

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In re the Matter of Revising Rules -)	
Telecommunications Companies -)	Docket No. UT - 990146
Chapter 480-120 WAC)	
)	
)	

**SUPPLEMENTAL COMMENTS OF GTE NORTHWEST INCORPORATED
AND GTE COMMUNICATIONS CORPORATION
ON TECHNICAL RULES**

June 14, 2000

INTRODUCTION

As a result of the Technical Rules Workshop on May 15, 2000, the Staff of the Washington Utilities and Transportation Commission (“Commission”) called for additional comments on staff’s proposed revisions to certain technical rules.¹ GTE Northwest Incorporated and GTE Communications Corporation (collectively “GTE”) hereby provide the following supplemental comments.

GTE appreciates the opportunity to provide further comment and suggestions for revising the changes proposed by Staff to the technical rules. GTE appreciates the willingness of the Staff to hear GTE’s concerns and to address them. These rules, if revised by the Commission as proposed by the Staff, would have significant negative consequences and should not be adopted.

GTE understands Staff’s goal of wanting to set performance standards so customers will know the level of service they can expect. GTE is committed to providing high quality service. However, the Staff-proposed changes overall create too stringent a standard which will be burdensome, costly and difficult, if not impossible to meet, in some cases. The consequences of establishing such standards could be significant for Washington telecommunications companies because their violation, even if inadvertent, could expose GTE to serious civil and criminal penalties. The Commission should not impose rules that simply cannot be met by some carriers, including GTE.

GTE is not in the business of violating Commission rules. It intends at all times to abide by such rules. However, it is imperative that these rules be realistic, reasonable and achievable.

Leaving aside the penalty issue, GTE urges the Commission to revise its technical rules in light of the changing competitive environment. Rather than tightening its service quality rules, the

¹ WAC 480-120-046, 051, 076, 091, 096, 131, 136, 151, 152, 153, 340, 350, 500, 505, 510, 515, 520, 525, 530, 535, X05, X05.5, X06, X08, X16, X17

Commission should establish minimum standards which all carriers can meet and let the market police quality. Stricter standards may set a punitive, unfair environment and provide a disincentive to entry into Washington for new telecommunications carriers. In a competitive environment, service quality is one of the factors involved in customer choice. If competition is to replace regulation, then this Commission must allow customers to choose carriers based upon the type of service consumers are willing to pay for.

The Commission should not dictate what customers want by maintaining a stringent set of rules. Customers differ with respect to their requirements and desires. If a telecommunications carrier does not satisfy a customer's needs with respect to service quality and/or price, the customer can choose another provider. Furthermore, by mandating that all carriers be subject to the same reporting requirement and service quality rules, the Commission disincentivizes carriers to offer creative and innovative services.

Finally, the Commission's rules ignore the fact that different carriers provide services in different ways. For example, a reseller does not control the underlying facilities that provide service to the end user customer. Therefore, it should not be held to the same level of reporting and service requirements as the underlying facility provider. In short, the Commission should not seek to impose one-size-fits-all rules that simply cannot be met by some carriers.

To achieve the Commission's ultimate competitive goals, GTE urges the Commission to move towards establishing a minimum set of regulations for service quality which protect consumers from fraud and misrepresentation, but allow market forces to police quality issues.

COMMENTS ON TECHNICAL RULES

WAC 480-120-046 — Service Offered.

No further comment.

WAC 480-120-051 — Availability of Service — Application for An Installation of Service.

This rule deals with a customer's initial contact with a telecommunications service provider. The third subsection of WAC 480-120-051 deals with customer appointments when on-premise access is required for new service orders. GTE would delete this provision in its entirety. New service installation order practices, like the provision of customer information, should be left to the discretion of company management in a competitive market. Telecommunications providers will lose customers if such providers fail to keep appointments. If this rule is retained, however, GTE would suggest that it be rewritten to accommodate a common industry practice which specifies an appointment on an a.m. or p.m. basis, within a four-hour range. Therefore, GTE would rewrite this subsection to read:

- (3) When installation of new service orders requires on-premise access by the company, the company shall specify a time within a four-hour period in the morning (a.m.) or afternoon (p.m.) for installation of service, at the customer's request.

