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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Investigation on	)	
the Commission's Own Motion Whether	)	
the IntraLATA Toll Service of	)	Docket No. UT-970767
	)	
GTE NORTHWEST INCORPORATED	)	AT&T'S COMMENTS
	)	
Should Be Classified as a	)	
Competitive Service.	)	
_____	)	

AT&T Communications of the Pacific Northwest, Inc. ("AT&T") provides the following comments on the Joint Position of Commission Staff ("Staff") and GTE Northwest Incorporated ("GTE") Recommending Competitive Classification of IntraLATA Toll Services.

**Comments**

AT&T, as a competing provider of intraLATA toll services in GTE exchanges, is concerned with Staff and GTE's analysis of whether GTE's provision of such services should be classified as competitive. AT&T's concern is not that the analysis is inaccurate on its face but that Staff and GTE examine the market for intraLATA toll services in isolation without adequately considering the impact that GTE's provision of a monopoly input to those services -- switched access services -- has on alternative providers' ability to provide intraLATA toll services "readily available at competitive rates, terms, and conditions." RCW 80.36.330(1)(c). GTE is both an incumbent local exchange company ("ILEC") and a provider of intraLATA toll services, and in that position, GTE can use its monopoly provision of switched access to

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1 maintain an artificial, and potentially insurmountable, competitive advantage over other  
2 providers of intraLATA toll services. The Commission, therefore, should not classify GTE's  
3 provision of intraLATA toll services as competitive until sufficient safeguards are in place to  
4 prevent, or at least minimize, GTE's opportunity to engage in anticompetitive behavior.  
5 Specifically, the Commission should condition competitive classification on implementation of  
6 intercarrier business office practices and service quality rules and on GTE's reduction of  
7 switched access services to total service long run incremental cost ("TSLRIC"), in conjunction  
8 with universal service reform if necessary.  
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10  
11 Staff and GTE assert that GTE's provision of intraLATA toll services should be  
12 classified as a competitive service because it is subject to "effective competition" as that term  
13 is used in RCW 80.36.330. That statute provides in relevant part:

14 Effective competition means that customers of the service have  
15 reasonably available alternatives and that the service is not  
16 provided to a significant captive customer base. In determining  
17 whether a service is competitive, factors the commission should  
18 consider include but are not limited to:

19 (a) The number and size of alternative providers of  
20 services;

21 (b) The extent to which services are available from  
22 alternative providers in the relevant market;

23 (c) The ability of alternative providers to make  
24 functionally equivalent or substitute services readily available at  
25 competitive rates, terms, and conditions; and

(d) Other indicators of market power, which may include  
market share, growth in market share, ease of entry, and the  
affiliation of providers of service.

1 RCW 80.36.330(1). According to the Joint Position Statement, Staff and GTE believe that  
2 GTE's provision of intraLATA toll satisfies all of these statutory prerequisites.  
3

4 Staff and GTE, however, neglect to address the impact that GTE's provision of  
5 switched access services has on "[t]he ability of alternative providers to make functionally  
6 equivalent or substitute services readily available at competitive rates, terms, and conditions."  
7 RCW 80.36.330(1)(c). Switched access charges represent approximately half of a carrier's  
8 costs to provide toll service. WUTC v. U S WEST Communications, Inc., Docket No. UT-  
9 950200 ("U S WEST Rate Case") Tr. at 3175-76 (Cross-examination of U S WEST witness  
10 Wilcox).<sup>1</sup> GTE is a monopoly provider of switched access services, and those services are  
11 priced far above their TSLRIC. As both a toll and switched access service provider,  
12 therefore, GTE can price competing providers of toll services out of the market by setting its  
13 toll services close to or at its switched access rates. Although competitors currently may be  
14 able to offer intraLATA toll services at competitive rates, terms, and conditions, the pricing  
15 flexibility inherent in competitive classification would enable GTE quickly to reduce  
16 intraLATA toll rates to a level that would eliminate competition while still allowing GTE to  
17 make a substantial profit.  
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20 Staff and GTE apparently believe that having the Commission continue to require that  
21 GTE's rates for intraLATA toll services be subject to an imputation test will resolve this  
22

23 <sup>1</sup> Rather than attempt to introduce evidence during this phase of the proceeding, AT&T  
24 relies on testimony admitted into the record in the recent U S WEST rate case to provide  
25 factual support for these comments. AT&T requests that the Commission take administrative  
notice of the cited portions of the U S WEST Rate Case record, or alternatively, allow AT&T  
to submit an affidavit containing record excerpts or the factual information they contain.

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1 issue. See Joint Position Statement at 5. AT&T agrees that application of a properly  
2 performed imputation test is indispensable to minimizing GTE's ability to impose a price  
3 squeeze between toll rates to end user customers and switched access charges to competing  
4 toll providers. As Dr. John Mayo explained on behalf of AT&T in the recent U S WEST  
5 Rate Case, "the creation of imputation and price floors is necessitated by the potential for a  
6 vertically integrated firm with significant control over the upstream stage to manipulate price,  
7 quality or terms and conditions of the upstream input so as to anticompetitively disadvantage  
8 its downstream rivals." U S WEST Rate Case Ex. 365T (AT&T witness Mayo direct  
9 testimony) at 62-63. GTE thus must demonstrate that the rates it charges end users for  
10 intraLATA toll services include the rates imposed on competitors for component parts of that  
11 service plus GTE's other costs in providing the service. "Failure to include all of its own  
12 costs as part of the cost floor is an open invitation for an anticompetitive vertical price  
13 squeeze." Id. at 63.

