

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the matter of

RULEMAKING TO CONSIDER
AMENDING RULES IN WAC 480-120,
TELEPHONE COMPANIES, WAC 480-121,
REGISTRATION AND COMPETITIVE
CLASSIFICATION OF
TELECOMMUNICATIONS COMPANIES,
WAC 480-122, WASHINGTON
TELEPHONE ASSISTANCE PROGRAM,
WAC 480-123, UNIVERSAL SERVICE,
WAC 480-140, COMMISSION GENERAL –
BUDGETS, AND WAC 480-143,
COMMISSION GENERAL – TRANSFERS
OF PROPERTY DUE TO COMPETITIVE
CHANGES WITH THE
TELECOMMUNICATIONS TO MEET
CONSUMER, COMMISSION AND
INDUSTRY REQUIREMENTS NO
LONGER APPLICABLE UNDER THE
EXISTING WAC RULES

DOCKET NO. UT-140680

COMMENTS OF LEVEL 3
COMMUNICATIONS

I. Introduction

1. Level 3 Communications (“Level 3”) hereby submits its comments in this docket pursuant to the Washington Utilities and Transportation Commission’s (the “Commission”) Notice of Opportunity to Submit Written Comments on Proposed Rules issued on December 5, 2014 in respect to the adoption of proposed revisions to certain sections of the WAC.

To a large extent, Level 3 supports the changes in the WAC that the Commission is proposing in order that the WAC better addresses the competitive telecommunications landscape in Washington. However, a few of the proposed changes are either unnecessary, unduly burdensome, fail to appropriately balance the continued market power of ILECs against the legitimate needs of the competitive provider community – or a combination of all three considerations. These comments will address these few instances.

II. Section Specific Comments

2. WAC 480-120-104 – Information to consumers

As to this Section, Level 3 supports the comments made by CenturyLink in its Initial Comments in this docket, dated June 9, 2014. As reflected in Paragraph 9 of CenturyLink's Initial Comments, Level 3 also supports retention of subsection (1)(c) as it currently exists. The Commission previously determined to omit the depth of information at issue from the directory rule. This omission indicates a determination by the Commission that provision of such detailed information through other means better serves consumers. The requirement for carriers to provide more than direction to the rules of the Commission runs the risk of consumer confusion, incomplete information and inconsistent interpretation. Further, the lack of specificity as to what information needs be included in the notice would inevitably lead to a wide spectrum of compliance, potentially leading to unnecessary disputes. Rather, as CenturyLink has suggested, a clearer, consistent approach for all carriers would be specific reference to the Commission's website for additional information.

3. WAC 480-120-258 – Collocation

Contrary to CenturyLink's recommendation to delete the collocation rules, Level 3 agrees with the determination to retain them in their current form. While collocation disputes have diminished over the years, the right to collocation and the manner in which this right is addressed is still a critical element of many competitive providers' services. As the transition from copper/TDM to IP/fiber takes place, the need for collocation is not going to end abruptly - if ever. A declaration that all is well – and will be forever– in this changing landscape is premature. If, as CenturyLink argues, there is no more need for the rules due to lack of disputes, then it is hard to see what harm retaining them presents. Deleting the rule, on the other hand, would both disrupt the status quo upon which the competitive community relies, but at the same time cause unintended, unanticipated consequences.

4. WAC 480-120-411 – Network Maintenance

The proposed additional language in this Section requires that companies must retain a “reasonable inventory of portable generators to maintain peripheral electronic equipment that is not connected to standby generation”. While the language proposed provides examples of the type of peripheral equipment that the stand by generators need to serve, such examples provide little clarity as to the full spectrum of peripheral equipment contemplated. The Commission would be well served to better clarify that such peripheral equipment is equipment as is located in the collocation space and is necessary for the maintenance of network transmission and integrity.

Additionally, guidance that is more specific should be provided as to what constitutes “a reasonable inventory” of portable generators. Without such guidance, companies will be in the position of somewhat guessing at the level of compliance necessary, in turn inevitably leading to situations of either under or over investment in portable generators. Under investment will not successfully address the Commission’s concerns regarding uninterrupted service, and over investment wastes capital that otherwise could be allocated to expanding and/or enhancing service in Washington.

5. WAC 480-120-439 – Service quality performance reports

Level 3 agrees with much of what CenturyLink reflects in Attachment A to its initial comments in this docket. However, it should be pointed out that a 3 year record retention requirement for “all records that would be relevant” would inevitably require carriers to keep all of its records for the 3 year period. The reason is simple. Since it is impossible to determine in advance of a complaint or an investigation what records would be relevant to such a proceeding, caution would dictate to keep all records. While in many circumstances current business practices comply with this requirement, others are not as susceptible to compliance without considerable changes in processes and/or additional investment in retention resources.

A prime example of the foregoing exists in the area of trouble tickets. For many carriers, once a trouble ticket is resolved to the satisfaction of the customer and the carrier, the associated trouble ticket information, which may entail a specific single call or phone number, may not be retained for a 3 year period. Since this information might ultimately be involved in an “investigation”, albeit remotely, carriers would now have to expend the

resources for the entire three year period – for little to no benefit of the carrier or the Commission.

Level 3 recommends that the proposed language be amended slightly to provide that the records to be retained would be “all records that the company reasonably determines would be relevant, in the case of a complaint or investigation,” (underlined language is the suggested change to the rule proposal in this context). The proposed modification will allow carriers to make prudent judgments as to the records to be retained thereby avoiding unnecessary expenses for records that only remotely and/or hypothetically have relevance.

III. General Comment

6. Wholesale Service

Level 3 is concerned that ILECs subject to 251(c) of the Communications Act will deteriorate their wholesale services provided to competitors if such ILECs are no longer required to report service metrics. With the transition from copper/TDM services to IP/fiber services, ILECS may be tempted to forego the costs of maintaining service quality and investment in the wholesale services delivered to competitors.

Until a given service in a given market is truly competitive, ILECs should report their service metrics in order to inform the Commission and CLECs they are fulfilling their required wholesale responsibilities. In this way, CLECs will be able to assess whether they are being treated similarly to other competitors, and the Commission will be made aware of any activities in need of review. Faced with this scrutiny, ILECS will be deterred from deteriorating their level of wholesale service to the detriment of the competitive providers. If the deterrent is insufficient to curtail abuses, then the Commission and CLECs will have the requisite information to rectify the situation.

Conclusion

7. The Commission is right in its view that the current technical and competitive landscape recommends a revisit of the Washington rules covering telecommunications providers.

However, the truth of the matter is that competitors still labor under both the market power of the dominant ILECs in the state and the inherent incentives that ILECs have to diminish service quality to its competitors in order to provide better service to its own subscribers. In the adoption of the final rules, the Commission needs to take care to ensure that it is still ensuring that the wholesale services ILECs are obligated to provide meet the planning, timing and quality needs to the competitive community.

Submitted this 6th day of January, 2015.

Level 3 Communications, LLC

A handwritten signature in black ink, appearing to read 'R. Thayer', written over a horizontal line.

Richard E. Thayer
Associate General Counsel