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To the Commission:

On Thursday March 24, 2005, TCS participated in the Washington UTC workshop on Docket UT-041629 regarding proposed changes in rules related to WAC 480-120-450. Specifically, the rule change would require all telephone service providers (including ILECs) to access selective routers at their own expense, without reimbursement by the PSAP. Currently, the rules allow ILECs to invoice PSAPs directly for these circuits, while CLECs and wireless carriers are required to absorb these costs themselves. The following comments are submitted in response to concerns put forth by the various other participants.

The meeting commenced with a discussion of the locations of selective routers and the costs that the rule change might impose upon the LECs. This was a distraction from the relevant issue, which was about policy, not cost. CLECs and wireless carriers, most of whom have fewer resources than the ILECs, already endure the cost of paying for their own circuits, so the expense is obviously not crippling. In fact, the cost to the ILECs of absorbing this expense is less than the costs to the CLECs and wireless carriers who already bear this burden. CLECs and wireless carriers currently pay the ILEC for access to the selective routers and they receive no reimbursement from the PSAPs. Not only is the ILEC reimbursed by the PSAP for these trunks, but their costs are lower than those of the CLECs and wireless carriers. This is due to the fact that the ILECs would be connecting their own central office via their own network to their own selective router. Any charges that they would impose upon themselves (excluding labor) would really be their own money going round and round within their own accounting system. Thus the ILECs have an unfair advantage coming and going.

Some participants argued that rather than eliminate the PSAPs' payment to the ILECs for circuits to the selective router, a better way to ensure fairness would be to allow CLECs and wireless carriers to invoice the PSAPs in the same way as the ILECs. The wireless carriers would be delighted by this alternative. Realistically, however, this idea is a non-starter given the condition of the state budget and the anti-tax mood of the voters.

Advocates of the status quo offered several arguments to support their position:

It was pointed out that PSAPs are better able to monitor and control the trunking levels under the current system than they would if the ILECs provided the access to the selective router as part of their own overhead. TCS believes that this argument is exaggerated. Wireless carriers and CLECs today coordinate with the PSAP on trunking levels and cannot order trunks

until the PSAP is satisfied with the design. It is true that some PSAPs have requested call volume data from CLECs and wireless carriers and have not received it. TCS urges our wireless carriers to provide that information upon request. Contracts and service level agreements between the PSAP and the carrier could specify the requirement to provide traffic data.

It was pointed out that some ILECs might have to purchase expensive trunks from other carriers and/or IXCs in order to reach selective routers located in areas not served by the ILEC. Wireless carriers do this with every circuit they order. It is expensive, with most of the profit going directly to the very ILECs who now complain about the obligation to pay someone else for access to the routers. Without the proposed changes to the rules, it is conceivable that ILECs could position their selective routers in locations specifically designed to increase trunking expenses of their competitors, while their own expenses would be reimbursed by the PSAPs.

There was some discussion about liability. TCS fails to see how liability is increased when the ILEC absorbs the cost of access to the selective router as opposed to PSAPs paying for that connectivity. As stated above, the PSAPs already approve the number of trunks for CLECs and wireless carriers who are presumably currently exposed to liabilities that the ILECs are not. In any event, all ILECs and CLECs and wireless carriers enjoy federal and state liability protections.

The only reasonable argument in favor of the status quo involved the fact that ILECs are regulated and are thus less flexible in their ability to raise rates to absorb the costs that the proposed rule change would impose. The fact of the matter is that competitive pressures have forced the CLECs and wireless carriers to absorb the costs of E911 in their overhead without raising rates at all. TCS suspects that the ILECs would also opt to absorb these costs rather than raise rates. Nevertheless, ILECs routinely submit tariff modifications and there should be no reason that they could not do so in this case as well.

The grass is always greener for both sides. The LECs seem to believe that they could get rich if only they were not regulated, while the CLECs and wireless carriers complain that the LECs are getting rich precisely because they are regulated and protected from the Darwinian world of capitalism. This argument is irrelevant to the rule change, however, which is intended to better serve the consumers of Washington State. TCS believes that the consumer benefits when maximized competition and innovation combine to drive down prices and increase quality. The best way to ensure this condition is to provide a level playing field for all competitors. TCS supports the proposed rule as a first step in the evolution of next generation E911 services in which today's antiquated network of selective routers and ALI databases is replaced by IP-based telephony without any regulated ILEC involvement at all.

Thank you for your interest in this issue.

Sincerely,

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