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April 4, 2016

**VIA E-FILING**

Mr. Steven V. King, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive SW  
Olympia, WA 98504-7250

Re: Docket UT-160196 - Rulemaking to consider amending, adopting, and repealing certain rules in WAC 480-120, Telephone Companies, relating to the Washington Telephone Assistance Program and Washington Exchange Carrier Association, and repair standards for planned service interruptions and impairments - Comments of the Washington Independent Telecommunications Association

Dear Mr. King:

The Commission has issued a Notice of Opportunity to File Written Comments (“Notice”) dated March 4, 2016, in the above-referenced Docket. This letter represents the opening comments of the Washington Independent Telecommunications Association (WITA) in response to the Notice.

In these comments, WITA takes the position that WAC 480-120-440 does not need to be reinstated. Further, WITA supports additional rulemaking to conform the Commission’s rules to the actions of the Federal Communications Commission (FCC) taken in late December of 2015 related to preferred interexchange carriers (PIC). This occurred in FCC Order 15-166.<sup>1</sup> Finally, WITA supports the other changes put forth by the Commission in the Notice related to correcting typographical errors, removing references to WTAP and removing the references to WECA by repealing WAC 480-120-352.

In the Notice, the Commission states that WAC 480-120-440 was inadvertently repealed in Docket No. UT-140680. That rule requires companies to repair all out-of-service interruptions within forty-eight hours, unless the company is physically obstructed from making the repair, or because of a force majeure, or in the case of what is defined as a “major outage.”

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<sup>1</sup> *In the Matter of Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulation That Inhibit Deployment of Next-Generation Networks, Lifeline and Link Up Reform and Modernization, Connect America Fund*, WC Docket No. 14-192, WC Docket No. 11-42, WC Docket No. 10-90, Memorandum Opinion and Order, FCC 15-166, (rel. Dec. 28, 2015). (“Order No. 15-166”)

The Commission seeks to reinstate this rule. WITA asks why.

WITA requests that the Commission carefully consider whether WAC 480-120-440 is needed in today's telecommunications environment. The Commission should look at the rule and ask the question: is the rule really needed?

There is a strong competitive market for telecommunications services throughout the State of Washington. In a strong competitive market, the use of prescriptive rules to protect customers is not something that should be assumed is needed. Companies that are seeking to retain their customer base have the necessary impetus to take steps to promptly repair out-of-service interruptions. Companies that ignore the needs of their customers will soon lose those customers. WITA asserts that a rule dictating how such repair action is to take place is unnecessary in today's telecommunications environment. As a result, WITA requests that the Commission not reinstate WAC 480-120-440.

WITA also suggests that the Commission use this opportunity to take action to conform the Commission's rules with steps taken by the FCC in Order No. 15-166. In that Order, the FCC removed equal access obligations on local exchange carriers for purposes of interLATA telecommunications.<sup>2</sup> The FCC further ruled that customers with an existing PIC will continue to retain that carrier. However, local exchange companies do not have to maintain PIC lists of available carriers and offer a new customer signing up for service the choice of interLATA long distance carriers.<sup>3</sup>

This action underscores the fact that the long distance telecommunications market is extremely competitive. Customers have a wide variety of choices, including over-the-top VoIP services such as Skype. The need to offer a PIC to a customer no longer exists as customers are readily able to move between long distance carriers. These carrier offer a wide variety of price plans and other incentives. The expense to local exchange companies of maintaining the PIC list and monitoring a PIC process is one that should no longer be shouldered by those companies. The removal of that burden reflects the realities of today's very fluid telecommunications market.

This goal can be accomplished by adopting a new rule that would conform the Commission's rules to the FCC's action in FCC Order 15-166 by addressing dialing parity and presubscription. Such a rule might read as follows:

WAC 480-120-148. Toll Dialing Parity.

Except for customers already presubscribed to an intraLATA carrier, a company

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<sup>2</sup> FCC Order 15-166 at ¶ 46, et. seq.

<sup>3</sup> FCC Order 15-166 at ¶ 53, 54.

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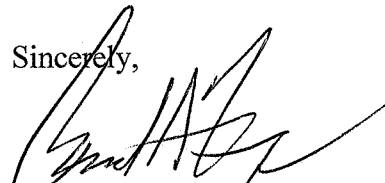
is no longer required to offer intraLATA dialing parity and carrier presubscription as of July 1, 2016.

WITA requests that the Commission consider adopting the above rule.

WITA supports the correction of the errors in WAC 480-120-121, WAC 480-120-161(1)(d)(ii), and WAC 480-120-103(2). In addition, WITA supports the actions proposed by the Commission to be taken with regard to the language concerning the WTAP program in the Commission's rules. Finally, WITA agrees with the Commission that WAC 480-120-352, which references WECA, should be repealed as unnecessary.

Thank you for the opportunity to comment.

Sincerely,



RICHARD A. FINNIGAN

RAF/cs  
Enclosure

cc: Client (via e-mail)