GTE would also modify the provisions in subsection (5) dealing with installation due dates. First, subsection (5) should be modified to state that it would be applied only to the primary line of the customer. Installation of subsequent lines, after establishing initial connectivity, should be subject to market-driven concerns of a provider seeking customers in a competitive market. Second, due date measurement should be done on an "average due date interval" basis. This serves as a

better performance indicator, on average, for all customers, and allows the carrier more readily to identify issues in service delivery. GTE's proposed language for subsection (5) would be:

(5) Each local exchange company must complete orders for primary access lines as follows:

(a) As measured on a calendar monthly basis, the average due date interval shall be five business days after the receipt of the order for primary service when all tariff or price list requirements have been met by the applicant.²

GTE also has a concern that the new language in subsection 5(c) and (d) does not recognize other circumstances when an order might not be completed. For instance, what if a permit cannot be obtained from a municipality which is necessary to provide service? GTE questions the value of the subsection 5(c) measurement. The number of orders exceeding 180 days does not warrant a unique measurement. If delayed orders must be measured, GTE's suggestion in WAC 480-120-535 provides a more meaningful measurement. An exemption should be added to subsection (d) to deal with circumstances when factors outside of GTE's control prevent a timely installation date.

WAC 480-120-076 — Underground; WAC 480-120-091 — Farmer Lines; WAC 480-120-096 — Grounded Circuits.

GTE has no further comment.

WAC 480-120-126 — Safety; WAC 480-120-131 — Reports of Accidents.

As previously stated, GTE views these rules as duplicative of requirements contained in other administrative regulations from other agencies such as the Department of Labor and Industries. They should be deleted.

² Even if GTE's proposed language is rejected, it is unreasonable to revise the performance measurement from 90% to 95%, as suggested by staff. Requiring a service measurement of 95% of order completion within five days is not workable, and GTE would be exposed to penalties despite its best efforts. For instance, order-intensive periods (i.e., college campuses such as Pullman at the beginning of the school year) occur which could distort any "due date" measurement. On balance, GTE supports an overall average due date interval rather than a strict measurement as suggested by staff's version.

WAC 480-120-151 — Telecommunications Companies' Use of Customer Proprietary Network Information (CPNI); WAC 480-120-152 — Notice and Approval Required For Use of Customer Proprietary Network Information (CPNI); WAC 480-120-153 — Safeguards Required For Use of Customer Proprietary Network Information (CPNI).

Throughout these workshops, GTE has urged the Commission to conform its rules in an area also regulated at the federal level with federal rules. This allows carriers operating in many jurisdictions to consistently handle CPNI. GTE continues to advocate this position particularly because the CPNI rules will be revised in the near future by the FCC in Docket No. CC 96-115.

WAC 480-120-340 — Enhanced 911 Obligations of Local Exchange Companies.

As stated previously in GTE's comments filed on February 5, 2000, this rule should be deleted because the requirements have been met. PBX vendors are responsible for this capability.

WAC 480-120-350 - Reverse Search By 911 PSAP.

Subsection (2) of this rule should be revised because only a PSAP is required to keep a record of reverse searches.

WAC 480-120-500 — Service Quality — General Requirements.

GTE opposes the insertion of language that would require companies to ensure "the availability of comparable services." Such a mandate would be very onerous and burdensome for GTE. This requirement would impose new obligations on carriers, ignore the realities of the telecommunications marketplace, potentially undermine competition, increase the cost of telecommunications for Washington consumers, and limit innovation. A requirement mandating that each carrier provide "comparable services" ignores the fact that telecommunications markets are open to competition. Competition should ensure that a wide variety of products are made available, many of which provide comparable functionality. Consumers should be free to choose among such

comparable services.

Neither the telecommunication network nor consumers in Washington are homogenous. Suppliers introduce products in response to consumer demand at different times and different amounts. Imposing a statewide uniform “comparability requirement” would delay the introduction of services.

