

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET NO. UT-041824
)	
Qwest Corporation,)	ORDER NO. 01
)	
Petitioner,)	
)	
Seeking Exemption from the)	
Provisions of WAC 480-120-262(3))	
Relating to Calls from Inmate)	ORDER GRANTING
Phones in Corrections Facilities)	EXEMPTION FROM RULE
.....)	

BACKGROUND

- 1 On October 8, 2004, Qwest Corporation, (Qwest or the Company) filed a petition requesting exemption from WAC 480-120-262(3).

- 2 WAC 480-120-262(3), requires telecommunications companies to provide rate disclosure on all operator-assisted calls placed from pay phones or other aggregator locations, including but not limited to prison phones, if the sum of the operator service provider’s charges for an operator-assisted call exceed, for any duration of the call, fifty cents per minute plus fifty cents.

- 3 Qwest has approximately 1,776 coinless inmate telephone lines installed in correctional facilities within the state of Washington. 1,657 (93%) use a rate-quoting platform that provides both the caller and the recipient of the collect inmate call the required rate quote options.

- 4 Qwest seeks a permanent waiver for 70 lines that are used as “attorney-client privileged” lines, and for any new lines added in the future that are also utilized as “attorney-client privileged” lines. The Department of Corrections

(DOC) requires that the “attorney-client privileged” lines be separate, distinct, stand-alone lines with no possibility of a call being recorded. If the “attorney-client privileged” lines are provided with the rate quote equipment, there exists the possibility that these lines would be subject to call recording because the inmate telephone system equipment used for rate quotes also has, inherent to its basic operation, call recording and monitoring features.

- 5 For this reason, when inmates, attorneys, or correctional facility personnel want to ensure that they have a secure line on which their calls are not capable of being recorded, they request the “attorney-client privileged” lines. The DOC has stated that it requires “inmates to be provided with a telephone and telephone line that is in no way connected to the inmate monitoring system. This requirement prevents inadvertent monitoring or the recording of privileged calls.”

- 6 Commission Staff reviewed the request and recommended granting Qwest’s request for exemption. The DOC requires that the “attorney-client privileged” lines be separate from Qwest’s automated rate quote and recording equipment, and that the called party (the client’s attorney) can still select the option to receive a rate quote. Therefore, Staff recommended the Commission to grant Qwest’s request for a permanent exemption of WAC 480-120-262(3) as it applies to the 70 correctional facility pay phones used strictly for attorney-client conversations, and for any new lines added in the future that are also utilized as “attorney-client privileged” lines. However, this exemption should be granted only as long as the DOC requires these phones to be separate from Qwest’s automatic rate quote and inmate recording platform.

FINDINGS AND CONCLUSIONS

- 7 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including telecommunications companies. *RCW 80.01.040; Chapter 80.04 RCW and Chapter 80.36 RCW.*
- 8 (2) Qwest is engaged in the business of providing telecommunications services within the state of Washington and is a public service company subject to the jurisdiction of the Commission under the provisions of Chapter 80.36 RCW.
- 9 (3) Qwest is subject to the provisions of WAC 480-120-262(3), requiring telecommunications companies provide rate disclosure on all operator-assisted calls placed from pay phones or other aggregator locations, including but not limited to prison phones, if the sum of the operator service provider's charges for an operator-assisted call exceed, for any duration of the call, fifty cents per minute plus fifty cents.
- 10 (4) WAC 480-120-015 provides that the Commission may grant an exemption from the provisions of any rule in Chapter 480-120 WAC, if consistent with the public interest, the purposes underlying regulation and applicable statutes.
- 11 (5) This matter was brought before the Commission at its regularly scheduled meeting on November 10, 2004.

- 12 (6) After review of the petition filed in Docket UT-041824 by Qwest on October 8, 2004, and giving due consideration, the Commission finds that the exemption is reasonable and should be granted.

O R D E R

THE COMMISSION ORDERS:

- 13 (1) After the effective date of this Order, Qwest Corporation, is granted an exemption from WAC 480-120-262(3), requiring telecommunications companies to provide rate disclosure on all operator -assisted calls placed from pay phones or other aggregator locations, including but not limited to prison phones, if the sum of the operator service provider's charges for an operator assisted call exceed, for any duration of the call, fifty cents per minute plus fifty cents.
- 14 (2) This exemption is subject to the following condition(s). The Department of Corrections requires that the "client-attorney privileged" lines be separate from Qwest Corporation's automated rate quote and recording equipment, and that the called party (the client's attorney) can still select the option to receive a rate quote. This exemption should be granted for the 70 client-attorney privileged lines and for any new lines added in the future that are also utilized as "attorney-client privileged" lines only as long as the Department of Corrections requires these phones to be separate from Qwest Corporation's automatic rate quote and inmate recording platform.
- 15 (3) The Commission retains jurisdiction over the subject matter and Qwest Corporation to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective this 10th day of November, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary