BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Chapter 480-120 WAC
Telecommunications - Operations **DOCKET NO. UT-990146**

SUPPLEMENTAL COMMENTS OF QWEST CORPORATION

ON

PROPOSED TELECOMMUNICATIONS - OPERATIONS RULES CHAPTER 480-120 WAC

June 27, 2002

I. INTRODUCTION

Qwest Corporation ("Qwest") provides the following comments on the proposed rules in Docket No. UT-990146, Chapter 480-120 WAC, Telecommunications - Operations. Qwest appreciates the time taken by the Commission to improve upon the existing rules and supports the draft rules to the extent they clarify and better organize existing regulatory requirements. However, Qwest is very concerned with a number of the proposed April 30, 2002 rule revisions in Chapter 480-120 WAC Telecommunications -Operations. Qwest addressed many of its concerns at the March 27, 2002 open meeting and filed extensive comments on April 19, 2002. Very few of Qwest's proposed changes have been incorporated in the proposed April 30, 2002 draft. Many of the proposed rules continue to contain unreasonable provisions addressed by Qwest in its April 19, 2002 comments. Furthermore, some of the proposed rules remain technically inaccurate or unclear. The following proposed rule subsections continue to be of concern to Qwest:

General Rules:

- 480-120-121: Definitions - Call Detail, Held Orders, and Telecommunications-Related Products and Services
- 480-120-061: Refusing service: subsections (6) and (8)

Establishing Service and Conditions:

- 480-120-103: Application for service: subsections (3) and (4)
- 480-120-104: Information to consumers: subsections (1) and (2)
- 480-120-105: Company performance standards for installation or activation of access lines: subsections (1), (3) and (4)
- 480-120-112: Company performance for orders for non-basic service: subsections (1), (2) and (3).
- 480-120-123: Establishing Credit - Business Services: subsections (1), (3) and (5)
- 480-120-133: Response time for calls to business office or repair center: subsection (2)
- 480-120-146: Changing service providers from one local exchange company to another

Payments and Disputes:

- 480-120-162: Cash and urgent payments: subsections (2) and (5)
- 480-120-166: Customer complaints: subsections (1) and (8)
- 480-120-167: Company responsibility

Discontinuing and Restoring Service:

- 480-120-172: Discontinuing service - company initiated: subsections (6) and (7)
- 480-120-173: Restoring service after disconnection: subsection (2)

Telecommunications Services:

- 480-120-254: Telephone Solicitation: subsection (3)
- 480-120-255: Information delivery services: subsection (2)
- 480-120-262: Operator services providers: subsection (3)

Financial Records and Reporting Rules:

- 480-120-302: Accounting requirements for companies not classified as competitive: subsection (2)

Safety and Standards Rules

- 480-120-412: Major Outages: subsection (4)
- 480-120-439: Service quality performance reports: subsections (4), (8) and (9)
- 480-120-440: Repair standards for service interruptions and impairments excluding major outages: subsections (1), (2), (3), (6) and (7)
- 480-120-450: Enhanced 9-1-1 (E911) obligations of local exchange companies: subsections (1), (2) and (3)

For ease of reference, the following comments include: 1) page and line citations to the April 30, 2002 proposed rules, in legislative format; 2) the Commission's proposed rule language; and 3) Qwest proposed replacement rule language, when applicable.

II. RULE SPECIFIC COMMENTS

PART 1 - GENERAL RULES

Amend 480-120-021 Definitions

Qwest respectfully requests modification of the following proposed WAC 480-120-021 definitions: 1) Call Detail; 2) Held Orders; and 3) Telecommunications-Related Products and Services.

Call Detail:

The Commission proposes a definition of "Call Detail" at page 7, lines 104-131. The definition was originally introduced at the March 27, 2002 open meeting, as part of the Customer Information rules. It is unclear why the Commission has included the same definition of Call Detail in this portion of the rulemaking since no explanation was provided and no other portion of the Customer Information rules are included in this draft. Nor is existing WAC 480-120-154 Definitions included in the list of sections to be repealed at pages 89-90. Existing WAC 480-120-154 Definitions includes a definition of Customer Proprietary Network Information ("CPNI") at subsection (4).

Qwest previously provided comments on the proposed call detail definition on April 12, 2002. For ease of reference, and because it is unclear what the Commission's intent is with respect to the Customer Information rules, Qwest will repeat it comments on the Call Detail definition here.

It is difficult to discuss the definition in isolation, therefore, Qwest will address the relevance of the use of the definition in the context of the other proposed Customer Information rules as required.[1]

[1] Qwest will not repeat its April 12, 2002 comments on other Customer Information proposed rules or the legality of such. The following comments are not intended to replace or modify Qwest's April 12, 2002 comments in any fashion.

Proposed WAC 480-120-021 would define "Call Detail" as follows:

a) "[a]ny information that identifies or reveals for any specific call, the name of the caller, the name of any person called, the location from which a call was made, the area code, prefix, any part of the telephone number of any participant, the time of day of the call, the duration of a call, or the cost of a call."
b) The aggregation of information in (a) of this subsection up to the level where a specific individual is associated with information on calls made to a give area code, prefix or complete telephone number, whether that information is expressed through amount spent, number of calls, or number of minutes used an whether that information is expressed in monthly, less-than-monthly or greater-than-monthly units;
c) The aggregation of information in (a) of this subsection up to the level where a specific individual is associated with general calling patterns (e.g. peak, off-peak, weekends) or amounts spent expressed on a less-than-per-month basis;
d) The number of calls that are answered or unanswered and information related to them that provide information by time of day, day of week, or by week or weeks up to but not including by month.

Call detail does not include information other than (a), (b), or (c) of this subsection complied on a monthly basis. For example, it does not include the monthly amount spent on long distance calls or the monthly amount spent on ancillary services. It does include, for example, the monthly amount spent calling area code XXX, and the number of unanswered calls between hours of 8:00 A.M. and 5:00 P..M. and the number of unanswered calls on Tuesdays.

The Commission's more narrow focus on a particular type of CPNI that it terms "call detail"[2] is a welcomed development. However, when the Commission's proposed definition is coupled

[2] Neither the federal statute (47 U.S.C. § 222(h)(1)) nor the implementing federal rules (47 C.F.R. §§ 64.2003(c), uses this phrase. It is clear that some call detail information is included in the phrase "destination" and "amount of use." *See* the FCC's *CPNI Order*, 13 FCC Rcd. 8061, 8108-09 ¶ 61 ("[m]uch CPNI, however, consists of highly personal information, particularly relating to call destination, including the numbers subscribers call and from which they receive calls, as well as when and how frequently subscribers make their calls. This data can be translated into subscriber profiles containing information about the identities and whereabouts of subscribers' friends and relatives; which businesses subscribers patronize; when subscribers are likely to be home and/or awake; product and service preferences; how frequently and cost-effectively subscribers use their telecommunications services; and subscribers' social, medical, business, client, sales, organizational, and political telephone contacts.") (Emphasis added.) *See also id.* at 8109 ¶ 62. Qwest disagrees with the FCC's observations about the relationship of call detail to a carrier's identifications of persons or things for customer profile or marketing and is unaware of any federal factual evidence to support the comments by the FCC about the translation of calling information into other kinds of calling identification. Most carriers will not know "to whom" a customer places a call without working through some kind of reverse directory or search engine. These databases are used when individuals inquire about "who" they may have called when a number shows up on their bill which they do not recognize. But, to Qwest's knowledge, carriers do not use these search engines when using CPNI for marketing. And, even if such search engines were used,

with another Customer Information proposed rule requiring written customer approval before a telecommunications carrier can use "call detail," the Commission's proposed rules remain over broad and legally infirm.[3]

As defined by the Commission, "call detail" includes not only fully dialed digits associated with terminating calls (3 or 7 or 10 or more digits – what the proposed WAC 480-120-021 terms "complete telephone number"), but also information associated with the dialing of NPA (area code) or NXX (central office) information, as well as the number of minutes associated with such calls, the location from which a call was made and the "amount spent" in calling the NPA/NXX. Thus, under the proposed Customer Information rules, carriers would be prohibited, without express written customer approval, from even associating NPA/NXX information with "general calling patterns" such as "peak, off-peak, weekends" or the "amounts spent," unless those amounts are aggregated up to a "per month" amount spent.

Additionally, without express written customer approval, carriers could not use information about calls answered or unanswered to individuals, even if that information contained no separate call detail with respect to the incoming call traffic. Qwest currently monitors some customer's network traffic patterns to advise customers of hourly, daily, weekly call volumes and calls answered/unanswered. This monitoring is sometimes done at the request of customers and sometimes prior to approaching them about particular services that could help them better manage their telecommunications services. The customers are almost always businesses, including home-based businesses. The Commission has made no demonstration that the use of this truthful, lawfully generated information is "sensitive" or should be burdened with an opt-in approval requirement. Moreover, depriving a carrier of the benefits of the use of this information adversely affects the "bundle of rights" the carrier has with respect to CPNI ownership.[4]

What the Commission defines as "call detail" is truthful information lawfully generated and retained by carriers providing telecommunications services.[5] Most carriers know only the

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the most that could be discerned would be the billing name associated with the terminating number, not necessarily "whom" the caller was contacting or communicating with.

[3] Proposed WAC 480-120-202 would prohibit a carrier's "**use**, disclos[ure] or . . . access to a customer's call detail information, unless the customer has given explicit written ('opt-in') approval" (emphasis added).

[4] Qwest March 21, 2002 Letter, in Docket No. UT-990146, Customer Information Rules, at pp. 5-6.

[5] Plainly, the communication of this type of information within a corporate enterprise is as much speech as telling an affiliate that "Susan has 7 lines – 3 more than she had last week and 6 more than she had last month." The inclusion of this information in databases "used" for other than direct marketing purposes – such as information accumulated for modeling or other purposes that might be used to create marketing strategies for customers who do want to hear from telecommunications carriers – poses no "privacy threat" to any individual. In the Customer Information portion of this rulemaking, the Commission provides no analysis why it believes its opt-in proposal for the internal corporate use of call detail information appropriately balances customer privacy interests with legitimate carrier-customer expectations and relationships. Qwest is of the opinion that the Customer Information rule, as proposed, remains subject to legal challenge. A predicate question must be, "what is the substantial state interest the Commission is trying to protect with respect to Washington citizens?" There is no evidence of actual or substantial privacy invasions requiring Commission action of the sort it proposes. Qwest has

numbers (digits dialed) and do not convert those numbers into more informative content (*e.g.*, names) when using the information for marketing purposes,[6] Qwest does not believe the Commission could lawfully sustain an opt-in rule with respect even to "complete telephone number" call detail.[7] But even it if could, the restrictions on the use of call detail beyond the "complete telephone number" level invariably will be found unlawful. The use of less than "complete telephone number" information by carriers (*e.g.*, NPA or NXX information, as well as associated billing information) for marketing or other purposes fails to raise a significant and material privacy concern as between the carrier that transports the calls and bills for them and the customer who receives the services. And beyond NPA/NXX/billed amount information, the fact that the term "call detail" includes the number of answered or unanswered calls seeks to extend privacy "protection" to information that few individuals would find highly offensive or threatening of "privacy." Indeed, the information may not contain any actual call detail at all.[8]

Any Commission rules that restrict the use of call detail beyond that mandated by the FCC are preempted.[9] Since reducing the flow of information associated with NPA-NXX use would

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committed not to use or share 7 or 10-digit call detail (whether associated with local calls, such as measured service, or toll calls) within its corporate enterprise for marketing purposes. Thus, there is no current demonstrable "privacy" concern or harm associated with its use of this information. While other carriers might not be willing to withhold use of this information, the fact that the information has been used in the past and has not raised or demonstrated privacy issues of any magnitude, compels the conclusion that the Commission could not prove a substantial privacy threat associated with internal use of call detail warranting this kind of government interference with First Amendment speech interests.

[6] *See* note 2, above.

[7] Both the Ninth and Tenth Circuits are obligated to abide by Supreme Court precedent as established in *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557, 564-65 (1980) ("*Central Hudson*"). *See United Reporting Company v. Lost Angeles Police Dept.*, 146 F.3d 1133, 1139-40 (9th Cir. 1998), *rev'd sub nom Los Angeles Police Dept. v. United Reporting Company*, 528 U.S. 32 (1999) (striking down a California statute on the grounds that, while it reflected a substantial government interest in protecting arrestees from the release of such information, the statute failed to materially and directly advance the government interest). The Ninth Circuit decision reflects an inquiry regarding whether speech not directly incorporated into commercial solicitations is commercial speech or some higher form of speech. 146 F.3d at 1136-37. The Supreme Court reversed the Ninth Circuit on the grounds that the government, as the entity in possession of the arrestee information, could determine to whom and under what circumstances the information should be disclosed. It did not address the matter of government interference with speech between private entities based on information lawfully in the possession of one of those entities.

[8] If the information indicated that 100 unanswered calls came from 303-355-6758, there would be information associated with call detail. Similarly, if the information said 100 calls came from 303-355 or merely from 355 central office, then the information would contain "call detail" under the Commission's proposed rules. But**,** the information could also be that on Tuesday, April 2, 2002, Customer x experienced 100 unanswered calls. That information does not even contain "call detail" in a literal sense but is included in the proposed definition.

[9] "State rules that likely would be vulnerable to preemption would include those permitting greater carrier use of CPNI than section 222 and our implementing regulations announced herein, **as well as those state regulations that sought to impose more limitations on carriers' use.** This is so because state regulation that would permit more information sharing generally would appear to conflict with important privacy protections advanced by Congress through section 222, whereas **state rules that sought to impose more restrictive regulations would seem to conflict with Congress' goal to promote**

conflict with articulated federal objectives articulated in the FCC's "total service approach,"[10] any Commission action to the contrary would be unlawful. For all these reasons, the Commission should refrain from culling out "call detail" from other CPNI and should allow the existing CPNI definition at WAC 480-120-154 to control carriers' uses of call detail information. This would mean the elimination of the proposed rule WAC 480-120-021 definition of "Call Detail".

Should the Commission continue to desire to include a definition of call detail, Qwest respectfully requests the definition of Call Detail at WAC 480-120-021 be revised as follows;

> "Call detail" means fully-dialed call termination information (this may be 3 digits, or 7 digits or 10 digits or more) from a caller to a terminating number. Dialed information reflecting less than the complete telephone number (*e.g.*, area code (NPA) or central office (NXX) information) is not call detail."[11]

Held Orders:

The Commission proposes a definition of "Held Orders" at page 9, lines 213-214. The definition is as follows:

> "Held orders means orders for exchange access lines for which the company does not provide service by the due date."

Qwest requests this definition be eliminated. Exchange access lines not installed by the due date are generally not considered "held orders" in the industry. Use of this term ("held order") in the proposed fashion will create confusion within most companies, is technically inaccurate and will most likely lead to different interpretations by various companies, therefore, causing inconsistencies in the data reported to the Commission as required at WAC 480-120-439. Within the telecommunications industry, a held order is limited to an order "held" due to a lack of readily available telecommunications facilities. It can be held either due to company or customer reasons. An order for exchange access lines for which the company does not provide service by the due date is a "missed commitment" order. It is not an order that is "held" by the company.

The only place the term "held order(s)" is utilized in the proposed rules is at WAC 480-120-439 Service Quality Performance Reports. Qwest explains why the report should be re-titled since the rule requirements are specifically concerning missed due dates/commitments, not orders held

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competition through the use or dissemination of CPNI or other customer information. In either regard, the balance would seemingly be upset and such state regulation thus could negate the Commission's lawful authority over interstate communication and stand as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. . . . We find, therefore, that the rules we establish to implement section 222 are binding on the states, and that the states may not impose requirements inconsistent with section 222 and our implementing regulations." *CPNI Order*, 13 FCC Rcd. 8061, 8077-78 ¶¶ 18, 20 (emphasis added).

[10] *See* note 2, above.

[11] Again, Qwest does not concede the lawfulness of the Customer Information rule. However, in efforts to work with the Commission cooperatively, this definition, as utilized within the Customer Information rules, might not be challenged by carriers and may accommodate the Commission's concerns.

due to a lack of available facilities. Please see Qwest's comments on proposed WAC 480-120-439 below for a more detailed discussion.

Telecommunications-Related Products and Services:

The Commission proposes a definition of "Telecommunications-Related Products and Services" at page 12, lines 345-355. The definition is as follows:

> **"Telecommunications-related products and services"** means:
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> (a) The offering of telecommunications for a fee directly to the public, or to such classes of users to be effectively available directly to the public, regardless of the facilities used; or
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> (b) Services offered over common carrier transmission facilities which employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information, provide the subscriber additional, different, or restructured information, or involve subscriber interaction with stored information; or
>
> (c) Equipment employed on the premises of a person to originate, route, or terminate telecommunications.

It is unclear why the Commission has included the above definition in this portion of the rulemaking since no explanation was provided and this term is not used anywhere in the proposed rules for which the Commission requests comment at this time. The term is part of the proposed Customer Information rules and should be addressed along with those proposed rule revisions.

Qwest respectfully requests this definition be eliminated. Proposed subsection (a) appears to be incomplete and provides little, or no value since it is not included in the proposed rules for which the Commission requests comment in this portion of the rulemaking docket. Proposed subsection (b) is not a "telecommunications-related product/service", it is a service that may be accessed over telecommunications facilities, however it is not limited to such. The fact that it is offered over telecommunications facilities does not make it a telecommunications-related service. Such functions also occur over cable and satellite facilities as well as within a customer premises. Furthermore, the FCC has used this definition to define what they term as "non-telecommunications" service. Therefore, this subsection is misleading, confusing and inaccurate. Subsection (c) is also incomplete; furthermore, a more complete description of customer premises equipment is already contained in the Commission's proposed rules at page 8, lines 167-169. Finally, this list is far from complete and is unnecessary. Qwest also refers the Commission to its April 12, 2002 comments on the proposed Customer Information rules, specifically those rules that utilize this term, such as proposed WAC 480-120-205.

Amend 480-120-061 Refusal of service

Qwest respectfully requests modification of proposed WAC 480-120-061, subsections (6) and (8).

Qwest respectfully requests the requirement at subsection (6), page 14, lines 419-426, be modified to more clearly state when service can be denied. Proposed subsection (6) states the following:

> A company may deny telecommunications services at an address where a former customer is known to reside with an overdue, unpaid prior obligation to the same company for the same class of service at that address until the obligation is paid or satisfactory arrangements are made when there is evidence that the person requesting service lived at the address while the overdue, unpaid prior obligations were incurred and helped incur the obligations. However, a company may not deny service if a former customer with an overdue, unpaid prior obligation has vacated the address.

The proposed language is presently unclear with respect to former residents. It could be misinterpreted by all parties involved and therefore will raise future, unnecessary complaints and associated debates. Proposed subsection (6) also requires evidence that the person requesting service helped incur the obligations. The evidence required by this element of the proposed standard may be unattainable. Local Exchange Companies cannot frequently determine if the person resided at the residence when the unpaid obligation was incurred.

The existing rule language at WAC 480-120-061(4) and (5) is very clear and also does not restrict the application to the same address; nor does it require the evidence set forth in the proposed rule. The existing rule language should be retained. Therefore, Qwest respectfully suggests subsection (6) be modified as follows:

> A company may deny telecommunications services to an applicant or subscriber for service at an address where a former subscriber is known to reside and has an overdue, unpaid prior obligation to the same company for the same class of service at that address or another address until the obligation is paid or satisfactory arrangements are made.

Qwest also respectfully requests the requirement at subsection (8), page 14, lines 439-441, be modified to qualify when a telephone number must be released. Proposed subsection (8) states the following:

> A company may not withhold or refuse to release a telephone number to a customer who is transferring service to another telecommunications company.

Subsection (8) needs to be clarified to limit this requirement to the release of the telephone number when number porting technology is available within the same rate center. If the Commission fails to qualify this obligation, customers will have a false expectation. Number porting technology is technically limited to within the rate center and has not been ubiquitously deployed in Washington. Telecommunications companies cannot technically comply with this rule provision unless it is qualified in this manner. Qwest respectfully requests subsection (8) be modified as follows:

A company may not withhold or refuse to release a telephone number to a customer who is transferring service to another telecommunications company *within the same rate center unless it is technically unable to port the telephone number.*

PART II - ESTABLISHING SERVICE AND CREDIT

Amend 480-120-051
480-120-103 Application for service

Qwest respectfully requests modification of proposed WAC 480-120-103, subsections (3) and (4).

Qwest respectfully requests the requirement at subsection (3), page 15, lines 491-493, be modified to further qualify when the company must specify the time of day for installation within a four-hour period. Proposed subsection (3) states the following:

> When the company informs the customer that installation of new service orders requires on-premise access by the company, the company must offer the time of day for installation within a four-hour period.

Subsection (3) should be qualified to when a customer requests a four-hour window. Not all customers require a four-hour installation interval since they are available all day. Customers with time constraints will ask for an appointment window. Qwest currently provides morning or afternoon appointments upon customer request, and provisions approximately 3.3 million orders a year; approximately 250,000 of those orders require on-premise access. Approximately 1,000 orders require on-premise access each business day. It is extremely difficult to meet a four-hour window when the technician does not know how much work is entailed at each premises and the technician may also be responsible for a large service area. Qwest believes it would be poor customer service to establish a customer expectation that may not be met simply because the rule requires all dispatched appointments to be set within a four hour window, whether or not the customer desires such or the company can actually deliver on such a commitment. Therefore, Qwest respectfully requests WAC 480-120-103(3) be modified as follows:

> When the company informs the customer that installation of new service orders requires on-premise access by the company, the company *must ask the customer if someone will be available at the premises all day or if they require a morning or afternoon appointment. When the customer requests a morning or afternoon appointment or requests installation within a specific four-hour period,* the company must *assign such an interval to the customer's order.*

Qwest's proposed modification strikes the proper balance while meeting the Commission's objective of a four-hour window for those customers who need such.

Qwest also respectfully requests the requirement at subsection (4), page 15, lines 494-498, be modified to commence the installation interval requirement to when the customer has made the initial required payment. Proposed subsection (4) states the following:

> When the application for service requires a service extension as defined in WAC 480-120-071, the requirement of subsection (1)(b) of this section does not apply and, for the purpose of determining when an extension must be completed, the order date is the application date or six weeks prior to the date the customer makes the required initial payment, whichever is later.

It is unclear why proposed subsection (4) applies the installation interval, for purposes of determining the company obligated installation interval, six weeks prior to the initial customer payment. The standards applied to the company for installation intervals (as defined at proposed WAC 480-120-107) should not commence until the customer has satisfied its obligations whether that is two days later or six weeks later. The company should not bear the burden of a customer who waits six weeks to commit to his or her service request. Furthermore, the approach taken by the proposed rules may result in the company commencing installation activities to meet the proposed rule requirement only to subsequently find out the customer does not wish to pursue his or her application. This would result in unnecessary expense to the detriment of all ratepayers. Furthermore, proposed subsection (4) is inconsistent with the standard applied to all other customers at subsection (1)(a). It is unclear why service extension customers should be given special provisions. Qwest respectfully requests WAC 480-120-103(4) be modified as follows:

> When the application for service requires a service extension as defined in WAC 480-120-071, the requirement of subsection (1)(b) of this section *applies* and, for the purpose of determining when an extension must be completed, the order date *shall be no later than the date the company receives* the required initial payment.

Companies will do what is necessary in order to comply with proposed WAC 480-120-107 but should not be obligated to the standards at WAC 480-120-107 until an applicant for service has satisfied its obligations first.

Amend 480-120-041
480-120-104 Information to consumers

Qwest respectfully requests modification of proposed WAC 480-120-104, subsections (1) and (2).

Qwest respectfully requests the requirement at subsections (1)(a) and (b), page 16, lines 519-526, be modified to reduce the information required in the welcome letter. Proposed subsection (1) (a) and (b) state the following:

> (a) Contact information for the appropriate business office, including a toll-free telephone number, a TTY number, mailing address, repair number, electronic address if applicable, and business office hours, that the customer can contact if they have questions;

(b) Confirmation of the services being provided to the customer by the company, and the rate for each service. If the service is provided under a banded rate schedule the current rate, including the minimum and maximum at which the customer's rate may be shifted;

The Commission should not include a requirement that the company's business office hours, TTY number, mailing address, repair number, and rates for each service, including minimum and maximum rates as applicable, be included in a welcome letter. The company's business office hours, TTY number, mailing address, and repair numbers are already contained in its directory, which is readily available to all customers. It is highly unlikely that the customer would save the welcome letter for this purpose, especially when the business office number and mailing address is included with each bill. They will also check the directory when they need to call repair or will call the business office if a directory is not readily available. If they call the business office telephone number instead of the repair number they will be transferred to repair upon selection of thatoption.

The rates for any service, including banded rate services, cannot be changed without customer notice. Service specific rate disclosure is most appropriate at the time of the sale as opposed to after the customer has ordered the service. Furthermore, the Commission recently required companies to include on every bill (and notice), information informing customers of their ability to get price lists which contain price information. 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. In addition, Qwest offers a sixty-day product guarantee for most of its services which allows customers to discontinue service within sixty days and all charges are waived.

Qwest respectfully requests WAC 480-120-104 subsections (1)(a) and (b) be modified as follows:

(a) The company's toll-free telephone number, and electronic address if applicable; and
(b) Confirmation of the services being provided to the customer by the company

Qwest also respectfully requests the requirement at subsections (1)(c), pages 16, lines 527-529, be eliminated. Proposed subsection (1) (c) states the following:

(c) If the application is for local exchange service, the local exchange company (LEC) must include the name of the customer's presubscribed interLATA and intraLATA carriers, if applicable; and

This proposed requirement is already satisfied by existing FCC rules, which require the interLATA and intraLATA carrier to provide this information directly to their customer. The local exchange carrier should not also have this obligation since it has already been addressed by the FCC; nor should the costs of such notification be imposed on local exchange carriers. The customer's choice is also confirmed at the end of their order, when the order is originally placed with their local provider of choice. This added obligation simply imposes new costs on local

exchange providers, is repetitive of information already provided or readily accessible to the customer, and is therefore unnecessary.

Qwest also respectfully requests the language at subsection (2), page 16, line 535-542, be modified to include the previous qualification of "material" change. Proposed subsection (2) states the following:

> Except for services provided under contract pursuant to WAC 480-80-241 (Filing contracts for services classified as competitive), each company must provide each customer a confirming notice, either in writing or, with permission of the customer, electronically, within ten business days of initiating a change in service which results in the addition of a service, a change from one rate schedule to another, or a change in terms or conditions of an existing service. The confirming notice must provide at a minimum, the following information in clear and conspicuous language:

This subsection previously qualified the notice obligation to a material change in terms or conditions of an existing service. While subsection (2)(b) is qualified to "material effects of the change" the lack of the same qualification in the introductory paragraph of subsection (2) requires notices for all immaterial changes in terms or conditions of an existing service. Such a notice obligation is an unnecessary expense and should be eliminated. Qwest respectfully requests WAC 480-120-104 subsection (2) be modified as follows:

> Except for services provided under contract pursuant to WAC 480-80-241 (Filing contracts for services classified as competitive), each company must provide each customer a confirming notice, either in writing or, with permission of the customer, electronically, within ten business days of initiating a change in service which results in the addition of a service, a change from one rate schedule to another, or a *material* change in terms or conditions of an existing service. The confirming notice must provide at a minimum, the following information in clear and conspicuous language:

Qwest also respectfully requests the same changes proposed to subsection (1)(a) also be made to subsection (2)(a) at page 16, lines 543-545, for the reasons cited above. Proposed subsection (2)(a) states the following:

> (a) Contact information for the appropriate business office, including a toll-free telephone number, a TTY number, and business office hours, that customers can contact if they have questions; and

Qwest respectfully requests WAC 480-120-104 subsection (2)(a) be modified as follows:

> (a) The company's toll-free telephone number, and electronic address if applicable; and

Finally, Qwest also requests the same changes proposed to subsection (1)(b) above, be made to subsection (2)(b) at page 16, lines 546-547, for the reasons cited above. Proposed subsection (2)(b) states the following:

(b) The changes in the service(s) and the material effects of the change(s), including, if applicable, the rate for each service.

The disclosure of rate information is made when the customer purchases the service for which the confirmation letter is sent. A customer will not order service until they are quoted rates. If the customer is 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. Furthermore, Qwest offers a sixty-day product guarantee for most of its services which allows customers to discontinue service within sixty days and all charges are waived. For these reasons, Qwest respectfully requests (2)(b) be modified as follows:

(b) The changes in the service(s) and the material effects of the change(s) if applicable.

New Section

480-120-105 Company performance standards for installation or activation of access lines

Qwest respectfully requests modification of proposed WAC 480-120-105, subsections (1), (3) and (4).

Qwest respectfully requests the requirement at subsection (1)(c), page 17, lines 576-577, be modified to qualify the obligation to the initial five access lines consistent with subsection (1)(a) and (b) and proposed WAC 480-120-439(4)(b). Proposed subsection (1)(c) states the following:

The LEC must complete one hundred percent of all orders for access lines within one hundred and eighty days after the order date.

The Commission should refrain from establishing a policy that requires installation of more than the initial five access lines within 180 days at each residence in Washington. Most residential customers require less than five lines and if a customer should require more than five lines, the company should not be held to a specific installation standard for the additional lines. Orders for more than five lines at a residential address may require special consideration. In the past, Qwest has received orders for more than one hundred lines at a residential location and had to deploy different technology to serve the customer since this was not the usual demand for a residential household. Therefore, Qwest respectfully suggests subsection (1)(c) be modified as follows:

The LEC must complete one hundred percent of all orders *of up to the initial five* access lines within one hundred and eighty days after the order date.

In addition, Qwest respectfully suggests subsection (3) be modified to include additional exclusions to the installation interval obligations. Proposed subsection (3) states the following:

The timelines set forth in subsection (1) of this section do not apply when customer-provided special equipment is necessary; when a later installation or activation is permitted under WAC 480-120-107; or when the commission has granted an exemption from the requirement for installation or activation of a particular order under WAC 480-120-015. These orders will be excluded from both the numerator and denominator in calculating the percentage of orders completed.

The proposed rule should not hold the local exchange company to the installation interval standards when the Company arrives at the customer's premises on the scheduled appointment date (due date), the company requires access to the customer's premises and the customer is not available to provide such access to the company. The intervals should also be waived when the company is unable to meet its installation interval obligations due to force majeure, work stoppage, or other events reasonably beyond the company's control. Qwest respectfully suggests subsection (3) be modified as follows:

> The timelines set forth in subsection (1) of this section do not apply when customer-provided special equipment is necessary; when a later installation or activation is permitted under WAC 480-120-107; when the commission has granted an exemption from the requirement for installation or activation of a particular order under WAC 480-120-015; *when the company arrives at the customer's premises on the scheduled appointment date (due date) and requires access to the customer's premises and the customer is not available to provide such access to the company. The interval standard at (1)(a) above is also waived when the company is unable to meet its installation interval obligations due to force majeure, work stoppage, or other events reasonably beyond the company's control*. These orders will be excluded from both the numerator and denominator in calculating the percentage of orders completed.

Qwest's proposed modification is consistent with proposed language at WAC 480-120-107(3) and is appropriate when circumstances reasonably beyond the company's control exist. The Commission may also wish to modify proposed WAC 480-120-439 Service quality performance reports to include a requirement that the number of orders excluded be identified by cause with each monthly report.

Finally, Qwest respectfully requests that proposed subsection (4) apply to all facility-based local exchange companies. Proposed subsection (4) states the following:

> Unless the commission orders otherwise, this section does not apply to LECs that are competitively classified under RCW 80.36.320 and do not offer local exchange service by tariff.

The proposed standards should apply to all facility-based local exchange providers. If the Commission believes it is necessary for purposes of protecting the interests of consumers to require specific installation interval standards it is unclear why the Commission would selectively apply such standards to only incumbent telecommunications providers. The exclusion of the application of the proposed installation interval standards for facility-based, competitively classified, local exchange companies is contrary to obligations of such companies under the state statute. Specifically, RCW 80.36.090 states the following:

> Every telecommunications company operating in this state shall provide and maintain suitable and adequate buildings and facilities therein, or connected therewith, for the accommodation, comfort and convenience of its patrons and employees. Every telecommunications company shall, upon reasonable notice, furnish to all persons and

> corporations who may apply therefor and be reasonably entitled thereto suitable and proper facilities and connections for telephonic communication and furnish telephone service as demanded.

In addition, RCW 80.36.300, which declares the policy of the state, includes the following provision:

> Promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state.

Finally, the facilities-based provider has the option of either utilizing its own network or the network of other providers to furnish service within the Commission prescribed installation intervals. Qwest respectfully suggests the Commission modify proposed subsection (4) to satisfy RCW 80.36.320 and to support the state policy directive at RCW 80.36.300. Qwest respectfully suggests subsection (4) be modified as follows:

> Unless the commission orders otherwise, this section does not apply to LECs that are competitively classified under RCW 80.36.320 *that* do not offer *facilities-based* local exchange service *within their local exchange service area*.

This proposed revision treats all carriers, that are facility-based, in an even-handed fashion. However, should the Commission decide to continue to exclude competitively classified LECs, it should also exclude competitively classified services. It is difficult to understand why competitive services should not be treated equally.

New Section
480-120-112 Company performance for orders for non-basic service
Qwest respectfully requests elimination of proposed WAC 480-120-112. Proposed WAC 480-120-112 (1), at page 19, lines 664-667, states the following:

> Except as provided in subsection (2) of this section, the local exchange company (LEC) must complete orders for all non-basic services within one hundred eighty days of the order date or by a later date requested by a customer.

Proposed WAC 480-120-112 deals with discretionary services such as Call Forwarding, Speed Dialing, and Caller Identification Service. As a matter of policy, the Commission should only be concerned with the installation interval for initial access line service. The Commission should refrain from imposing new standards on non-basic services. All telecommunications providers depend on the sale of discretionary services to support universal service and basic service rates. Every provider is most anxious to furnish service as soon as practical. Installation intervals for non-basic services do not need to be mandated.

However, should the Commission choose to retain proposed WAC 480-120-112, Qwest respectfully requests subsections (2) and (3) be modified to qualify when the obligation exists.

Qwest suggests the requirement at subsection (2), page 19, lines 668-672, be modified to recognize the telecommunication provider tariff and price list qualifications which limit non-basic service offerings to situations where the providers' facilities, terms and conditions permit. Proposed subsection (2) states the following:

> The timeline set forth in subsection (1) of this section does not apply when a later installation or activation is permitted under WAC 480-120-071 (Extending service), or when the commission has granted an exemption from the requirement for installation or activation of a particular order under WAC 480-120-015.

Proposed WAC 480-120-103 does not obligate a company to accept an application until the applicant has met all tariff or price list requirements. Inclusion of this language in this section as well will make it clear to customers that local exchange providers are not obligated to complete orders for all non-basic services within one hundred eighty days when the services are not available to the customer. Including the tariff obligation in this rule subsection will prevent any potential confusion on the part of the customer. Qwest respectfully requests subsection (2) be modified as follows:

> The timeline set forth in subsection (1) of this section does not apply *until a customer has met all tariff or price list requirements*, when a later installation or activation is permitted under WAC 480-120-071 (Extending service), or when the commission has granted an exemption from the requirement for installation or activation of a particular order under WAC 480-120-015.

Finally, Qwest respectfully requests proposed subsection (3) be eliminated. Proposed WAC 480-120-112 should apply to all local exchange companies. Proposed subsection (3) states the following:

> Unless the commission orders otherwise, this section does not apply to LECs that are competitively classified under RCW 80.36.320 and do not offer local exchange service by tariff.

Should the Commission continue to support proposed WAC 480-120-112, the installation interval standard for non-basic services should apply to all local exchange providers. It is unclear why the Commission would selectively apply the proposed standard to only incumbent local exchange telecommunications providers. Furthermore, the proposed exclusion for competitively classified local exchange companies is contrary to obligations of such companies under RCW 80.36.090 and RCW 80.36.300, for the reasons previously cited. Finally, competitively classified providers have the option of either utilizing their own network capabilities or the network capabilities of other providers to furnish non-basic (discretionary) services. Qwest respectfully suggests the Commission eliminate proposed subsection (3), to satisfy RCW 80.36.320 and to execute the state policy directive at RCW 80.36.300, should it decide to retain this proposed rule.

If the Commission decides to continue to include subsection (3) which excludes competitively classified LECs, it should also exclude competitively classified services. It is difficult to

understand why competitive services should not be treated equally. However, Qwest respectfully suggests the Commission eliminate proposed WAC 480-120-112 in its entirety for the reasons stated above.

New Section
480-120-123 Establishing Credit - Business Services

Qwest respectfully requests modification of proposed WAC 480-120-123, subsections (1), (3) and (5).

Qwest respectfully requests the requirement to identify criteria at subsection (1), page 24, line 907-910, be eliminated. Proposed subsection (1) states the following:

> As set forth in this section, a company may require a business applicant or customer to demonstrate satisfactory credit by reasonable means appropriate under the circumstances. The criteria used by the company must be contained in a tariff or price list.

The need for the company to identify the criteria used by the company to determine if a business applicant has demonstrated satisfactory credit should not be a mandatory requirement of the tariff or price list. Qwest does not include this level of detail in its current tariff and is not aware of any customer concerns in this regard. Qwest respectfully requests the Commission omit the last sentence of proposed subsection (1).

In addition, Qwest respectfully requests the requirement at subsection (3), page 24, lines 917-918, be modified to more clearly represent the Commission's intent. Proposed subsection (3) states the following:

> **Deposit payment.** Companies may withhold regulated services until the deposit amount associated with regulated services is paid in full.

Qwest understands the intent is to limit the rule to regulated services. However, this specific provision doesn't require such qualification and it may create more confusion than benefit. Qwest respectfully requests subsection (3) be modified as follows:

> **Deposit payment.** Companies may withhold service until the deposit amount associated with *such* services is paid in full.

Finally, Qwest also respectfully requests the requirement at subsection (5)(b), page 25, lines 937-942, be modified to better clarify the intent of the rule. Proposed subsection (5)(b) states the following:

> When a customer has exceeded the toll levels outlined in (a) of this subsection, the company may require payment before the close of the next business day following receipt of either written or oral notice to the customer indicating that failure to pay one of the following may result in toll restriction of the customer's service. The company must be given the option to pay one of the following:

Subsection (5)(b) should be modified to clarify the intent of the proposed language concerning a written or oral notice delivered in person to the customer. A local exchange company cannot control when a customer "receives" a notice; it can only deliver the notice by a date certain. Therefore, Qwest respectfully requests subsection (5)(b) be modified as follows:

> When a customer has exceeded the toll levels outlined above in this subsection, the company may require payment before the close of the next business day following *delivery* of either written or oral notice to the customer indicating that failure to pay one of the following may result in toll restriction of the customer's service. The company must give the customer the option to pay one of the following:

This modification would make subsection (5)(b) consistent with the change proposed at WAC 480-120-122 (8)(b), page 24, line 879.

New Section
480-120-133 Response time for calls to business office or repair center
Qwest respectfully requests modification of proposed WAC 480-120-133, subsection (2).

Qwest respectfully requests modification of the requirement at subsection (2)(a), page 27, lines 1026-1027. Proposed subsection (2)(a) states the following:

> The average time until the automated system answers a call, measured on a weekly basis, must not exceed thirty seconds; and

Qwest is unable to measure the average time until the automated system answers the call. The automated system utilized by Qwest typically answers the call within five seconds after the customer dials the 800 number, however there is currently not a way to measure and record the time incurred for this specific function. Therefore, Qwest would be unable to demonstrate that it met this requirement on a weekly basis. The only way the Company could demonstrate compliance with this requirement is if the Commission made test calls or the Company conducted a manual study of such upon Commission request. Therefore, Qwest respectfully requests the Commission modify subsection (2)(a) as follows:

> The average time until the automated system answers a call must not exceed thirty seconds; and

If the Commission does not modify the rule, Qwest will seek a waiver of this requirement since it is technically unable to comply.

Qwest also respectfully requests modification of the requirement at subsection (2)(b)(ii), page 27, lines 1028-1035. Proposed subsection (2)(b) states the following:

> The automated system must provide a caller with an option to speak to a live-representative within the first thirty seconds of the recorded message.
>
> (i) A company may provide the live representative option by directing the caller to take an affirmative action (e.g., select an entry on the telephone) or by default (e.g., be transferred when the caller does not select an option on the telephone).

(ii) The recorded message must clearly describe the method a caller must use to reach a live representative.

Qwest's automated voice response system does not currently describe to caller the method a caller must use to reach a live representative, it simply informs the customer that they may select "0". The Qwest system automatically transfers the caller to a live representative if the caller takes no action. The time it takes for the customer to be connected with a live representative is dependent on the nature of the call and the customer's reason for calling. It also is based on whether the customer listens to all the menu options before a selection is made. Qwest has found its menu selection to be sufficient for the majority, if not all, of its customers, therefore making such a "method description" message unnecessary. Inclusion of the description required at (2)(b)(ii) above as part of an introductory recorded message would increase the overall length of time the customer has to listen to the introductory menu by approximately ten seconds. This requirement would create an unnecessary delay in customer call handling and provides little or no benefit. It is more important to customers that a company provides a proper menu than instructions on what to do if the customer finds the menu insufficient. Therefore, Qwest respectfully requests the Commission modify the requirement at subsection (2)(b) as follows:

> The automated system must provide *a caller with an option to speak to a live-representative.* A company may provide the live representative option by directing the caller to take an affirmative action (e.g., select an entry on the telephone) or by default (e.g., be transferred when the caller does not select an option on the telephone).

Finally, Qwest also respectfully requests modification of the requirement at subsection (2)(c), page 27, lines 1036-1038. Proposed subsection (2)(c) states the following:

> The average time until a live representative answers a call, measured on a weekly basis, must not exceed sixty seconds from the time a caller selects the appropriate option to speak to a live representative.

Qwest respectfully requests the Commission measure performance on a monthly basis as opposed to a weekly basis. Qwest currently handles approximately 716,000 regional business office calls each month or over 8.5 million calls a year and receives 33% more calls on Mondays than any other day in the week. Qwest also receives more calls on the first Monday of the month than it does during other Mondays. In addition, call volumes significantly increase when school begins and ends or if a significant event occurs. This fluctuation in daily and weekly volumes makes a weekly standard impractical and does not reflect the company's performance for the majority of the month. Companies could be required to provide weekly results if the Commission staff requests such in accordance with proposed WAC 480-120-439 (10). However, a monthly standard better reflects the actual performance of the company. Therefore, Qwest respectfully requests subsection (2)(c) be modified as follows:

> The average time until a live representative answers a call, measured on a *monthly* basis, must not exceed sixty seconds from the time a caller selects the appropriate option to speak to a live representative.

New Section

480-120-146 Changing service providers from one local exchange company to another

Qwest respectfully requests elimination of proposed WAC 480-120-146, page 27, lines 1047-1052. Proposed WAC 480-120-146 states the following:

> When a customer changes service providers from one local exchange company (LEC) to another, the LEC providing existing service to the customer must not discontinue service until it receives confirmation of activation of new service from the new service provider, unless the customer specifically requests that service be discontinued before the new service provider confirms that the new service has been activated.

Qwest opposes the proposed rule and respectfully requests this rule be deleted. The proposed rule assumes a simple process that is non-existent. For example, if the new provider plans to utilize the prior provider's loop, the prior provider must discontinue service to provide the same unbundled loop to the new provider. However, the proposed rule would not allow such because the prior provider cannot discontinue service until the new provider confirms the new service has been activated. Thus, the prior provider could not provide the new provider with the exiting customer's unbundled loop and the new provider cannot activate service until it has the loop from the prior provider.

The problem is further exaggerated if the prior provider is a competitively classified company who is utilizing the unbundled loop of the incumbent local exchange company and the new provider, also a competitively classified company, wishes to utilize the same unbundled loop. Now the provisioning process requires the involvement of a third provider, the unbundled loop owner, to provision the loop from one provider to another provider. The unbundled loop provider cannot discontinue service of the prior provider without a request from such a provider. Nor can the unbundled loop provider provide the requested loop to the new provider absent the prior provider's order. This scenario is as likely to occur as the first example in a competitive market.

Another scenario may actually involve the transfer of a customer to a new provider who does not require the prior provider's loop to provision the service for its new customer but who does want the customer's existing telephone number to be transferred. Here, the rules may need to address the timing of the transfer of the telephone number; however, the proposed rule is silent on this scenario. This is another instance where the service must be discontinued before the telephone number can be transferred to the new provider.

Finally, the proposed rule fails to address who is liable for the service provided and charges incurred during the period of time that service is extended beyond the date of disconnection requested by the customer. The customer is unlikely to be willing to be responsible if his or her new provider causes the error. The prior provider should not be obligated to provide service for free.

The above examples illustrate why this proposed rule is more appropriately addressed in carrier agreements or carrier to carrier service quality rules and should not be included in this rulemaking. As currently drafted, this rule will create tremendous problems for all providers

who wish to utilize existing customer loops to provision service. Qwest understands the Commission's desire to address this issue and supports adoption of a rule applicable to all local exchange service providers that addresses all of the primary possible disconnection/installation considerations. However, the proposed rule is seriously flawed.

Qwest respectfully requests the Commission to delete the proposed rule or, at a minimum to take the time to significantly modify the proposed rule to reflect more appropriately the sequence of events that must take place to ensure the transiting customer is without service for the least amount of time. Qwest has a Statement of Generally Available Terms and Conditions ("SGAT") provision for unbundled loop installations that provides for efficient conversion of an end user loop(s) from Qwest to another provider. These procedures are referred to as "lift and lay" procedures, which allow for quick installation once the prior service is disconnected. Qwest also has an SGAT provision that addresses number portability procedures. These provisions could and should be required of all local exchange companies. Many of the SGAT provisions adopted in Docket Nos. UT-003022 and UT-003040 should be applicable to all local exchange providers to minimize the disruption of service to customers when customers change their local service provider. The proposed rule fails to accomplish this objective and is actually more harmful than helpful. Qwest respectfully suggests the Commission deal with this issue in carrier-to-carrier service quality rules.

PART III - PAYMENTS AND DISPUTES

New Section
480-120-162 Cash and urgent payments
Qwest respectfully requests modification of proposed WAC 480-120-162, subsections (2) and (5).

Qwest respectfully requests modification of the requirement at subsection (2), page 34, lines 1371-1376. Proposed subsection (2) states the following:

> The payment agency must clearly post and maintain regular business hours and may be supported by the same personnel as the business office or customer service center. It must not assess a charge from the applicant or customer for processing a transaction. Companies may not contract with a payment agent that charges a fee, surcharge, or any other similar charge to customers for the provided services and transactions.

Qwest has roughly 126 payment agencies in Washington; 28 of which charge a fee of $1.00. To the best of our knowledge, no customers have complained of the $1.00 fee. The average number of customers who utilize payment agencies each month is 92,919 or less than 4% of Qwest's customer base. Yakima, Spokane, Downtown Seattle and Tacoma, Bremerton, Renton, Longview and West Seattle are the areas of the state where payment agents are most utilized. Qwest has had a difficult time maintaining a payment agent in Des Moines, Federal Way, Castle Rock and the Seattle University District area. The general retention time of a payment agent before they terminate their service to Qwest is 26 months. When an agent terminates its payment agency status with us, the reason generally given is that the agent is going out of business, the

cost, or customer issues. Qwest currently pays some payment agencies that provide this service on behalf of Qwest. However, even when Qwest pays for this service it is difficult to retain agents in accordance with the Commission's existing rule.

Therefore, Qwest respectfully requests the rule allow for a minimum fee of no more than $1.00. With postage at $0.34, the additional cost of $0.66 is not exorbitant when a minority of customers choose to pay their bill at a payment agency. Other ratepayers should not be required to subsidize the costs associated with late paying customers or customers who prefer to pay in cash. Qwest respectfully requests WAC 480-120-162(2) be modified as follows:

> The payment agency must clearly post and maintain regular business hours and may be supported by the same personnel as the business office or customer service center. It must not assess a charge *greater than $1.00* from the applicant or customer for processing a transaction. Companies may not contract with a payment agent that charges a fee, surcharge, or any other similar charge to customers *greater than $1.00* for the provided services and transactions.

Qwest also respectfully requests modification of the requirement at subsection (5), page 35, lines 1391-1395. Proposed subsection (5) states the following:

> When a LEC is made aware of the fact that a payment agency has either closed without company knowledge or is refusing to accept company payments, it has thirty days to establish a replacement station within the same geographical area and must provide alternatives for making cash and urgent payments until a replacement station as been established.

Most local exchange companies cannot establish a replacement station as required in the proposal above when a payment agency closes abruptly. The average interval for Qwest to replace a payment agency has been approximately sixty days. Therefore, Qwest respectfully requests subsection (5) be modified as follows:

> When a LEC is made aware of the fact that a payment agency has either closed without company knowledge or is refusing to accept company payments, *the LEC* must provide alternatives for making cash and urgent payments until a replacement station has been established. *The LEC must establish a replacement station within the same geographical area within sixty days and if unable to do so it must advise the Commission of its efforts and progress to date every thirty days thereafter until a replacement is established.*

Qwest's proposed modification still requires the local exchange company to aggressively pursue a replacement when a payment agency unexpectedly closes. As long as the local exchange company provides alternatives for making cash and urgent payments until a replacement station has been established, the Commission should not be concerned if a replacement cannot be established within thirty days. Qwest respectfully requests the Commission modify WAC 480-120-162 as requested above.

New Section

480-120-166 Customer complaints

Qwest respectfully requests modification of proposed WAC 480-120-166, subsections (1) and (8).

Qwest respectfully requests modification of the requirement at subsection (1), page 36, lines 1456-1459. Proposed subsection (1) states the following:

> Each company must keep a record of all complaints concerning service or rates for at least three years and, on request, make them readily available for commission review. The records must contain complainant's name and address, date and the nature of the complaint, action taken, and final result.

The Company can only satisfy this proposed requirement as it applies to complaints filed with the Commission. The Company cannot, without extraordinary additional expense, readily track and produce complaint records from individual customers complaining about service or rates that did not file such a complaint with the Commission or a company executive. Qwest does note the customer record whenever it has a discussion with a customer but has no way of making complaint specific information readily available to the Commission upon request unless the complaint has been referred by the Commission or was filed with an executive of the business. If a customer has not filed his or her complaint with the Commission it is generally because the Company has resolved the issue and there is no need for Commission involvement. Furthermore, the word "complaint" (unless it is tied, as Qwest suggests, to a Commission complaint) is vague. As a result, carriers will be at risk for violating this section due to vagueness of its slope. Therefore, Qwest respectfully requests subsection (1) be modified as follows:

> Each company must keep a record of all complaints concerning service or rates *filed with the Commission* for at least three years and, on request, make them readily available for commission review. The records must contain complainant's name and address, date and the nature of the complaint, action taken, and final result.

