets continuous litigation, and consolidation of CLEC's largest competitors. However, CLECs, unlike ILECs, have no prospect of a safe harbor in USF funding.

The Commission should be cautious of taking the radical step of price regulating CLECs – small players in the market whose existence is due to the pro-competitive provisions of the Telecommunications Act of 1996. A decision to *price regulate CLECs* would be exceedingly ironic given that the policies that gave birth to CLECs were intended to reduce price regulation. Further, price regulating CLECs would also run counter to (1) the continuing deregulation of the incumbent local exchange carriers (“ILECs”) in both retail and wholesale markets; (2) the Regional Bell Operating Companies (“RBOCs”) entry into long distance markets; (3) the megamergers of the largest RBOCs; and (4) the emergence of intermodal competition between landline, cable and wireless companies.

⁸ AT&T Comments, pp. 6-7 and Verizon Comments, p. 3.

Access Reform Should Start with the Rural Carriers

There appears to be universal agreement and a desire among the rural carriers that rural carrier access rates be addressed.⁹ Disparate opinions emerge regarding the question as to whether CLEC intrastate switched access rates should also be reviewed at this time. Integra, who pales in size,¹⁰ and thus resources, when compared with the large IXCs and ILECs (AT&T, Verizon and Qwest/CenturyLink) prefer that this debate not take place in multiple venues simultaneously. The FCC is intent on addressing intercarrier compensation,¹¹ including potentially intrastate switched access as the large IXCs (AT&T and Verizon) have made significant headway in convincing the FCC to take jurisdiction away from the states. While the large IXCs can afford to press their concerns in every forum available to them in order to achieve additional earnings for their shareholders (through access reduction), Integra prefers not to spend scarce financial resources on multiple and potentially duplicative access proceedings. The cost of a proceeding to review access charges and implement possible changes would likely far exceed the benefit of doing so. In fact, CLECs will bear costs grossly disproportionate to their revenues compared to other parties, without any prospect of a benefit. From the perspective of Washington's end-user customers the regulatory apparatus intended to protect them will be misused in a shell game that transfers resources from small LECs and Washington end users to

⁹ See WITA Comments, p. 10, regarding rural carrier access. Regarding intrastate access in general, see AT&T Comments, pp. 6-7, Comcast Comments, p. 2, Integra Comments, p. 4, Sprint Nextel Comments, p. 2, and Verizon Comments, p. 3.

¹⁰ For example, Integra's 2008 total revenue was \$700 million, while Qwest/CenturyLink combined revenue was \$21,764 million, Verizon's was \$97,354 and AT&T's was \$124,028. To put this in perspective, if the Qwest / CenturyLink merger is approved, the combined company, which is still 1/6th the size of AT&T, will earn more revenue by the end of the second week of January, than Integra will earn all year.

¹¹ Integra Comments, p. 2.

the large IXCs. There is no pressing need to take any action on CLEC access charges at this time and every reason not to.

If Access Reform is to Take Place, Rates Should Not be Set Arbitrarily

If the Commission decides that Access Reform must take place, the Commission must then determine what classes of carriers will be involved in changes to access rates, and what the *targeted levels* will be for new access rates. The decision essentially boils down to whether the Commission will implement access rate reductions based on (a) a carrier's cost or (b) an arbitrary rate such as interstate switched access rates or Qwest's intrastate switched access rates.¹² Interstate switched access rates are arbitrary targets for CLECs because they were not based on any carrier's cost, much less any CLEC's cost. Instead, these rates were the result of deals reached between selected carriers, to their own benefit, without regard to cost, let alone carrier-specific costs. Applying rates developed for the benefit of one specific group of carrier's (such as large ILECs and large IXCs) to another group of carriers (such as CLECs) that typically were neither involved in the development of those rates, nor could foresee that years later results of these negotiations would potentially be forced onto them, is arbitrary and fundamentally unfair.