In addition, requiring introduction of services where demand is insufficient would increase the actual cost of providing service in Washington. Therefore, services that would otherwise be profitably introduced to meet a limited demand in certain areas would potentially never make it to market under this requirement.

This requirement is more like a universal service requirement rather than a service quality requirement. It reflects a view at odds with how GTE constructs its network, which is based upon actual market demand and economic feasibility. GTE does not construct its network in a “field of dreams” [build it and they will come] manner. To do so would be inefficient and unrealistic.

In sum, this requirement is contrary to the workings of the competitive marketplace. It is unrealistic to expect any firm to supply 100% of projected demand for “comparable services” in a multi-firm environment. This requirement is also difficult to abide by because “comparable services” are undefined and ambiguous. This Commission should not adopt a regulation that does not clearly apprise a regulated entity of its obligations. This requirement would cause firms to overbuild the network, resulting in increased costs for consumers. Therefore, this rule should not be imposed at this time.³

Finally, subsection (3) should not be deleted. It provides necessary protection to carriers that

³ If retained, GTE urges, at the least, that a qualifier “based upon market demand and economic feasibility” be added after “availability of comparable services.”

increasingly face tort litigation. Unless subsection (3) is restored, injured parties will argue that breach of Commission rules violate a civil duty to exercise due care, which may be considered by the trier of fact as evidence of negligence. See RCW 5.40.050; Pudmaroff v. Allen. 139 Wn.2d 55, 977 P.2d 574 (1999). Removal of this section now could give rise to an inference that the Commission intends to establish a civil standard of care. If that is the case, then the establishment of reasonable service quality rules is even more critical for companies which will have to worry not only about exposure to Commission penalties, but exposure to increased civil litigation.

GTE advocates restoring subsection (3) because GTE does not believe the Commission intends to establish a standard of care to benefit any third party, but rather that the Commission intends to establish rules to protect all consumers, which the Commission can enforce within its existing authority.

WAC 480-120-505 - Operator Services.

No further comment.

WAC 480-120-510 — Business Offices.

GTE recommended in its February comments, and continues to recommend, that the Commission not mandate that companies be required to maintain business offices as required by subsection (1). Requiring companies to maintain such business offices is a costly and unnecessary business expense to enable a customer to make a cash payment. Today, many other alternatives exist to facilitate ease of payment for customers. For instance, a company can take a credit or debit card payments over the telephone if necessary.

GTE's primary concern with the Staff's proposed revisions in subsection (2) deal with speed of answer time. Staff's proposed requirements are simply unworkable and need to be revised, if they

are maintained at all. GTE urges elimination of answer-time requirements because speed of answer time really does little to enhance customer satisfaction. In fact, customers are frequently more dissatisfied if the focus of answer time detracts from the ability of a company to take the time necessary to serve the customer to address the customer's concerns. Today, many customer calls may tend to take longer, given the increasingly sophisticated technology and complexity of the services offered to customers. Answer time requirements just incent companies to quickly terminate a customer call to move on to the next customer. This may not resolve the issue raised by the first customer and undermines the customer service goal. Companies who wish to succeed and obtain market share will institute practices and policies that will enhance customer service. Customers who do not have calls answered promptly will seek alternatives available in today's market.

However, if an answer time requirement is mandated, it should not be the one proposed by Staff. An answer time measure should focus on a systematic measure and be consistent with call center industry measurements. GTE supports the use of an average speed of answer (ASA) measurement that is based on the time that elapses once a customer opts to speak to a live agent. This measurement is based on 100% of customer contacts and is representative of the customer contact experience. GTE proposes the following language in lieu of that provided by the Staff:

- (2) On a calendar monthly basis, and as measured company-wide, the average speed of answer for calls placed to the company's business office shall not exceed 60 seconds and shall be measured from the point a call is directed to a live agent.

WAC 480-120-515 — Network Performance Standards.

Staff proposes significant, troublesome changes to current network performance standards that will be difficult, if not impossible, to meet. In the opening paragraph Staff has deleted "holidays" from existing exclusions. This must be restored because GTE cannot design its network for crunch holidays when calling increases to abnormally high levels. If "holidays" is not restored,

GTE would automatically violate this rule simply because of blocked calls on holidays.

