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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 - Comments on Proposed WAC 480-120-125

Dear Ms. Washburn:

The Washington Independent Telephone Association (WITA) offers the supplemental comments contained in this letter concerning proposed WAC 480-120-125. The subject of WAC 480-120-125 is the obtaining of deposits or security from telecommunications companies. Events over the past weeks have sharply focused the concern about obtaining deposits when one telecommunications carrier offers services to another. When such large enterprises as WorldCom and Qwest show signs of financial vulnerability, a solid deposit rule becomes even more critical.

The small business economic impact statement indicates that WAC 480-120-125 provides no substantive change from existing rules. However, that is not the case. The existing rule is WAC 480-120-057. There is a marked contrast between the two versions.

The existing rule allows for a telecommunications company providing services to another telecommunications company¹ to obtain a credit based upon several factors, one of which is the corporate debt rating. The corporate

¹ The current rule addresses services provided to interexchange carriers. The proposed rule correctly broadens the scope of the rule.

debt rating provides a “bright line” mechanism for asking for a deposit. The proposed new rule provides a brief statement that a company may be required to pay a reasonable deposit if it is “unable to demonstrate satisfactory credit.” This open standard is sure to lead to a dispute as to when a deposit can or cannot be required.

Another very important aspect of the existing rule is that it has a specific deadline by which the deposit must be provided when demanded. The proposed revised rule does not provide any deadline by which the deposit must be delivered.

As noted in the introduction, the impending financial crisis raised by the specter of a WorldCom bankruptcy has caused WITA’s members to take a much closer look at deposit requirements and the effect on the ongoing operations and cash flow of the WITA member companies. It is WITA’s position that some of the standards contained in the existing WAC 480-120-057 should be retained in the new rule. Therefore, WITA suggests the following language:

WAC 480-120-125 Deposit or Security - Telecommunications Companies.²

(1) **Credit rating standards.** A telecommunications company may require another telecommunications company to pay a deposit of at least two months’ estimated billing for services if the telecommunications company seeking services is unable to demonstrate satisfactory credit. It will be presumed that a telecommunications company is not able to demonstrate satisfactory credit if it has a corporate debt rating or its parent or affiliated company has a corporate debt rating, according to Standard & Poor’s of BBB- or lower, or according to Moody’s of Ba or lower, with respect to any outstanding general debt obligation.

(2) **Due date.** A deposit or additional deposit requested under this rule is due and payable upon the sixth business day after written notice of the deposit requirement is mailed to the subscribing telecommunications company, or, if personal service is elected, by 5:00 p.m. of the first business day following notification. Service may be withheld or disconnected if the deposit is not timely made.

(3) **Type of deposit.** Deposits shall consist of cash, letters of credit acceptable to the telecommunications company providing service, or such other

² WITA notes that the new rule is labeled “Telecommunications resellers.” However, the language of the rule is broader, as it should be. WITA suggests that the title be rewritten.

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form of surety that the telecommunications company providing service may elect to accept.

(4) **Presumption of mailing.** If the notice described in this rule is mailed, receipt is presumed on the third business day following the date of mailing.

(5) **Application of deposit or security.** When an account of a telecommunications company is delinquent, the depositor's security may be applied by the telecommunications company providing service toward satisfaction of the past due amount before disconnection is undertaken. Written notice of such application shall be furnished to the telecommunications company receiving service. If the security or deposit is applied toward satisfaction of any past due amount, the telecommunications company providing service may require an additional deposit or security.

(6) **Additional deposit.** If the telecommunications company receiving service increases the level of service, the telecommunications company providing service may require an additional deposit such that at least an estimated two months billings are deposited with the telecommunications company providing service.

Thank you for your consideration of these comments.

Sincerely,

RICHARD A. FINNIGAN

RAF/km

cc: Terrence Stapleton
WITA Members