Qwest also respectfully requests modification of the requirement at subsection (8), page 37, lines 1495-1498. Proposed subsection (8) states the following:

> Unless another time is specified in this rule or unless commission staff specifies a later date, the company must provide complete responses to requests from commission staff for additional information on pending informal complaints within three business days.

Proposed subsection (8) should provide flexibility for the company and staff to mutually agree to a longer response time. The proposed rule requires the Commission staff to specify a later date if more than three business days are required. However, the Company may not be able to produce the additional information in either interval depending on the extent of information requested, as well as the availability of such information. Qwest is most concerned that it meet whatever intervals are specified by rule and does not believe it appropriate to set a standard response interval for subsequent requests for information that were not included in the initial Commission staff request. Experience indicates that such requests vary significantly and may require

collection of information not readily available and stored in secondary locations that must be retrieved. In addition, the initial request for information should include the information necessary to resolve the customer concern. The Company and the Commission should be able to mutually agree on subsequent commitment dates; the proposed rule suggests that is not possible.

Under the proposed rule, the Commission staff may choose to deny a request by the company for a reasonable interval and the local exchange company would be in violation of the Commission rule if it didn't meet an interval it has already advised the Commission it can not meet. This behavior can be discouraged by including a clear directive within the rule that the date should be a mutually agreed upon date. Therefore, Qwest respectfully requests subsection (8) be modified as follows:

> Unless another time is specified in this rule or unless commission staff specifies a later date, the company must provide complete responses to requests from commission staff for additional information on pending informal complaints within three business days. *If the information cannot be obtained within three business days, the company and the commission staff will mutually agree on an appropriate later date.*

New Section

480-120-167 Company responsibility

Qwest respectfully requests elimination of proposed WAC 480-120-167, pages 37-38, lines 1511-1528. Proposed WAC 480-120-167 states the following:

> When a customer informs the commission that the customer has identified a problem with service or billing or other matters and the customer has been told by two or more companies that the problem is not the responding company's responsibility but another company's responsibility, commission staff will inform the companies.
>
> Once the commission has contacted the companies, the companies must confer with each other within three business days and determine which company will take the lead responsibility to resolve the customer's problem. The company accepting lead responsibility must contact the commission and begin resolution of the problem on the first business day following the three business days allotted by this subsection for a conference between the companies.
>
> Companies must confer, allocate responsibility between the companies, and the company with lead responsibility must contact the commission, as required by this section. After conferring, if the companies cannot resolve the matter and neither one will accept the lead, each company must contact the commission and report the status of the dispute within two days of conferring. The report must contain detailed explanations of the company's position.

Qwest opposes the adoption of proposed WAC 480-120-167 because it establishes a policy that suggests a provider is not directly responsible for its own customer. Such an approach establishes a dangerous precedent that is not in the best interest of end user customers. The Commission needs to establish a policy that holds the customer's provider responsible for

resolution of any customer service issues, billing issues or other matters specific to the services it provides to its customer. The Commission should always direct a customer complaint to the provider of the customer's service or its authorized agent and hold that provider accountable for resolution of the customer's concern. It is up to that provider to resolve the customer's concern, regardless of how service may ultimately be provisioned.

Should the Commission adopt the proposed rule, some carriers will simply claim the issue is another company's responsibility and the resolution of the customer's problem will take longer than if the Commission holds the customer's provider accountable in all circumstances. If the customer's provider has issues with its underlying carrier, it must resolve those issues with its provider and should not pull the customer into the dispute. In no case should a carrier be allowed to not take full responsibility for their service to a customer or to blame another provider when it is the provider of service to its customer. The Commission should adopt a policy that requires each company to ensure its customer's needs are met and to respond to the commission in accordance with its rules. Qwest respectfully requests elimination of this proposed rule.

PART IV. - DISCONTINUING AND RESTORING SERVICE

Amend 480-120-081
480-120-172 Discontinuing service - company initiated
Qwest respectfully requests modification of proposed WAC 480-120-172, subsections (6) and (7).

Qwest respectfully requests the requirement at subsection (6)(a), page 41, lines 1653-1663, be modified to calculate the interval based on the day the notice was "delivered" as opposed to "received". Subsection (6)(a) states the following:

> (a) When a local exchange company (LEC) has cause to discontinue residential basic service or has discontinued service it must postpone total service discontinuation or reinstate toll restricted basic service that permits both making and receiving calls and access to E911 for a grace period of five business days after receiving either oral or written notice of the existence of a medical emergency. The LEC must reinstate service during the same day if the customer contacts the LEC prior to the close of the business day and requests a same-day reconnection. Otherwise, the LEC must restore service by 12:00 p.m. the next business day. When service is reinstated the LEC cannot require payment of a reconnection charge or deposit before reinstating service but may bill the charges at a later date.

Subsection (6)(a) should be modified to clarify the intent of the proposed language concerning a written or oral notice delivered in person to the customer. A local exchange company cannot control when a customer "receives" a notice; it can only deliver the notice by a date certain. Changing the language from "receive" to "deliver" would be consistent with the change made at proposed WAC 480-120-122 (8)(b), page 24, line 879. Qwest respectfully requests the Commission modify proposed subsection (6)(a) as follows:

(a) When a local exchange company (LEC) has cause to discontinue residential basic service or has discontinued service it must postpone total service discontinuation or reinstate toll restricted basic service that permits both making and receiving calls and access to E911 for a grace period of five business days after *delivering* either oral or written notice of the existence of a medical emergency. The LEC must reinstate service during the same day if the customer contacts the LEC prior to the close of the business day and requests a same-day reconnection. Otherwise, the LEC must restore service by 12:00 p.m. the next business day. When service is reinstated the LEC cannot require payment of a reconnection charge or deposit before reinstating service but may bill the charges at a later date.

Qwest also respectfully requests the requirement at subsection (6)(b), page 41, lines 1664-1679, be modified to include the name of the medical patient and the relationship of such to the telecommunications service subscriber. Proposed subsection (6)(b) states the following:

The LEC may require that the customer submit written certification from a qualified medical professional, within ten business days, stating that the discontinuation of basic service or restricted basic service would aggravate an existing medical condition of a resident of the household. "Qualified medical professional" means a licensed physician, nurse practitioner, or physician's assistant authorized to diagnose and treat the medical condition without supervision of a physician. Nothing in this subsection precludes a company from accepting other forms of certification, but the maximum the company can require is written certification. If the company requires written certification, it may not require more than the following information:

(i) Residence address location;
(ii) An explanation of how the current medical condition will be aggravated by the discontinuation of basic service or restricted basic service;
(iii) A statement of how long the condition is expected to last; and
(iv) The title, signature, and telephone number of the person certifying the condition.

Proposed WAC 480-120-172(6)(b)(i-iv) eliminates the existing rule requirement for certification to include the name of the resident whose health would be affected by the discontinuance of local service and that person's relationship to the customer. The Commission staff advised Qwest that elimination of this requirement is due to RCW 70.24.105. However, RCW 70.24.105 does not prohibit the identification of all medical condition individuals, rather it is specific to any person "who has investigated, considered, or requested a test or treatment for a sexually transmitted disease". Qwest protects customer medical condition information and will continue to do so in accordance with the law.

In addition, the existing rule (WAC 480-120-081) requires the customer submit written certification from a qualified medical professional within five business days; the revised rule now extends the interval to ten business days at page 41, lines 1665, 1685 and 1694.[12] It is unclear why an extension of twice the existing interval is necessary. Qwest opposes the change from five to ten business days. Subsection (7) requires an interval of eight business days before

[12] Subsection (6)(a), at page 41, line 1657 remains at five business days.

service can be interrupted. This rule provision would add potentially another ten business days for a total of eighteen business days or approximately 23 calendar days. This length of time is not necessary nor has there been an issue with the existing five business day interval to Qwest's knowledge.

Qwest respectfully requests the existing five day interval and the requirement for additional information be retained. Subsection (6)(b) should be modified to include the following obligations:

> (v) The name of the resident whose health would be affected by the discontinuance of local service unless such is protected under RCW 70.24.105
> (vi) The relationship to the customer

Lines 1665, 1685 and 1694, at page 41 should be revised to retain the original five business days requirement.

Qwest also respectfully requests the existing rule language concerning the minimum acceptable payment at subsection (6)(d) be retained. Proposed subsection (6)(d), at page 41, lines 1683-1692 states the following:

> (d) A medical emergency does not excuse a customer from paying delinquent and ongoing charges. The company may require that, within the ten-business-day grace period, the customer pay a minimum of one sixth of the delinquent basic service balance or ten dollars whichever is greater and enter into an agreement to pay the remaining delinquent basic service balance within ninety days, and agree to pay subsequent bills when due.
>
> Nothing in this subsection precludes the company from agreeing to an alternate payment plan, but the company must not require the customer to pay more than this section prescribes and must send a notice to the customer confirming the payment arrangements within two business days.

Existing WAC 480-120-081(3)(b) requires the customer to pay a minimum of twenty-five percent or ten dollars whichever is greater. It is unclear why a 34% reduction in the minimum amount required is proposed, especially when the rule is specific to basic service. The existing requirement of 25% should be retained.

Qwest also respectfully requests the notice interval requirement at subsection (7)(a)(i) be modified to include existing rule language. Proposed subsection (7)(a)(i),at page 42, lines 1714-1716, states the following:

> A discontinuation date that is not less than eight business days after the date the notice is mailed, transmitted electronically, or personally delivered;

Existing WAC 480-120-081(5)(a) Discontinuance of service states the following:

> If a mailed notice is elected, service shall not be disconnected prior to the eighth business day following the mailing of the notice. If personal delivery is elected, disconnection shall not be permitted prior to 5 p.m. of the first business day following delivery.

The proposed rule at subsection (7)(a)(i) no longer differentiates the potential disconnection date based on the form of notice provided. Qwest respectfully requests the payment interval be modified based on the method of notice provided. The pending disconnect notice is intended to facilitate the initiation of a call by the customer to make payment arrangements. Customers who intend to pay their past due bill will typically call and make payment arrangements which may include a payment date beyond the payment interval specified in the original pending disconnect notice. Those customers that don't call to make payment arrangements are generally disconnected and in many cases the bill is never paid. Qwest's goal is to receive payment of the past due amount not to disconnect service. Therefore, Qwest respectfully requests subsection (7)(a)(i) be modified as follows:

> A discontinuation date that is not less than eight business days after the date the notice is mailed, *or two business days after the date the notice is* transmitted electronically *(with prior customer permission), facsimile* or delivered personally;

Finally, Qwest also respectfully requests the notice requirement at subsection (7)(a)(vi) be modified to exclude the proposed TTY number obligation. Proposed subsection (7)(a)(vi),at page 42, lines 1725-1727, states the following:

> The company's name, address, a toll-free number, and a TTY number where the customer may contact the company to discuss the pending discontinuation of service.

The company currently provides all notices in Braille to customers who request such. Therefore, it is unnecessary to print the TTY number on the notice. The company's TTY number is already contained in its directory, which is readily available to all customers. Furthermore, it is highly unlikely that the customer would not know the TTY number to call to make payment arrangements. This additional requirement imposes yet another cost to revise the disconnect notices. As discussed in a prior rulemaking, Qwest has over 26 different forms of standardized disconnect/collection notices for residence customers alone. This modification is unnecessary and should not be included in subsection (7)(a)(vi).

New Section
480-120-173 Restoring service after disconnection

Qwest respectfully requests the requirement at subsection (2)(b), page 44, lines 1828-1831, be modified to impose the four-hour interval obligation upon customer request. Proposed subsection (2)(b) states the following:

> Service(s) that requires a premises visit for reconnection must be restored within two business days. Companies must offer customers a four-hour window during which the company will arrive to complete the restoration.

Subsection (2) should be qualified to when a customer requests a four-hour window. Not all customers require a four-hour installation interval and customers with time constraints will ask for an appointment window. Qwest currently provides morning or afternoon appointments upon customer request. Qwest believes it would be poor customer service to establish a customer expectation that may not be met simply because the rule requires all dispatched appointments to be set within a four hour window, whether or not the customer desires such or the company can actually deliver on such a commitment. Qwest respectfully requests WAC 480-120-173(2)(b) be modified as follows:

> Companies must *ask the* customer *if someone will be available at the premises all day or if they require a morning or afternoon appointment*. *When the customer requests a morning or afternoon appointment or requests installation within a specific four-hour period, the company must assign such an interval to the customer's order.*

The proposed modification addresses the Commission concern but also reflects that not all customers require a four-hour installation appointment window.

PART VI - CUSTOMER INFORMATION

Amend 480-120-087
WAC 480-120-254 Telephone solicitation.
Qwest respectfully requests modification of proposed WAC 480-120-254, subsection (3).

Qwest respectfully requests the requirement at subsection (3)(a), page 58, lines 2467-2468 be modified for consistency with RCW 80.36.390. Proposed subsection (3) (a) states the following:

> Within the first thirty seconds, solicitors must identify themselves, their company or organization, and the purpose of the call;

Subsection (3)(a) should be modified for consistency with the state statute. The statute requires the caller to identify the company or organization on whose behalf the solicitation is being made. The proposed rule only requires identification of the company or organization placing the solicitation call and does not appear to contemplate solicitation calls made by an outside firm on behalf of a telecommunications provider. Qwest respectfully requests subsection (3)(a) be modified as follows:

> Within the first thirty seconds, solicitors must identify themselves, *the company or organization on whose behalf the solicitation is being made*, and the purpose of the call;

Finally, in moving proposed WAC 480-120-254 to this portion of the rulemaking, certain language previously modified or eliminated in prior rule proposals has found its way back into the proposed language. Qwest assumes this is a clerical error. Those errors are found at subsections (3)(b), (3)(b)(i), (3)(b)(ii), (3)(d) and (3)(e) and are underlined below.

3) Each LEC must provide notice by annual bill inserts mailed to its residential customers or by conspicuous publication of the notice in the consumer information pages of its directories that clearly informs customers, at a minimum, of at least the following rights under the law:

(a) Within the first thirty seconds, solicitors must identify themselves, their company or organization, and the purpose of the call;

(b) Under Washington law residential customers have the right to keep telephone solicitors from calling back. If, at any time during the conversation, the customer requests to not be called again and to have the customer's or to have his or her name and telephone number removed from the calling list used by the company or organization making the telephone solicitation, the then:

(i) The company or organization must not have a solicitor call the customer for at least one year; make any additional telephone solicitation of the called party at that telephone number for a period of at least one year; and

(ii) (c) Companies. The company or organizations may not sell or give the customer's name and or telephone number to another company or organization;

(d) Under Washington law residential customers have the right to keep telephone solicitors from calling back; and

(e) The office of the attorney general is authorized to enforce this law. In addition, individuals may sue the solicitor for a minimum of one hundred dollars per violation. If the lawsuit is successful, the individual may also recover court and attorney's fees.

(i) To file a complaint, or request more information on the law, the customer may write to the Consumer Protection Division of the Attorney General's Office at 900 Fourth Ave., Suite 2000, Seattle, Washington 98164-1012 or by email at protect@atg.wa.gov. Consumers may also call the division weekdays between 9:00 a.m. and 4:00 p.m. at 1-800-551-4636.

(ii) When the customer files a complaint, the customer should include the name and address of the individual, business, group, or organization, the time the calls were received, the nature of the calls, and any additional information available.

PART VII - TELECOMMUNICATIONS SERVICES

Amend 480-120-089
480-120-255 Information delivery services

Qwest respectfully requests the requirement at subsection (2), pages 59-60, lines 2522-2527 be modified for consistency with existing FCC requirements. Proposed subsection (2) states the following:

> Local exchange companies (LECs) offering access to information-delivery services must provide each residential customer the opportunity to block access to all information delivery services offered by that company. Companies must fulfill an initial request for blocking free of charge. Companies may charge a tariffed or price listed fee for subsequent blocking requests (i.e., if a customer has unblocked his or her access).

Proposed subsection (2) conflicts with existing FCC rules on this same issue. 47 CFR § 64.1508 "Blocking access to 900 service" requires local exchange companies to offer an option to block access to 900 services at no charge for a period of sixty days after a new number is installed. 47 CFR § 64.1508 states the following:

> (a) Local exchange carriers must offer to their subscribers, where technically feasible, an option to block access to services offered on the 900 service access code. Blocking is to be offered at no charge, on a one-time basis, to:
>
> (1) All telephone subscribers during the period from November 1, 1993 through December 31, 1993; and
>
> (2) Any subscriber who subscribes to a new telephone number for a period of 60 days after the new number is effective.
>
> (b) For blocking requests not within the one-time option or outside the time frames specified in paragraph (a) of this section, and for unblocking requests, local exchange carriers may charge a reasonable one-time fee. Requests by subscribers to remove 900 services blocking must be in writing.
>
> (c) The terms and conditions under which subscribers may obtain 900 services blocking are to be included in tariffs filed with this Commission.

The Commission adopted the existing Washington rule in 1988 while the FCC adopted its pay-per-call rules originally in 1991. After the FCC adopted pay-per-call rules, Congress passed a statute, 47 USC Section 228(c)(5), requiring local exchange carrier blocking. The FCC then amended its rules to track the specific language of the statute. The statute itself says that it is not preemptive of state consumer protection or unfair trade practices laws or "additional and complementary oversight and regulatory systems or procedures, or both, so long as such systems and procedures govern intrastate services and do not significantly impede the enforcement of this section". However, it appears the only information delivery services available in Washington are 900 services.

In 1991, the FCC found that 900 services involved jurisdictionally mixed traffic that could not be jurisdictionally sorted. 6 FCC Rcd. 6166 (1991). The proposed and existing Washington rule and the FCC rule cannot both exist. Therefore, Qwest respectfully requests the Commission eliminate this rule or modify subsection (2) as follows:

> Local exchange companies (LECs) offering access to information-delivery services must provide each residential customer the opportunity to block access to all information delivery services offered by that company. Companies must fulfill a request for blocking free of charge *for a period of 60 days after the new number is effective*. Companies may charge a tariffed or price listed fee for subsequent blocking or *unblocking* requests (i.e., if a customer has unblocked his or her access*) or if a request is not within the 60 day timeframe specific above.*

Qwest's proposed modification would harmonize the Commission's rule with the FCC's rule.

Amend 480-120-141
480-120-262 Operator services providers (OSPs)
Qwest respectfully requests modification of proposed WAC 480-120-262, subsection (3).

Qwest respectfully requests the proposed modification of the existing rule requirement at subsection (3)(a), page 63, lines 2665-2671, which requires a specific form of disclosure be eliminated. Proposed subsection (3)(a) states the following:

> **Oral rate disclosure message required.** Before an operator-assisted call from a call aggregator location can be connected by a presubscribed OSP, the OSP must first provide a oral rate disclosure message to the consumer. *If the charges to the consumer do not exceed the benchmark rate in (f) of this subsection, the oral rate disclosure message must comply with the requirements of (b) of this subsection. In all other instances, the oral rate disclosure message must comply with the requirements of (c) of this subsection.*

The newly proposed language within subsection (3)(a) is italicized above. WAC 480-120-141(2)(b), the existing rule, currently requires customers calling from payphone or aggregator locations to be advised of *how to* receive a rate quote before the customer's call is completed. This requirement has been in place since January 29, 1999. However, Qwest has found most customers do not desire a rate quote. Qwest recently conducted an informal study to determine how many customers calling from aggregator or payphone locations actually requested a rate quote before their call was completed. Qwest received approximately 11,000 calls in a single day from Washington aggregator or payphone locations; less than 0.5% of customers calling from such locations actually requested a rate quote. Therefore, nearly no users of operator services from payphone or aggregator locations desire a rate quote before their call is completed. The existing rule is thus not necessary. However, should the Commission desire to retain the existing rule, the requirements are certainly sufficient based on this recent study. The Commission should not adopt more burdensome rules when the market clearly does not require or desire such action.

The adoption of the proposed rules at subsection (3) will increase operator services rates, will generally not benefit consumers and will create an unnecessary inconvenience to most customers. Implementation of the Commission's proposed rules will dramatically increase the expenses associated with providing operator services, which will in turn generate the need for further rate increases.

Some of the benchmark rates proposed at subsection (3)(f) are less than Qwest's existing costs. In order to comply with the proposed modifications, Qwest will incur new costs since it will have to reconfigure its network to force customers to receive a quote prior to the completion of a operator assisted call from payphone and aggregator locations and will have to hire more operators to meet the requirement to state all rates and charges that will apply if the customer completes the call. Qwest will have to establish unique, Washington-specific call routing, switch translations and identification of special queues to isolate aggregator traffic from non-aggregator traffic and to isolate Washington calls from other state calls. This will require development of a separate automated system to be used solely for Washington customers; however, such a system is currently not technically available. Because Qwest cannot manufacture equipment, an outside vendor will need to develop a product that enables Qwest to satisfy the requirements of the proposed rule. Qwest has received preliminary estimates of a one-time cost of $3.6 million and expects this effort will take at least one year to complete.

Qwest also is concerned with the requirement at proposed subsection (3)(c), which states the following:

> **Rate disclosure method when rates exceed benchmark.** The oral rate disclosure message must state all rates and charges that will apply if the consumer completes the call.

Most operator services providers differentiate their rate based on whether a call is a local call, or a usage based call, such as long distance calls. The call is further differentiated based on the degree of operator assistance required (e.g. partially assisted or fully assisted calls) and whether the call is to a specific individual or to anyone that may answer. Before an operator services provider can provide all rates and charges that will apply if the consumer completes the call, it will have to ask the caller a series of questions. This requires more time, which in turn increases the need for more operators and is likely to irritate the 99.55 of customers that do not desire a rate quote. The proposed rule requires a provider to either price according to a prescribed benchmark rate or force all customers from payphone and aggregator locations to receive rate quotes, whether or not they desire such a quote.

Qwest also has no ability to determine if a call to our operators originated from a payphone or an aggregator location. A product will also have to be developed to specifically identify only calls from payphones or aggregator locations that must receive rate quotes. This will further increase costs with little or no benefit to end-users.

Finally, proposed subsection (3)(f) also may fail to accomplish the desired goal of the Commission; it states the following:

> **Benchmark rates.** An OSP's charges exceed the benchmark rate if the sum of all charges, other than taxes and fees required by law to be assessed directly on the consumer, exceeds:
>
> (i) One dollar ($1.00) for a one-minute call;
> (ii) Three dollars ($3.00) for a five-minute call; or
> (iii) Five dollars and fifty cents ($5.50) for a ten-minute call.

As presently drafted, the rule allows a provider to price calls that are not one, five or ten minutes in duration as they choose. The rule only addresses prices for one, five or ten minute calls. In 2001, approximately 79% of Qwest's operator assisted calls from aggregator and payphone locations were not one, five or ten minute calls. To accomplish the Commission's objective, the rules need to be further revised to address calls other than those that are one, five or ten minutes in duration. However, such a modification is unlikely to produce a different outcome with respect to new costs that will be incurred by most, if not all, operator services providers.

The other possible outcome of the proposed rule modifications is that companies will simply decide they can no longer offer operator services to payphone and aggregator locations in Washington since the rule imposes new extraordinary expenses not incurred in other states. Most companies are finding that the need for operator assisted services is declining. Pre-paid calling cards are rapidly replacing operator-assisted calls. They are widely available at

reasonable rates and can be used from aggregator and payphone locations. These cards tell customers at the time they place their call how much time is left on a card which allows customers to manage how long they talk as well as how much they spend. Most operator services providers offer pre-paid calling cards and find that this service is much more cost effective than the traditional operator assisted service. Therefore, they may choose to only offer pre-paid calling cards in Washington. This unintended, but highly foreseeable consequence must be weighed against the perceived value of the proposed rule modifications.

In summary, the proposed modifications clearly fail to meet the objective of the Commission which appears to be (1) a reduction in the rates charged for operator services from payphone or aggregator locations and/or (2) to better inform consumers whether or not they desire such information. If the Commission's objective is to better inform customers, the 99.5% of customers that don't desire such information will most likely be irritated and will not place their call utilizing an operator services provider.

Qwest respectfully requests the proposed modifications at subsection (3) be eliminated and the existing rule language at 480-120-141(2)(b) be retained. The Commission should not require companies to provide a rate quote when the customer has been advised that such a quote is available and has chosen not to request such. The effect of the proposed rule will likely be to take the customer's choice away. Nor should the Commission adopt rules that differentiate rule requirements based on the rate charged by the company, especially when the rate is for a competitive service. The Commission has clearly demonstrated that it will monitor and penalize those companies that do not comply with its existing rule. The existing rule still offers an appropriate solution to this Commission concern.

PART VIII - FINANCIAL RECORDS AND REPORTING RULES

Amend 480-120-031
480-120-302 Accounting requirements for companies not classified as competitive
Qwest respectfully requests modification of proposed WAC 480-120-302, subsection (2).