Furthermore, the proposed definition of "force majeure" is too narrow and fails to cover other circumstances where outages will be caused by factors completely outside of GTE's control, such as exceptionally bad weather or natural disasters. The rule must be revised to allow for weather-related exemptions. The definition of force majeure needs to be expanded to include other circumstances beyond GTE's control. A standard contract definition of force majeure would define it as "circumstances beyond the reasonable control of the party obligated to perform, such as those due to the elements, natural disasters, strikes, electrical, computer or mechanical failures, civil or military emergencies, or acts of legislative, judicial or other civil authorities."

At the Workshop, Staff stated it would clarify the term "persons or entities" in the opening section and the requirements of subsection (1) dealing with switch standards. The performance standards proposed by the Staff are simply unworkable and contradict fundamental engineering principles. GTE proposes the following alternate language for switching standards, which is consistent with FCC reporting requirements in ARMIS 43.05 Table II.

Switching facilities, including remote switches will have an objective service level requirement of:

(a) Dial service, as defined as calls originated for service within the switching facility and in which a sufficient number of customer dialed digits are identified to successfully complete the call for service:

(i) Service objective for delivering dial tone to a customer off hook shall be 98% of customer off hook shall receive dial tone within 3 seconds.

(ii) An originating matching loss of 2% or less, that is the service objective after successful translation of dialed digits for calls that originate within the switch shall be 98% of customers will be routed without blocking within the switching facility to an equipment item within the switching facility or to the appropriate host-remote links or interoffice links for a network destination.

(b) Intercept - switching facilities must be capable of providing tone, operator, or recorded intercept capability for calls which are incorrectly dialed, lack full routing digits, are not authorized for that customer/destination, and/or cannot be terminated due to an in service condition of the recipient. Intercept will be provided to all vacant codes/numbers and the service objective for average busy season busy hour is less than 5% of calls to vacant codes/numbers will reach busy or no circuit condition.

GTE was also asked to provide language for subsection (2), Interoffice facilities, because it is impossible to achieve the blocking levels contemplated by the staff's proposed language on interoffice facilities. Today's new competitive environment makes network management much more complex and much more difficult to engineer to a blocking level contemplated by the staff-proposed language.

The blocking level proposed by staff may be exceeded no more than four days during the year. This does not include holidays. However, calling patterns on the major holidays alone would place GTE out of compliance automatically if the Commission's rules were to be adopted.

If the staff's proposals are adopted, it would require companies to overbuild or oversize the network in an inefficient, uneconomic manner that would have serious ripple effects for all telecommunications consumers. GTE proposes the following language:

(2) Interoffice facilities.

(a) Local and Extended Area Service (EAS) interoffice trunk facilities must be monitored during the 20 busiest consecutive business days of the year. Blocking performance during the 20 busiest days of the year shall be such that no more than 1% of all calls placed over interoffice local and EAS facilities during that period are blocked.

(b) Intertoll and intertandem interoffice trunk facilities must be monitored during the 20 busiest consecutive business days of the year. Blocking performance during the 20 busiest days of the year shall be such that no more than 5% of all calls placed over interoffice, intertoll and intertandem facilities during that period are blocked. Service to an interexchange company shall

be provided at the grade of service ordered and specified by the interexchange company.

In the alternative, GTE would propose alternate language that would be more consistent with reporting on a trunk group basis.

(2) Interoffice facilities.

(a) Local and Extended Area Service (EAS) interoffice trunk facilities must be monitored monthly. Blocking performance during all months shall be such that no more than 1% of trunk groups may block in excess of 1% during the period.

(b) Intertoll and intertandem trunk facilities must be monitored monthly. Blocking performance during all months shall be such that no more than 1% of trunk groups may block in excess of .5% during the period. Service to an interexchange company shall be provided at the grade of service ordered and specified by the interexchange company.

GTE has met with Commission Staff and commits to continue working with Commission Staff to work out the engineering issues associated with network performance standards.