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17 Even a properly conducted imputation analysis, however, is of only limited  
18 effectiveness in reducing GTE's opportunities to engage in price squeezes. An imputation  
19 analysis, like a TSLRIC study, is only as reliable as the underlying cost data, and GTE's cost  
20 data, at best, is under considerable scrutiny in the Commission's costing and pricing  
21 proceeding, Docket Nos. UT-960369, et al. Even if such data were reliable, however, failure  
22 to price monopoly inputs at TSLRIC allows GTE to pass an imputation test while continuing  
23 to engage in anticompetitive pricing. Because GTE's switched access revenues far exceed  
24 even GTE's calculation of its TSLRIC, GTE could set its toll rates just high enough to  
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1 recover its access charges and other incremental costs, and the company theoretically would  
2 pass an imputation test while generating revenues that substantially exceed its actual costs.  
3  
4 GTE's competitors, in stark contrast, could only break even if they attempted to match that  
5 price -- switched access charges are not a revenue source for them but represent half of their  
6 out-of-pocket costs of providing toll service. See U S WEST Rate Case Ex. 479 (Sprint  
7 witness Sievers Exhibit numerically illustrating this concept). No company could hope to  
8 compete effectively with GTE under such circumstances, nor will GTE ever have any  
9 incentive to increase its efficiency or service quality or to meaningfully lower the toll rates  
10 paid by Washington consumers. See Id. Ex. 480T (AT&T witness Kargoll direct testimony)  
11 at 14-15; Ex. 365T (AT&T witness Mayo direct testimony) at 27-28.  
12

13 This scenario is not merely hypothetical. U S WEST recently illustrated the potential  
14 for just such an abuse of monopoly market power when it initiated a promotional reduction in  
15 its intraLATA toll rates. The promotion was in response to an intraLATA toll advertising  
16 campaign by AT&T publicizing rates that were 10% below U S WEST's rates. As part of its  
17 promotion, U S WEST decreased its toll rates but did not offset that decrease with an increase  
18 in any other service -- nor did U S WEST reduce its switched access rates to competitors.  
19 The resulting toll rates remained above "cost," U S WEST continued to earn a substantial  
20 margin from "imputed access charges," and AT&T discontinued its advertising campaign,  
21 rather than further lower its toll rates to a level at or below its actual costs. U S WEST then  
22 withdrew its promotion and returned to its prior rates, three months before the promotion was  
23 scheduled to conclude. See id. Tr. at 3635-37 (Cross-examination of U S WEST witness  
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1 Purkey). GTE could just as easily leverage its pricing of monopoly inputs to thwart  
2 competition -- indeed, such pricing manipulation would be easier for GTE if its intraLATA  
3 toll services are classified as competitive and GTE need only file a price list.<sup>2</sup>  
4

5 Imputation thus is not a cure-all for anticompetitive ills but represents only another  
6 instrument that the Commission can use to treat the symptoms of that disease. The only cure  
7 is to require GTE to price switched access to all providers of intraLATA toll services at  
8 TSLRIC. Imputation also does not prevent GTE from using discriminatory business office  
9 practices or poor quality of switched access service as a means of disadvantaging competing  
10 providers. AT&T filed comments in Docket No. UT-960942 explaining the need to establish  
11 detailed guidelines for business office practices to protect intraLATA toll and local exchange  
12 competition from ILECs' anticompetitive behavior.<sup>3</sup> Again, U S WEST's substandard  
13 provision of service to competitors illustrates this need, and existing Commission rules do not  
14 address, much less provide an adequate remedy for, problematic business office practices or  
15 poor service quality provided by an ILEC to competing providers. See U S WEST Rate  
16 Case, Fifteenth Supp. Order at 23-26 (and record evidence cited in support of same). GTE's  
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20 <sup>2</sup> Waiver of RCW 80.36.170 (Unreasonable preference prohibited) and 80.36.180 (Rate  
21 discrimination prohibited), as authorized under RCW 80.36.330(8), would provide even  
22 greater opportunity to discriminate against competitors. Staff and GTE do not address, much  
23 less recommend, waiver of these statutory provisions, and no basis exists for finding that  
"competition will serve the same purpose and protect the public interest." *Id.* The  
Commission, therefore, should deny any request for waiver of RCW 80.36.170 and 80.36.180.

24 <sup>3</sup> GTE has pledged to adhere to competitively neutral business office practices, but  
25 competitors may not share GTE's understanding of "competitively neutral," nor do they  
currently have sufficient means to verify whether GTE is fulfilling its pledge.


1 continued monopoly of switched access services in its local exchanges thus provides GTE  
2 with more than ample opportunity to engage in anticompetitive behavior in the intraLATA toll  
3 market. Without addressing this situation, the Commission cannot conclude that GTE's  
4 provision of intraLATA toll services is subject to "effective competition."  
5

6 **Recommendation**

7 For the foregoing reasons, AT&T urges the Commission to condition any classification  
8 of GTE's provision of intraLATA toll services as competitive on implementation of  
9 appropriate intercarrier business office practices and service quality standards and on reduction  
10 of GTE's intrastate switched access services to TSLRIC, in conjunction with universal service  
11 reform if necessary. In the alternative, the Commission should immediately open dockets  
12 (1) to establish intercarrier business office practices and service quality rules and (2) to  
13 institute intrastate switched access and universal service reform.  
14

15 RESPECTFULLY SUBMITTED this 3<sup>RD</sup> day of July, 1997.

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