Qwest respectfully requests the requirement at subsection (2)(a), pages 69-70, lines 2980-2991, be updated to qualify that changes less than 1% or $1 million do not require prior Commission approval. Proposed subsection (2)(a) states the following:

> For accounting purposes, companies not classified as competitive must use the *Uniform System of Accounts (USOA) for Class A and Class B Telephone Companies* published by the Federal Communications Commission (FCC) and designated as Title 47, Code of Federal Regulations, Part 32, (47 CFR 32, or Part 32). The effective date for Part 32 is stated in WAC 480-120-999. Companies not classified as competitive wishing to adopt changes to the USOA made by the FCC after the date specified in WAC 480-120-999, must petition for and receive commission approval. The petition must include the effect of each change for each account and subaccount on an annual basis for the most recent calendar year ending December 31. If the petition is complete and accurate the commission may choose to grant such approval through its consent agenda.

Qwest respectfully requests language be added to subsection (2) to allow Class A companies to implement FCC updates to Part 32 accounting rules, without WUTC approval, to the extent the effect on annual revenue requirements is less than 1% or $1 million. The Commission could require such companies to inform the Commission if they make a change of this nature. Qwest respectfully requests subsection (2) be modified as follows:

> For accounting purposes, companies not classified as competitive must use the *Uniform System of Accounts (USOA) for Class A and Class B Telephone Companies* published by the Federal Communications Commission (FCC) and designated as Title 47, Code of Federal Regulations, Part 32, (47 CFR 32, or Part 32). The effective date for Part 32 is stated in WAC 480-120-999. Companies not classified as competitive wishing to adopt changes to the USOA made by the FCC *that have an annual revenue effect of more than one percent or $1 million dollars*, after the date specified in WAC 480-120-999, must petition for and receive commission approval. The petition must include the effect of each change for each account and subaccount on an annual basis for the most recent calendar year ending December 31. If the petition is complete and accurate the commission may choose to grant such approval through its consent agenda.

PART IX - SAFETY AND STANDARDS RULES

Amend 480-120-520
480-120-412 Major Outages

Qwest respectfully requests modification of proposed WAC 480-120-412, subsection (4).

Qwest respectfully requests the requirement at subsection (4)(b), page 80, lines 3468-3470, be limited to service interruptions affecting public health and safety. Proposed subsection (4)(b) states the following:

> Companies must restore other services within twelve hours unless conditions beyond a company's control prevent service restoration within twelve hours.

The proposed language is a major deviation from the existing rule. WAC 480-120-520(9) currently requires cases of service interruptions affecting public health and safety to receive priority restoration attention and requires such service to be restored within 12 hours unless conditions beyond the company's control prevent such. The proposed rule requires restoration of all services affected by the major outage within 12 hours unless conditions beyond the company's control prevent such. In other words, under the proposed definition of major outages, a new 12-hour standard is adopted that has previously not existed. Under the proposed rule, customers affected by a major outage will receive service restoration sooner than out-of-service customers will. It is unclear why such a significant change is introduced and why these customers should be treated differently. A major outage typically requires extensive work and a twelve-hour turnaround is unreasonable for restoration of all customer service affected by a major outage. Qwest has never heard a complaint that the current standards are inadequate and

does not believe such a significant change is warranted. The current rule language should be retained. Qwest respectfully requests subsection (4)(b) be modified as follows:

> Companies must restore other service *interruptions caused by the major outage that affect public health and safety* within twelve hours unless conditions beyond a company's control prevent service restoration within twelve hours.

Qwest also respectfully requests the requirement at subsection (4)(c), page 80, lines 3471-3476, be modified to require daily status. Proposed subsection (4)(c) states the following:

> Companies must restore outages to their facilities affecting intercompany trunk and toll trunk service within four hours after the problem is reported unless conditions beyond a company's control prevent service restoration within four hours. If the problem is not corrected within four hours, the company must keep all other affected companies advised of the status of restoration efforts on a twice-daily basis.

Proposed subsection (4)(c) also introduces a new obligation. It requires twice-daily notification of customers with intercompany trunks or toll trunks, when outages are not restored within four hours. The current rule requires daily notice. Again, Qwest has never heard a complaint that the current standards are inadequate and does not believe such a significant change is warranted. The current rule language should be retained. Qwest respectfully requests subsection (4)(c) be modified as follows:

> Companies must restore outages to their facilities affecting intercompany trunk and toll trunk service within four hours after the problem is reported unless conditions beyond a company's control prevent service restoration within four hours. If the problem is not corrected within four hours, the company must keep all other affected companies advised of the status of restoration efforts on a *daily* basis.

Amend 480-120-535
480-120-439 Service quality performance reports

Qwest respectfully requests modification of proposed WAC 480-120-439, subsections (4), (8) and (9).

Qwest respectfully requests the requirement at subsection (4), pages 83-84, lines 3609-3634, be modified to apply to "completed" orders. Proposed subsection (4) states the following:

> **Held orders for installation or activation of basic service report.** The report must state the total number of orders taken, by central office, in each month for all orders of up to the initial five access lines as required by WAC 480-120-105. The report must include orders with due dates later than five days as requested by a customer. The held order report must state, by central office, of the total orders taken for the month, the number of orders that the company was unable to complete within five business days after the order date or by a later date as requested by the customer.
>
> (a) A separate report must be filed each calendar quarter that states the total number of orders taken, by central office, in that quarter for all orders of up to the initial

five access lines as required by WAC 480-120-105. The held order ninety-day report must state, of the total orders taken for the quarter, the number of orders that the company was unable to complete within ninety days after the order date.

(b) A separate report must be filed each six months that states the total number of orders taken, by central office, in the last six months for all orders of up to the initial five access lines as required by WAC 480-120-105. The held order one hundred and eighty day report must state, of the total orders taken for six months, the number of orders that the company was unable to complete within one hundred and eighty days.

Orders for which customer-provided special equipment is necessary; when a later installation or activation is permitted under WAC 480-120-071; or when the commission has granted an exemption under WAC 480-120-015 from the requirement for installation or activation of a particular order may be excluded from the total number of orders taken and from the total number of uncompleted orders for the month.

Qwest cannot produce a valid report based on the number of orders "taken". Qwest advised the Commission of this issue when it initially developed the existing rule and has continued to do so over time and as part of this rulemaking process. Qwest attempted to produce a report based on "taken" orders and found that the reports were incorrect and thus invalid. This is due to a number of factors. For example, the orders "taken" total includes duplicate orders, inaccurate orders, incomplete orders and a variety of other mistakes that cannot be discarded. Therefore, reports based on taken orders do not appropriately reflect company installation interval performance. To address previous staff concerns as well as to demonstrate compliance with the Commission's existing rule, Qwest files two reports each month - an installation interval report for completed orders for up to the initial five access lines and an aging report of orders held due to a lack of available facilities regardless of the length of time the order is held. In 2001, Qwest completed 3,318,151 orders in Washington, of which 2.5% (14,820) were held due to a lack of available facilities. 77.4% (11,472) of the 14,820 held orders were completed in less than thirty days. As of May 31, 2002, Qwest has completed 220,777 orders for up to the initial five access lines year-to-date and had only nine orders over thirty days old that have not yet been completed[13].

The Qwest aging or held order report referenced above, identifies the number of orders previously held that were completed for that month and that have been completed year-to-date. It also identifies the number of orders that remain held. The held order information is reported on a statewide basis, not by each central office. The information is reported separately for residence and business lines and reports the status as to whether the order is for primary service or for additional lines. The report shows the number of orders completed and pending and sorts results by orders less than: (1) five days; (2) thirty days; and (3) sixty days old and orders over sixty days old. This same information is shown for pending orders held due to a lack of available facilities. Qwest provides this report to complement the installation interval report since it cannot accurately report results based on the number of orders "taken". The combination of the information derived from the two reports, enable the Commission to monitor Qwest performance under the existing two service quality standards of 90% and 99%. Qwest can modify its aging report to report results based on the proposed intervals at subsection (4)(a) and

[13] These orders were for additional lines, not primary service.

(b), but can only do so for completed orders or orders held due to a lack of available facilities. Qwest believes all local exchange companies will be faced with a similar dilemma.

Qwest also respectfully requests the Commission modify the requirements at subsections (4)(a) and (4)(b) to require total state information. The orders held due to a lack of available facilities are so minor, less than 3% in 2001, that the Commission should not require the company to produce a central office specific report. If the Commission perceives there is a held order problem they can request a central office specific report on an as needed basis. This approach would be more cost effective and makes sense when the Company is meeting the Commission's service quality standards and the total number of held orders is not an issue.

The title to this section also should be modified to more accurately reflect the information required. The report actually is one of installation intervals not held orders. A held order has typically been referred to as a order held due to a lack of available facilities which is generally the reason why an order is not completed within a reasonable interval. The report requires installation interval performance results and should be titled as such.

Therefore, Qwest respectfully requests the Commission modify proposed subsection (4) as follows:

> **Installation or activation of basic service interval report.** The report must state the total number of orders *completed*, by central office, in each month for all orders of up to the initial five access lines as required by WAC 480-120-105. The report must include orders with due dates later than five days as requested by a customer. The held order report must state, by central office, of the total orders *completed* for the month, the number of orders that the company was unable to complete within five business days after the order date or by a later date as requested by the customer. *A separate report must be filed each month that states the total number of orders held due to a lack of available facilities for all orders of up to the initial five access lines. The report must indicate the number of orders completed in five business days, ninety days and one hundred eighty days. Orders for up to the initial five access lines that remain held due to a lack of available facilities must also be separately reported each month and the report must indicate the number of orders pending that are over five business days, ninety days or one-hundred eighty days old. The Company must include a summary that combines the results of these two reports specific to WAC 480-120-105(1)(a),(b) and (c). The Company must provide central office specific information on orders held due to a lack of facilities upon Commission request.*

This modification eliminates the need for subsections (4) (a) and (b).

Qwest also respectfully requests subsection (4), page 84, lines 3629-3634, be modified to exclude orders not installed within the five business day interval due to customer reasons, force majeure, work stoppage or other events beyond the company's control. Proposed subsection (4) includes the following exclusions:

Orders for which customer-provided special equipment is necessary; when a later installation or activation is permitted under WAC 480-120-071; or when the commission has granted an exemption under WAC 480-120-015 from the requirement for installation or activation of a particular order may be excluded from the total number of orders taken and from the total number of uncompleted orders for the month.

Qwest respectfully requests subsection (4) be modified as follows:

Orders that may be excluded from the report calculations include orders:

- for which customer-provided special equipment is necessary;
- when a later installation or activation is permitted under WAC 480-120-071;
- when the commission has granted an exemption under WAC 480-120-015;
- *when the company arrives at the customer's premises on the scheduled date and requires access to the customer's premises and the customer is not available to provide such access to the company; or*
- *when installation cannot be completed due to reasons beyond the company's control such as force majeure, work stoppage ,etc.*

The orders must be excluded from both the total number of orders completed and from the total number of uncompleted orders for the month."

Qwest also respectfully requests the requirement at subsection (8), pages 84-85, lines 3664-3672, be modified to include a reference to the standard at WAC 480-120-401(5). Proposed subsection (8) states the following:

Interoffice, intercompany and interexchange trunk blocking report. Companies that experience trunk blocking in excess of the standard in WAC 480-120-401(3) must report each trunk group that does not meet the performance standards. For each trunk group not meeting the performance standards, the report must include the peak percent blocking level experienced during the preceding month, the number of trunks in the trunk group, and the busy hour when peak blockage occurs. The report must include an explanation of steps being taken to relieve blockage on any trunk groups that do not meet the standard for two consecutive months.

Proposed subsection (8) only requires reporting of compliance with WAC 480-120-401(3) which addresses the requirements of interoffice facilities and establishes a standard of less than one-half of one percent for intertoll and intertandem facilities and less than one percent for local and EAS interoffice trunk facilities for 99% of trunk groups for any month. However, subsection (8) requests reports for interoffice, intercompany and interexchange trunks that do not meet the standard. WAC 480-120-401(5) establishes the standard for interexchange trunks and requires each interexchange carrier to "order sufficient facilities from each LEC such that no more than two percent of all calls are blocked at the LEC's switch." Therefore, it seems appropriate to modify subsection (8) to include a report based on the standards established at WAC 480-120-401(5). Qwest respectfully requests subsection (8) be modified as follows:

Interoffice, intercompany and interexchange trunk blocking report. Companies that experience trunk blocking in excess of the standard in WAC 480-120-401(3) *and (5)* must report each trunk group that does not meet the performance standards. For each trunk group not meeting the performance standards, the report must include the peak percent blocking level experienced during the preceding month, the number of trunks in the trunk group, and the busy hour when peak blockage occurs. The report must include an explanation of steps being taken to relieve blockage on any trunk groups that do not meet the standard for two consecutive months.

