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July 12, 2002

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Docket No. UT-990146 – Reply Comments of the Washington Independent Telephone Association

Dear Ms. Washburn:

This letter will set forth the reply comments of the Washington Independent Telephone Association (WITA) in this docket. These reply comments will focus initially on the definitions. Following a discussion of the definitions, these reply comments will address some items raised by other commenters in the substantive rules.

DEFINITIONS

1. Drop Facilities – Verizon points out that this definition is not technically correct. WITA agrees. Pedestals are not considered part of drop facilities. WITA agrees with Verizon's suggestion that the word "pedestals" be replaced with "network interface."

2. Force Majeure – WITA agrees with Verizon that the proposed definition is incomplete. WITA understands that the Commission cannot accept a definition of force majeure that is totally open-ended. As a compromise between the suggestion from Verizon and the Commission's draft, WITA suggests that the language "acts of third parties resulting in cable cuts or unavailability of facilities or equipment" be added to the definition of force majeure. It is a fact of life that a telecommunications company will need to put its planned activities

on hold to address cable cuts caused by third parties. It is also a fact of life that suppliers go out of business or simply fail to deliver needed equipment on time. The company can try to protect itself through language in its contracts, but the fact remains that there will be times that equipment is not delivered without the fault of the telecommunications company. In these circumstances, the telecommunications company should be reasonably excused from performance.

3. Held Orders - Both Qwest and Verizon address this definition. WITA questions if this definition is even needed.

4. Residential Service – Verizon suggests a clarification to the definition of the term "residential service." That clarification would assist telecommunications companies in administering their responsibilities in the case where a business is operated out of a household. WITA supports Verizon's suggested change.

5. Telecommunications-Related Products and Services – Both Qwest and Verizon address this definition. WITA suggests that the definition not be adopted at this time. The proposed definition is confusing, as both Qwest and Verizon point out. Further, as we, as an industry, delve deeper into the issues of virtual NXXs and voice over IP, a distinction between "telecommunications-related products and services" and "telecommunications services" may not be readily apparent. More information and experience is needed before a definition of "telecommunications-related products and services" can be adopted with any confidence.

SUBSTANTIVE RULES

WAC 480-120-311 – Verizon correctly points out that subsection (1) of this rule is not needed and should be deleted. Verizon also correctly points out that subsection (2) of the rule needs to be revised because it requests information that is not required under 47 CFR 54.315. Verizon is correct that certain elements of support are not subject to annual certification by the state Commission, yet the Commission purports that such information be provided to it under this rule. In addition, to the extent that this rule goes beyond the FCC's rule contained in 47 CFR 54.314, the Commission would be attempting to place a reporting requirement on small companies that it is prohibited by state statute from doing.

There is another problem with this proposed rule. The FCC's rule contained in 47 CFR 54.314 allows for certifications to be made throughout the year. For example, if a carrier is designated as an ETC in October of a year, the

Commission could file the certification after October 1st and that carrier would still be eligible then to begin receiving support for at least a portion of the succeeding year. See 47 CFR 54.315(d)(2). The Commission's proposed rule would apparently preclude that possibility.

Since the obligations for certification are clearly specified in the FCC's rules, WITA asks that the Commission not adopt proposed WAC 480-120-311. The obligations are already set forth in federal rule and need not be set forth in state rule. To the extent that the state rule varies from the federal rule, dangers are created as to interpretation and the capability of carriers to comply with the requirements of the federal rule.

WAC 480-120-450 – This draft rule addresses the E911 obligations of local exchange companies. Both Qwest and Verizon identified very important issues that need to be addressed. WITA supports the comments of both Verizon and Qwest on this rule. WITA requests that the Commission adopt the proposed changes suggested in Verizon and Qwest's comments.

CONCLUSION

Thank you for the opportunity to present reply comments in this docket.

Sincerely,

RICHARD A. FINNIGAN

RAF/km

cc: Terrence Stapleton
WITA Members