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November 14, 2005

Ms. Carole Washburn
Executive Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

Re: Docket No. UT-053021, Eligible Telecommunications Carriers (ETC) Rulemaking,
WAC 480-120-311(2)
Comments of Qwest Corporation

Dear Ms. Washburn:

Qwest Corporation ("Qwest") provides these comments in response to the Commission's October 21, 2005 Notice of Opportunity to File Written Comments in Docket No. UT-053021 regarding the Commission Staff's draft of proposed revisions to WAC 480-120-399(2), Access Charge and Universal Service Reporting, relating to ETC designation and annual certification.

Introduction

In its initial comments of June 1, 2005 in this docket, Qwest addressed the Federal Communication Commission's (FCC) proposed requirements for ETC designation in their recent order.¹ Qwest's main concerns with the FCC's proposed requirements were that certain of the requirements were not specifically focused on the purpose for such requirements (i.e., to make sure that federal USF support is used for the intended purposes), while other proposed requirements unnecessarily duplicated existing requirements in state or federal law.

Although Staff's proposed rules address some of Qwest's concerns with the FCC's proposed requirements, Qwest is still concerned that the proposed rules result in duplicative

¹ *In the Matter of Federal-State Joint Board on Universal Service*, released March 17, 2005, in CC Docket No. 96-45, FCC Release No. FCC 05-46 (the "ETC Order")

reporting and, in some cases, are not designed to achieve the most efficient use of resources. Qwest's comments on specific proposed rule revisions are set forth below.

Comments on Specific Proposed Rule Revisions

WAC 480-123-0010 Definitions.

WAC 480-123-0020 Contents of petition for eligible telecommunications carriers.

WAC 480-123-0030 Approval of petitions for eligible telecommunications carriers.

WAC 480-123-0030 Revocation of petitions for eligible telecommunications carriers.

WAC 480-123-0050 Annual certification of eligible telecommunications carriers.

Qwest has no comments on these sections.

WAC 480-123-0060 Annual certifications and reports.

This proposed rule requires that “. . . every ETC that receives federal support from any category in the federal high-cost fund must certify or report as described in this section.” This requirement is excessive and should generally be limited to only those ETCs that receive federal high-cost universal service funding that provides support to ensure reasonably affordable and comparable intrastate rates. Qwest recommends that this rule be modified as follows:

WAC 480-123-0060 Annual certifications and reports.

Not later than July 31 of each year, every ETC that receives federal support from the federal high-cost fund pursuant to 47 C.F.R. §§ 54.307, 54.313, or 54.314, which provides support to enable states to ensure reasonably affordable and comparable intrastate rates, must certify or report as described in this section.

As Qwest explained in its initial comments, although it does participate in the federal Lifeline and Link-Up Programs and receives interstate access support, it does not receive any of the intrastate federal high cost USF support that the FCC's ETC order was addressing and would not expect to receive any such support for services provided in Washington given the current USF funding guidelines. Consequently, Qwest does not believe it should be required to provide reports and certifications that have no bearing on the Lifeline and Link-Up support that it receives – i.e., the report on use of federal funds and benefits to customers; the service outage report; the report on failure to provide service; the report on complaints per 1,000 handsets or lines; the certification of compliance with applicable service quality standards; and the certification of ability to function in emergency situations. Arguably, the only proposed

provision in this draft rule that has any connection to the federal Lifeline and Link-Up Programs is the advertising certification provision, which Qwest addresses later in these comments.

Even for those carriers that do receive high cost support, most of the reports required by the proposed rule are duplicative of other reports already required by state or federal law or Commission Order. For example, regarding the proposed "service outage report" in WAC 480-123-0060(2), Qwest stated in its initial comments that WAC 480-120-412 contains a comprehensive list of requirements regarding a company's obligation to minimize the effects of major outages, remedy outages in a timely manner, keep a record of each outage and report such outages to the Commission, appropriate agencies, including county 911 coordinators and the state emergency management authorities.²

In addition, federal ETCs and other carriers are also required to provide detailed information regarding outages to the FCC. In *New Part 4 of the Commission's Rules Concerning Disruptions to Communications*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 16830, 16923-24, § 4.5 (2004) (*Outage Reporting Order*), the FCC greatly expanded outage reporting requirements on wireline, wireless and satellite carriers. These extensive reports are ultimately transmitted to the Department of Homeland Security for distribution to other governmental agencies, at both the state and federal levels, as may be appropriate. Potential triple reporting of major service outages will pose even greater compliance burdens for carriers who have to measure and report outages based on several different methodologies.

Moreover, major outage reporting does not provide assurance that federal USF high cost funds are being spent for their intended purposes. They simply provide information about outages, which could result from a number of factors, including damage caused by contractor error. Consequently, the service outage reporting requirement should be eliminated from the proposed rules in this docket.

