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July 7, 2003

VIA E-MAIL, FACSIMILE & FIRST CLASS MAIL

Carole Washburn
Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250

**RE: Qwest Petition for Waiver of WAC 480-120-104 Information to Consumers
WUTC Docket UT-030939**

Dear Ms. Washburn:

Public Counsel submits these comments in advance of the Commission's July 9, 2003 Open Meeting. Public Counsel respectfully requests that the Commission deny Qwest's petition for waiver of WAC 480-120-104 Information to Consumers, and order Qwest to comply with the rule as adopted by the Commission in Docket UT-990146.¹

Qwest's petition, as filed on June 11, 2003 and amended June 27, 2003, requests a waiver of the following portions of WAC 480-120-104, which went into effect on July 1, 2003:

- 1) Qwest seeks a permanent waiver of the requirement to send welcome/confirming notice letters to "Qwest's large business customers (six lines or more) when adding a service, changing from one rate schedule to another, or making a change resulting in a change in the terms or condition of a service they currently subscribe to." (Qwest petition at p. 2).
- 2) Qwest seeks a permanent waiver of WAC 480-120-104 (1)(b) pertaining to inclusion of the minimum and maximum rate information in confirming notices sent to customers when a service is provided under a banded rate schedule.

¹ In the Matter of Amending, Adopting and Repealing Chapter 480-120 WAC Relating to Telephone Companies, Docket UT-990146, General Order No. R-507, Order Amending, Adopting and Repealing Rules Permanently, filed with the Code Reviser's Office December 12, 2002. (Hereafter "Commission Adoption Order").

3) Qwest seeks a temporary waiver of WAC 480-120-104 (1)(b) and (2)(b) to July 1, 2004 regarding the requirement to include rate information in the welcome/confirming notice sent to consumers.

Qwest's Petition is Untimely and Not Warranted

We observe that Qwest's petition was filed on June 11, 2003, almost six months after the Commission's Adoption Order was served on parties on December 16, 2002, and only thirteen business days prior to the date that the rule would become effective. Moreover, the current rule (WAC 480-120-104) in effect as of July 1, 2003, is substantially the same as the proposed rule noticed by the Commission for CR-102 on February 14, 2002, after numerous public meetings and opportunities to file written comments. The draft of the proposed rule at that time was numbered WAC 480-120-105, but is substantially the same as the current rule WAC 480-120-104.²

Qwest had ample opportunity to raise their concerns during the Commission's extensive and exhaustive three-year rulemaking proceeding. In fact, Qwest and other carriers did object to the inclusion of rate information in the welcome letter/customer notices required by WAC 480-120-104—including an objection to the inclusion of the minimum and maximum rates for services provided under a banded rate schedule. For example, Qwest's comments dated June 27, 2002 state in part: "The rates for any service, including banded rate services, cannot be changed without customer notice. ... Including rate information in the welcome letter imposes new costs on telecommunications providers, is repetitive of information already provided or readily accessible to the customer, and is therefore unnecessary. If customers are billed at a rate different than they were quoted, they will notice it when the initial bill for the service is rendered and will immediately call the company." (Supplemental Comments of Qwest Corporation dated June 27, 2002, at p. 11). As discussed further below, these arguments have already been considered by the Commission and were ultimately rejected. (Commission Adoption Order at para. 37).

Furthermore, given the length of time this rule was reviewed as part of the telecommunications rulemaking proceeding, and the fact that companies such as Qwest had over six months to prepare to be in compliance with the new rules once they took effect July 1, 2003, we are not at all sympathetic to Qwest's request for an additional year to achieve compliance with the requirement to include rate information in the welcome letter/confirming notice. Public Counsel finds Qwest's petition to be unpersuasive, untimely, and unwarranted. We encourage the Commission to reject the petition and allow the rule to remain in effect as adopted.

² In fact, the most significant change the Commission made to this proposed rule was to provide for a more lenient time frame to provide notice to customers, in response to company requests. While an earlier draft of the proposed rule required welcome/confirming notices to be sent five (5) days after installation, the February 14, 2002 draft rule noticed for CR-102 included a ten (10) day time requirement, and WAC 480-120-104, as adopted by the Commission and in effect July 1, 2003, requires notice not later than fifteen (15) days after installation.

Qwest's Definition of "large business" is Overly Broad and Inappropriate

Qwest's petition states that the company defines their "large business" customers as those with more than six access lines. (Qwest petition at p. 2). We would submit that many small and medium sized businesses have more than six access lines, but would not commonly be considered to be a "large business." WAC 480-120-104 already contains a provision exempting services that are provided under contract pursuant to WAC 480-80-241 (Filing contracts for services classified as competitive). To the extent that Qwest or any other carrier wished to advocate for the inclusion of additional exemptions in this rule, they had ample opportunity to do so during the Commission's rulemaking proceeding.

Furthermore, as we discuss below, the Commission's Adoption Order very clearly states the value and importance of providing consumers with information about the rates they are being charged for telecommunications services. We believe this information is extremely valuable to both residential and business customers. Qwest's petition for permanent waiver of WAC 480-120-104, as it applies to customers with more than six access lines, is overly broad and should be rejected.

Qwest has Overlooked the Value and Importance of Providing Consumers with Rate Information

Public Counsel and numerous other consumer advocacy groups participated in the Commission's telecommunications rulemaking (UT-990146). One of the most common themes that emerged during the rulemaking proceeding was that consumers would like clear and thorough information about the services to which they subscribe. To that end, as part of the rulemaking proceeding significant changes were proposed to the "availability of information" rule, previously WAC 480-120-041 and now substantially modified as WAC 480-120-104.

The Commission's Adoption Order in Docket No. UT-990146 underscores the importance of providing rate information to consumers and outlines the Commission's reasoning for including such information in the welcome letter and notices to customers over the objections of companies such as Qwest:

Companies have requested that we eliminate the requirement to send a welcome letter, or, if the welcome letter requirement is retained, to eliminate the requirement to include the rate for service in the welcome letter. Welcome letters are quite common in the industry today, and our consumer affairs Staff informs us that one of the largest categories of complaints results from disagreements between customers and companies over rates. We have included the welcome letter requirement because it is common and because, with rates included, it will assist customers in understanding their rates when service has begun and when action can be taken before bills greatly exceed their expectations. We note also that price is one of the basic elements of contract. (General Order No. R-507, at para. 37, footnote omitted).

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Conclusion

In summary, for the reasons outlined above Public Counsel respectfully requests that the Commission deny Qwest's petition and order Qwest to comply with WAC 480-120-104 as adopted by the Commission. Granting Qwest's waiver would substantially weaken the rule and is not in the public interest.

Mary Kimball of our office plans to attend the Commission's July 9, 2003 open meeting should you have any questions regarding these comments.

Sincerely,

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Analyst, Public Counsel Section

MMK:cjw

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