At the workshop, Staff stated that it would clarify additional language in subsection (3)(i) and (iii) and language dealing with special circuit standards. GTE also seeks further clarification of subsection (5) that refers to an "alternate" repair or maintenance service center. GTE reroutes traffic in the case of emergency to another repair/answer service center within GTE.

WAC 480-120-520 - Major Outages.

This rule will be very difficult to comply with, without a satisfactory definition of "major outage". When defining "major outage", GTE would define one as a service failure lasting for an hour or more beginning from the point of outage and affecting more than 1,000 customers.

GTE views the notification requirements of subsection (3) as unnecessary. Under 47 CFR § 63.100, all local exchange, interexchange CAPS and facilities-based CLECs must report to the FCC duty officer via fax within 20 minutes major outages that affect 50,000 customers for 30 or

more minutes. Additional historical outage information is available via the annual ARMIS Report 43-05 Table 4.

WAC 480-120-525 — Network Maintenance.

GTE would propose adding additional language to subsection 1(e) for trouble reports:

(1)(e) Trouble reports by exchange **must** not exceed four trouble reports per one hundred access lines per month for two consecutive months, nor exceed four trouble reports per month for four months in any one twelve-month period in central offices with 1,000 or more **working** lines. In central offices with less than 1,000 **working** lines trouble reports **must** not exceed eight trouble reports per one hundred access lines per month for two consecutive months, nor exceed eight trouble reports per month for four months in any twelve-month period.

GTE would also propose a revision to subsection (2)(i) of the rule as revised by Staff. If the Staff's language is accepted, GTE may face significant financial expense in order to establish the contemplated route and circuit diversity. GTE would substitute Staff's proposed language as follows:

(2)(i) Companies must establish route and circuit diversity for signal system 7A links within the network, when diverse facility routes are available.

As stated in WAC 480-120-510, an answer time measure should focus on a systematic measure and be consistent with call center industry measurements. GTE supports the use of an average speed of answer (ASA) measurement that is based on the time that elapses once a customer opts to speak to a live agent. This measurement is based on 100% of customer contacts and is representative of the customer contact experience. GTE proposes the following language in lieu of that provided by Staff:

(3) On a calendar monthly basis, and as measured company-wide, the average speed of answer for calls placed to the company's repair center shall not exceed 60 seconds and shall be measured from the point a call is directed to a live agent.

WAC 480-120-530 — Emergency Services.

GTE has no comment on this section.

WAC 480-120-535 — Service Quality Performance Reports.

GTE provided extensive comments in its February 5th comments about why this rule should be streamlined or eliminated in significant parts because it represents the type of unnecessary, burdensome regulatory requirement that should be eliminated in a competitive environment. Several provisions of this rule duplicate reporting at the federal level.

GTE has suggestions for language changes in subsection 3(a). The title should be changed to "Installation commitments met" not "appointments met". "Orders" should be substituted for "appointments" in the second sentence, and in the last sentence "commitments" should replace "appointments".

GTE continually seeks to determine, through market research, those experiences that lead customers to conclude that they have received quality service. Many times, the traditional measures required by regulatory agencies do not measure what is important to customers. GTE believes that customer satisfaction is reflected in measures that portray timeliness, commitments met and reliability. Therefore, the use of the term "commitments" is a more appropriate measure, which is why GTE would modify subsection (3)(a) as proposed.⁴

GTE would also revise the language in subsection 3(b) proposed by the Staff as follows:

(3)(b) Held Orders. A report consisting of the number of unfilled orders for Exchange Access Service and including the total number of unfilled orders on a statewide basis. The report must identify the number of orders held more than 30 days and the number of orders held more than 90 days.

GTE's proposed language should provide enough information to assure the Commission that customer orders are being filled, without overburdening reporting requirements for companies.

In addition, the Staff's proposed language on held orders would require significant

⁴ If the Commission rejects this proposed revision, then the term "upon customer's request" should be added to subsection (3)(a).

modifications to GTE's reporting system. Currently GTE does not report at the central office level. Therefore, its tracking program would have to be significantly modified to tabulate and report held orders at that level for more than 5 days. Furthermore, GTE does not have any mechanized way to capture and report the corresponding held access lines. Such reporting would have to be done manually by reviewing the specific orders and counting the lines. This process would be very labor intensive and prone to errors. Therefore, the Staff's proposed language is simply not workable for GTE.

GTE suggests deleting subsection 3(c) regarding major outages for the same reason the reporting requirement of WAC 480-120-520 should be eliminated.

GTE would eliminate the reporting requirements of subsection 3(e). Sufficient trunk blocking information is available in the Annual ARMIS report, 43-05 Table III. If anything, until the Commission reviews its service performance standards, this new section should not be added.⁵

GTE opposes the new reporting requirement regarding service interruptions in subsection 3(f). This new rule is another example of new and increased reporting requirements contrary to the purpose for this rulemaking.

WAC 480-120-X05 — Existing Facilities — Responsibility For Maintenance and Reinforcement of Existing Telecommunications Facilities.

Although the title refers to reinforcement as well as maintenance of facilities, the rule itself makes no such reference to maintenance or reinforcement and discusses only the repair of existing facilities. GTE already assumes maintenance responsibilities in order to serve new applications and existing customers under WAC 480-120-500. There is no need for a new rule such as WAC 480-

⁵ If the Commission insists upon such trunk blocking requirements, then this rule should be revised so that it is "upon Commission request", rather than an automatic burdensome reporting requirement which may or may not be useful to the Commission.

120-X05.

WAC 480-120-X05.5 — Existing Facilities — Reinforcement Responsibilities.

GTE opposes this rule. It does not define "reinforcement" which could mean different things over time and could give rise to new cost obligations. For instance, if "basic telecommunications service" is redefined for universal service purposes to include advanced services such as high speed internet access, then "reinforcement" of existing facilities might be necessary and costly. The proposed language would force GTE to absorb these costs.

The rule also does not seem necessary because GTE currently is required to add facilities in order to provide service to meet its existing service obligations. In addition, the language in subsection (2) is confusing. It does not define "support structure", and it places both "ownership and maintenance responsibilities" of this undefined structure on the company. GTE recommends against adoption of this rule at this time. At the very least, the rule's purpose and language should be clarified.

WAC 480-120-X06 — Unserved Areas.

This rule should be deferred pending the outcome of Docket Nos. UT-991930, UT-991931 and UT-993000. WAC 480-120-X06 represents more than simply a revision or expansion of existing rules. This rule relates to the Commission's obligation under 47 USC § 214 (e)(3). As such, it should be addressed in a separate rulemaking proceeding, if at all, after consideration of all of the interrelated universal service issues associated with providing service in unserved areas.

WAC 480-120-X08 - Service Quality Guarantees.

GTE strongly opposes this new rule and urges that it not be adopted. There is simply no need for this rule in a competitive market. Nor has Staff provided any reasons for it at the workshop. Competition - not Commission fiat - should deal with ultimate service quality guarantees. If

customers are disappointed, they will select a new service provider.

The rule contemplates a credit/rebate program which should be the result of a company driven business decision which would allow a service provider to differentiate itself in any number of manners, should it so decide.

GTE NW already has a tariffed service performance guarantee (SPG) program in Washington. It uses this program as one way to show its customers that it keeps its word. GTENW's complaints related to "commitments met" reflects a reduction of 26% from 1998 to 1999. Therefore, a rule of this nature is neither necessary nor appropriate.⁶

Finally, GTE strongly opposes any obligation that would require GTE to provide cellular phone service. The control and availability of cellular equipment is fraught with administrative burdens. The Commission should not mandate this as part of a service quality guarantee program.

WAC 480-120-X16 — Service Interruptions.

GTE proposes the following language in lieu of that provided by the Staff:

- (a) When a company intends to interrupt service, reasonable efforts will be made to provide advance notice of the planned service interruption to affected customers.

WAC-480-120-X17 — Emergency Operation.

GTE has no comment on this rule.

⁶ It also would seriously impede the company's ability to be even more customer friendly, creative and innovative in dealing with customer problems.