Qwest also respectfully requests the requirement at subsection (9), page 85, lines 3673-3684, be modified to an interval of two working days, consistent with the existing rule. Proposed subsection (9) states the following:

> Repair report. (a) For service-interruption repairs subject to the requirements of WAC 480-120-440, companies must report the number of service interruptions reported each month, the number repaired within forty-eight hours, and the number repaired more than forty-eight hours after the initial report. In addition, a company must indicate the number of construction orders requiring permits as provided for in 480-120-440.
>
> (b) For service-impairment repairs subject to the requirements of WAC 480-120-440, companies must report the number of service impairments reported each month, the number repaired within seventy-two hours, and the number repaired more than seventy-two hours after the initial report. In addition, a company must state the number of construction orders requiring permits as provided for in WAC 480-120-440.

WAC 480-120-520 (8) currently requires "all reported interruptions of telecommunications service" to be "restored within two working days, excluding Sundays and holidays, except interruptions caused by emergency situations, unavoidable catastrophes and force majeure." Proposed WAC 480-120-440 and the reporting requirement at subsection (9) of this proposed rule modify the standard to 48 hours. Qwest recently produced evidence that it currently missed the two working day objective by less than one-half of one percent in 2001, even when it included the exclusions newly introduced at proposed WAC 480-120-440(1). Qwest respectfully requests the Commission modify the proposed rule to require companies to report the number of service interruptions reported each month, and the number repaired within two working days less the exclusions permitted by rule. Should the Commission proceed with the proposed 48-hour report requirement, Qwest would have to redesign its existing report and modify its practices to track each trouble report not only by the date received and closed but also by the time the report was received and the time the trouble was resolved. These two additional data requirements will require development of a software program to track trouble reports by time received and cleared and will also require process modifications necessary to ensure that local exchange company technicians close the trouble ticket immediately upon restoration. These report and process modifications will result in increased expense. Therefore, Qwest respectfully requests the Commission modify subsection (9) as follows:

> Repair report. (a) For service-interruption repairs subject to the requirements of WAC 480-120-440, companies must report the number of service interruptions reported each month, the number repaired within *two working days*, and the number repaired more than

two working days after the initial report. *The two working days standard does not include Sundays and holidays.* In addition, a company must indicate the number of construction orders requiring permits as provided for in 480-120-440.

(b) For service-impairment repairs subject to the requirements of WAC 480-120-440, companies must report the number of service impairments reported each month, the number repaired within seventy-two hours, and the number repaired more than seventy-two hours after the initial report. In addition, a company must state the number of construction orders requiring permits as provided for in WAC 480-120-440.

Qwest will address proposed WAC 480-120-440 below.

New Section
480-120-440 Repair standards for service interruptions and impairments, excluding major outages.

Qwest appreciates the proposed revisions to WAC 480-120-440 that acknowledge those circumstances that may prevent telecommunications providers from meeting the current standard for repair intervals at WAC 480-120-520(8). Qwest respectfully requests further modification of proposed WAC 480-120-440, subsections (1), (2), (3), (6) and (7). Qwest requests the Commission modify the proposed 48-hour standard to two working days and the proposed 72-hour standard to three working days, as applicable, in each of these subsections.

Qwest currently reports its out-of-service repair interval performance each month. Qwest recently produced evidence before this Commission that it missed the two working day objective by less than one-half of one percent in 2001, even when it included the exclusions newly introduced at proposed subsections (1), (5), (6) and (7). Qwest has continued to improve upon its 2001 performance in 2002.

The application of the two working day repair interval standard is defined in Qwest's tariff at WN U-40, Section 2, Sheet 34.1, 2.2.4.A.3, and is described as follows: If a customer calls to report an out-of-service condition on Tuesday at 2:00 p.m., their service will be restored no later than close of the Company business on Thursday. The typical close of business for Qwest is 7:00 p.m. each day. The two working day standard was initially developed in recognition of the process of investigation and assignment that local exchange companies typically follow for reported trouble conditions. The reported trouble condition may be cleared without requiring a technician dispatch. Because this is the most efficient approach to trouble resolution; most companies will attempt to clear the trouble before including the customer in the dispatch load for what is typically the next day's schedule. Thus, the few extra hours the two-working day standard may provide are most valuable depending on the dispatch load and requirements of each day. Once a technician is dispatched, the repair may take an hour or many hours. Under the existing two-working day standard, the technician has all day to complete all assignments and can modify the day's schedule based on the time required for each trouble report, which is typically not known until the technician is actually at the customer's premises. Under a 48-hour standard the technician would not have this same degree of flexibility. Clearly, the proposed 48-hour standard is more stringent than the existing standard, which Qwest has not yet been able to

meet. Therefore, Qwest respectfully requests the Commission retain the current two working day standard. Qwest also respectfully requests the Commission modify the proposed 72-hour repair interval to a three working day interval for the reasons cited above.

Amend 480-120-340
480-120-450 Enhanced 9-1-1 (E911) obligations of local exchange companies
Qwest respectfully requests modification of proposed WAC 480-120-450, subsections (1), (2) and (3).

Qwest respectfully requests the requirement at subsection (1)(b), page 87, lines 3766-3768, be modified to more clearly identify the obligation of the local exchange company. Proposed subsection (1)(b) states the following:

> For multi-line customers, the ability for customers to dial 911 with the call and caller's ELIN transmitted to the E911 selective router serving the location of the ERL for that line;

As currently proposed, local exchange companies will not be able to comply with the proposed language. Unless multi-line customers generate and forward identifying numbers associated with individual stations located behind the customer's PBX switch, the local exchange company will be unable to identify each individual station's location. These limitations also occur when customers request multi-line hunt groups. The local exchange company's switch may only recognize the location of the lead number in the hunt group, not all numbers in the hunt group. The local exchange company can only provide the network capability to forward information sent by the multi-line customer's premises equipment. The service options elected by the customer determine the location information that is forwarded to the local exchange company. Therefore, as currently written, the local exchange company cannot be responsible for providing the "callers" location, (ELIN) unless the PBX customer provides the PSAP with the location specific information for each telephone number. The local exchange provider provides the network capability that forwards the station telephone numbers sent by the PBX. This is also true of specific location information associated with multi-line system ELINs when this information is not controlled by the local exchange company. Therefore, Qwest respectfully requests subsection (1)(b) be modified as follows:

> For multi-line customers, the *capability* for customers to dial 911 with the call and caller's ELIN transmitted to the E911 selective router serving the location of the ERL for that line, *where the LEC switch, PBX, or auxiliary equipment combined generates and forwards the appropriate ELIN.*

Qwest also respectfully requests the requirement at subsection (1)(c), page 87, lines 3769-3772, be modified to more clearly identify the obligation of the local exchange company. Proposed subsection (1)(c) states the following:

> For pay phones served by pay phone access lines (PALs) the ability for customers to dial 911 with the call and caller's ELIN transmitted to the E911 selective router serving the location of the ERL for that line. The phone number must be that of the pay phone.

The local exchange company is only responsible for the payphone access line to the point of demarcation. The Pay Phone Provider is responsible from the point of demarcation to the pay telephone instrument. The local exchange company does not have knowledge of, or control of the physical placement of the pay telephone instrument when it does not belong to the local exchange company. Therefore, the local exchange company cannot maintain a customer record including the ELIN and ERL for all pay telephones. Furthermore, in those instances where the local exchange company is the pay telephone provider, unless the local government has provided a valid jurisdictionally approved address, the local exchange company cannot establish an ELN for the caller's pay telephone location as required in this subsection. Therefore, Qwest respectfully requests subsection (1)(c) be modified as follows:

> For pay phones served by pay phone access lines (PAL) the *capability* for customers to dial 911 with the call and ELIN transmitted to the E911 selective router. *For pay telephones, with jurisdictionally approved addresses, the capability for the address of the point of demarcation to be displayed to the public safety answering point (PSAP).*

Qwest also respectfully requests this obligation be moved from proposed WAC 480-120-450 to proposed WAC 480-120-263, at page 65, which addresses Pay Phone Provider obligations. This would ensure that the pay phone E911 rules apply to all providers, and not just local exchange companies. Qwest also would like to point out that until local governments are required to assign addresses to pay telephones, the local exchange company cannot be required to send the location address.

Qwest respectfully requests the requirement at subsection (2)(c), page 87, lines 3788-3790, be eliminated since local exchange companies cannot maintain lists of customer record information that they do not possess. Proposed subsection (2)(c) states the following:

> LECs that provide pay phone access lines must maintain customer record information, including ELIN and ERL information, for those access lines using a method required by subsection (b) of this subsection.

This proposed subsection requires local exchange companies to maintain pay telephone customer record information over the internet, and poses the same problem as discussed in (1)(c) above. The LEC cannot be required to maintain lists of customer record information that it does not have. The obligation to maintain customer record information should be with the pay telephone provider.

Qwest respectfully requests the requirement at subsection (2)(d), page 87, lines 3791-3799, be modified to a one business day interval. Proposed subsection (2)(d) states the following:

> For single line services, PBX main station lines, and payphone lines, LECs must transmit updated location information records to the data base management system (DBMS) within twenty-four hours of those records being posted to the company record system.

> Records that do not post to the DBMS because of address errors must be corrected within two working days unless modifications are necessary to the audit tables of the master street address guide, in which case the record must be resubmitted within twenty-four hours of notification that the master street address guide has been updated.

Qwest respectfully requests the "24-hour" interval be changed to "one business day". Qwest currently updates location information in one business day, but not in a real-time 24-hour interval as proposed in the draft language. Qwest's existing service order systems utilize an end-of-day batch method of processing. Qwest also recommends a five-business day error correction interval for consistency with proposed subsection (2)(e). Qwest respectfully requests subsection (2)(c) be modified as follows:

> For single line services, PBX main station lines, and payphone lines, LECs must transmit updated location information records to the data base management system (DBMS) within *one business day* of those records being posted to the company record system.
>
> Records that do not post to the DBMS because of address errors must be corrected within *five* working days unless modifications are necessary to the audit tables of the master street address guide, in which case the record must be resubmitted within *five business dasy* of notification that the master street address guide has been updated.

Qwest respectfully requests the requirement at subsection (2)(e), page 87, lines 3800-3803, be modified to more clearly identify the obligation of the local exchange company. Proposed subsection (2)(e) states the following:

> E911 data base errors and inquiries, including selective routing errors, reported by county E911 data base coordinators or PSAPs must be resolved by the LEC or its agent administering the data base within five working days of receipt.

The local exchange company, or its agent acting as data base administrator, is not necessarily the party responsible for the error, and therefore, cannot be held accountable to resolve all errors. Therefore, Qwest respectfully requests subsection (2)(e) be modified as follows:

> E911 data base errors and inquiries, including selective routing errors, reported by county E911 data base coordinators or PSAPs must be *investigated and referred within two business days and responded to or* resolved by the *responsible* LEC *and/or PBX provider* within five working days of receipt.

Qwest also respectfully requests the requirement at subsection (3), page 87, lines 3804-3807, be modified to more clearly identify the obligation of the local exchange company. Proposed subsection (3) states the following:

> LECs wishing to provide E911 services including selective routing, data base management and transmission of the call to a PSAP must file with the commission tariffs and supporting cost studies or price lists, whichever applies, that specify the charges and terms for E911 services.

The local exchange company should not be required to tariff or price list a non-telecommunications service. The E911 data base management service is not a telecommunications service. Therefore, the reference to data base management service should be deleted from the proposed subsection language. Qwest respectfully requests subsection (3) be modified as follows:

> LECs wishing to provide E911 services including selective routing and transmission of the call to a PSAP must file with the commission tariffs and supporting cost studies or price lists, whichever applies, that specify the charges and terms for E911 services.

III. CONCLUSION

Qwest appreciates the tremendous effort the Commission has expended on the proposed rules and is available to answer any questions or provide assistance as required. Qwest respectfully requests the Commission include the above proposed revisions in the final rules for adoption. Should the Commission decide to proceed with adoption of the April 30, 2002 draft rules, Qwest will need to file a waiver of the following rule requirements since Qwest is technically or practically unable to meet the rule obligation:

- 480-120-061: Refusing service: subsections (8)
- 480-120-133: Response time for calls to business office or repair center: subsection (2)
- 480-120-146: Changing service providers from one local exchange company to another
- 480-120-162: Cash and urgent payments: subsection (5)
- 480-120-166: Customer complaints: subsections (1)
- 480-120-255: Information delivery services: subsection (2)
- 480-120-262: Operator services providers: subsection (3)
- 480-120-412: Major Outages: subsection (4)
- 480-120-439: Service quality performance reports: subsections (4)
- 480-120-450: Enhanced 9-1-1 (E911) obligations of local exchange companies: subsections (1) and (2)

Qwest also respectfully requests the Commission refrain from adopting the following proposed rules until further progress can be made:

- 480-120-112: Company performance for orders for non-basic service: subsections (1), (2) and (3).
- 480-120-121: Definitions - Call Detail, Held Orders, and Telecommunications-Related Products and Services
- 480-120-146: Changing service providers from one local exchange company to another
- 480-120-167 Company Responsibility