A Reasonable Transition Period for Significant Rate Changes Should be Established

Once the set of carriers to which reductions access rates will apply is established and a target rate is selected, the Commission must determine the *transition* process from current access rates to the target rates. AT&T proposes the maximum disruption to Washington end-users and the LECs serving them by proposing immediate changes, a flash-cut, of intrastate access rates to

¹² See AT&T Comments, pp. 6-7.

interstate levels.¹³ In contrast, Public Counsel recommends that from a consumer perspective, “access charge rebalancing should be done on a gradual basis, not in a ‘flash cut’ or extreme fashion, which can result in dramatic increases in local rates.”¹⁴ To the extent reductions in access charges are mandated, Integra supports a gradual and predictable approach that extends over a number of years. An extended transition period is necessary to minimize impacts on both carriers and their end-user customers and allow carriers the time to alter business plans. The task of altering business plans would be more difficult for CLECs than many rural ILECs. CLECs, by definition, operate in retail markets that are competitive. As a result, CLECs have limited ability to individually increase rates to their end users – in other words they are essentially price-takers in the market. Even if the market was forgiving enough to permit rate changes, CLECs typically have term agreements with their end-user customers that limit the CLECs’ ability to modify rates. A gradual transition will help to provide carriers the ability to fully adjust business plans and mitigate rate shock to end user customers.¹⁵

A Universal Service Fund Should Not be a Revenue Replacement Mechanism

As part of the transition procedure, the Commission needs to determine whether it will provide carriers with an *alternate revenue source* to offset changes in intrastate switched access. WITA¹⁶ and AT&T¹⁷ propose that reductions in intrastate switched access revenues be recovered from increases to end-user rates and the Universal Service Fund. Sprint¹⁸ and

¹³ AT&T Comments, pp. 6-7.

¹⁴ Public Counsel Comments, p. 2.

¹⁵ The National Broadband Plan (p. 148) recommends a 10 year transition period for the reduction of access rates.

¹⁶ WITA Comments, p. 10.

¹⁷ AT&T Comments, p. 7.

¹⁸ Sprint Comments, pp. 2-3.

Verizon¹⁹ recommend against a state universal service fund, and propose access rate reductions be recovered through end user rates. Public Counsel recommends against a presumption of dollar for dollar revenue replacement when addressing these issues.²⁰ These proposals are focused on revenue recovery for rural ILECs. As mentioned previously, CLECs have limited ability to increase rates, unless rate increases are mandated for all CLEC competitors (including the ILECs) – a mandate which would be questionable in a competitive market. Further, CLECs will be unlikely to draw from an access revenue recovery fund, such as a USF, based on limitations typically put in place before a carrier is allowed access to the fund. AT&T notes that “intrastate access revenues are rapidly decreasing in the state.”²¹ It does not make economic or public policy sense to move a revenue source that can be competed away into a revenue recovery mechanism that will likely never be reduced.

A Universal Service Fund Should be for the Benefit of Universal Service, Not IXCs

If a state universal service fund is going to be used to fund changes in switched access revenues for at least some carriers, the Commission must decide the *source of the money* for the fund. AT&T proposes that funding for universal service be based on intrastate revenues.²² It should be noted that IXCs, such as AT&T, pay intrastate switched access today in order to originate and terminate calls made by IXC customers. Creating a fund based on all carriers’ intrastate revenues has the effect of requiring all carriers in the state to subsidize IXCs’ customers. In other words, where previously IXCs such as AT&T and Verizon paid rural carriers when AT&T and Verizon’s Washington customers made calls to rural areas, they now

¹⁹ Verizon Comments, p. 3

²⁰ Public Counsel Comments, p. 2.

²¹ AT&T Comments, p. 8.

²² AT&T Comments, p. 14.

propose that CLECs' Washington end users contribute a share to a fund for the benefit of AT&T's and Verizon's Washington customers to originate and terminate long distance calls in rural areas. Integra finds this problematic unless there is a clear showing that a state universal service fund is for the purpose of *universal service* (rather than a pure benefit of IXCs), and carriers drawing from the fund have demonstrated need.

Conclusion

Integra believes it is premature and inefficient for the Commission to take any further substantive steps regarding access charge or universal service reform at this time. The FCC has issued its National Broadband Plan, which will likely modify the landscape of universal service and intercarrier compensation such as access charges. The FCC has set a detailed schedule for this reform and is already moving forward with rulemakings and other proceedings. Given the proposed scope of the FCC National Broadband Plan, it does not make sense for Washington to devote resources to rulemakings or other proceedings that may be contrary to, or incompatible with, the Plan and its resulting federal rules and programs.