The proposed "report on failure to provide service" required in WAC 480-123-0060(3) is duplicative of the existing provisions of WAC 480-120-439(4) which requires monthly, quarterly, and six month reporting on basic service orders. Likewise, the certifications required in WAC 480-123-0060(5) and (6) regarding compliance with service quality standards and the ability to function in emergency situations are duplicative of the existing requirements in WAC 480-120-439, WAC 480-120-414 and a host of other Commission rules setting forth service quality and emergency management requirements.³

WAC 480-123-0060(4) requires a report on the number of complaints made to the ETC, the Commission, the FCC, and the Washington Attorney General. Although Qwest tracks these

² Furthermore, WAC 480-120-439(5) requires any company experiencing a major outage that lasts more the 48 hours to provide a major outage report to the commission within 10 business days of the major outage.

³ WAC 480-120-105, WAC 480-120-133, WAC 480-120-165, WAC 480-120-257, WAC 480-120-401, WAC 480-120-402, WAC 480-120-411, WAC 480-120-412, WAC 480-120-414, WAC 480-120-438, WAC 480-120-439 and WAC 480-120-440

collection points of complaints, it does not categorize the complaints using the four specific categories proposed in this rule. Further, Qwest does not document the general nature of each complaint nor the efforts used to resolve the complaint. Qwest believes that it would require significant resources to comply with the proposed rule as drafted and questions the value of such information when weighed against Qwest's limited participation in federal funding as a Lifeline and Link-Up recipient.

Finally, although the provisions outlined in WAC 480-123-0060(7) regarding advertising requirements and certification do arguably apply to the Lifeline and Link-Up Programs, Qwest believes that the section should be restated as a standalone rule and that the requirements should be modified to achieve the desired results. If the section is recast as a standalone rule, then it could be applied to companies like Qwest that only receive Lifeline and Link-Up support without the other requirements of WAC 480-123-0060, that Qwest believes should only apply to companies that receive high cost fund support. Regarding the actual advertising requirements, although it is important to promote the low-income Telephone Assistance Program (TAP), the proposed rule takes a scattered approach that results in a less than efficient and effective way to promote the TAP Program. The TAP program operates on a budget that is limited to the revenues generated by the TAP excise tax. ETCs and the Department of Social and Health Services (DSHS) are allowed to recover their administrative expenses from this pool of revenues.⁴ If the Commission adopts these outreach and advertising requirements, the costs of the outreach will deplete the fund and limit its intended purpose of reducing telephone service costs for low-income customers. It could also create confusion for the perspective TAP recipients. Qwest believes a more efficient and effective advertising approach would be to provide targeted education to those customers who qualify for TAP assistance through DSHS. Because DSHS also administers the programs (i.e., food stamps) that customers must qualify for in order to be TAP eligible, they are the most logical entity to administer a targeted outreach program. In other states in Qwest territory, similar agencies have engaged in automatic TAP enrollment once a customer qualifies by receiving a prerequisite social service. Qwest believes that before creating rules dealing with outreach and advertising for TAP, the program would be best served by an industry workshop to discuss different ways to promote TAP in Washington.

WAC 480-123-0070 Annual Plan for Universal Service Support Expenditures.

This proposed rule requires that “. . . every ETC that receives federal support from any category in the federal high-cost fund must report on the expected use of the federal support that will be received during the period October 1 of the current year through the following September.” As with proposed WAC 480-123-0060, this requirement is excessive and should generally be limited to only those ETCs that receive federal high-cost universal service funding that provides support to ensure reasonably affordable and comparable intrastate rates. Qwest recommends that this rule be modified as follows:

⁴ RCW 80.36.430

WAC 480-123-0070 Annual plan for universal service support expenditures.

(1) Not later than July 31 of each year, every ETC that receives federal support from the federal high-cost fund pursuant to 47 C.F.R. §§ 54.307, 54.313, or 54.314, which provides support to enable states to ensure reasonably affordable and comparable intrastate rates, must report on the expected use of federal support that will be received during the period October 1 of the current year through the following September.

As explained previously in these comments, although Qwest does participate in the federal Lifeline and Link-Up programs, it does not receive federal USF distributions and would not expect to receive any such distribution for the state of Washington given the current USF funding guidelines. Consequently, Qwest does not believe it should be required to provide a report on the expected use of federal support that it does not receive.

Conclusion

Qwest appreciates the opportunity to comment on the draft rules. Qwest recognizes that it is important for those entrusted with distributing federal USF high cost support to know that that support is needed and is being used for its intended purposes. Any rules adopted towards this end, however, must be carefully examined to make sure they are useful and not duplicative of existing rules. The main thrust of Qwest's comments is to ensure that the information requested of an ETC tracks with the support received by that ETC.

Sincerely,



Mark Reynolds