

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of Rulemaking Concerning    )  
Line Extension Tariffs                            )    Docket No. UT - 991737**

**JOINT COMMENTS OF GTE NORTHWEST INCORPORATED AND  
GTE COMMUNICATIONS CORPORATION**

## INTRODUCTION

GTE Northwest Incorporated (GTENW) and GTE Communications Corporation (GTECC) (hereinafter collectively "GTE") submit their comments on the revised proposed rules in this docket. Per our conversation with Bob Shirley, GTE was unable to file comments on the date requested by the Commission, due to the absence of key company personnel. GTE appreciates the cooperation of the Commission's Staff in accepting these late-filed comments for inclusion in the Staff's report to the Commission for its April 12, 2000 public meeting. As it happens, subsequent to submission of comments by other parties, Staff has issued revised proposed rules containing several changes and clarifications. GTE's comments address the Staff's revised proposed rules.

GTE agrees with the Commission, its Staff, commenting parties and the members of the public who have participated in this docket that extending facilities to unserved locations is an important public issue, and GTE supports its resolution as part of an overall reform of the means by which Universal Service is achieved and maintained in this state. While GTE urges the Commission to take a comprehensive approach to these issues -- bringing together "obligation to serve," eligible telecommunications carrier designations for unfilled unserved areas<sup>1</sup>, and Universal Service support refund proceedings -- it acknowledges that the currently proposed line extension tariff rules represent significant progress on critical issues such as cost recovery. In this regard, GTE very much appreciates the Commission Staff's willingness not only to listen to parties' concerns but also to act positively on several of them. Nevertheless, due to the piecemeal approach, the proposed rule begs several

key questions, including the "obligation to serve" issue under RCW 80.36.090 (e.g., who is "reasonably entitled" to service from a given company in a given situation), whether this rule would constitute a "universal service program" under RCW 80.36.610, and whether the rule complies with the various requirements of Sections 253 and 254 of the Telecommunications Act of 1996 ("the Act").

GTE believes that the proposed rules provide a foundation on which action can be taken to address line extension concerns. GTE strongly agrees, however, with WITA and U S WEST that the Commission may not lawfully use a rulemaking to achieve the desired result by mandating that companies change their present tariff rates, terms and conditions. GTE agrees with WITA that the Commission can and should address the matter by means of an Interpretative and Policy Statement.

### **PROPOSED RULE (1) -- EXTENSION OF SERVICE**

The proposed language is not sufficiently clear as to what services are covered. Based on the last sentence in (1)(A), GTE presumes that Staff's intent is to cover basic local exchange service.

The Commission should address the fact that non-ILEC providers of basic local service (i.e., competitive local exchange carriers or "CLECs") may not file exchange maps, making it impossible to distinguish between the "unfiled unserved" and "in-franchise unserved"

situations discussed in footnote 1, above. This is one reason that these issues need to be addressed as part of a comprehensive Universal Service support reform effort. In addition, the distinction between facilities-based carriers and resellers must be taken into account. Any line extension rule should apply only to facilities-based carriers that have been designated as an eligible telecommunications carrier ("ELTEL") because the line extension rule as currently drafted would only apply to basic local exchange service.

GTE agrees with other commenters that reliance on "urban growth area" boundaries is inappropriate. Staff's revision to add "base rate areas", however, would not resolve the issue for GTENW, as it no longer utilizes "base rate areas" in its local service pricing. In any event, no reference should be made to such a line on a map.<sup>1</sup> Only the exchange boundary is relevant, for the reasons described above. Line extension duties and charges should simply apply to line extension situations within exchange areas, i.e., situations where the provider's network would need to be extended in order to service the applicant.

Service extensions should not be defined solely in terms of "distribution plant," since feeder plant and other facilities may be involved.

GTE agrees with Sprint that any service extension duty should be limited to

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<sup>1</sup> Moreover, the proposed rules use of an urban growth area or base rate area boundary criterion creates an ambiguity with regard to the company's duty. Need it only make service extensions beyond those lines and not inside them?

"permanent" premises - premises where it is likely that the applicant or successors will subscribe to the company's service for the long term. Thus, GTE supports Staff's new Section (B) which provides additional language to address this concern.

In Section (C), the use of "distribution plant" should be replaced by "its own network facilities".

The reference to "tariff" should be replaced by "tariff or price list."

GTE agrees with other commenters that the qualifiers "actual direct" and "direct" should not be used in this subsection, as the definition of the "costs" the company may recover are handled elsewhere.

So long as the use of a wireless provider is optional with the local exchange carrier, GTE does not object to this portion of the proposed rule.

#### **PROPOSED RULE (2) -- SERVICE EXTENSION CHARGE TO APPLICANTS**

The references to "basic monthly service rate" should be changed to "the monthly rate for basic flat-rated local exchange service, for the applicant's customer class." This clarifies that the fixed component of the measured local service rate structure would not be used and that the residence or business rate will be used, according to the class of

service provided.

GTE agrees with Staff revision in the rule to clarify that the service drop costs are to be born by the applicant.

With regard to the initial charge, the Commission should consider a multiple higher than 20 times. GTE understands that Staff chose this figure based on public input at field hearings on the issue of what would-be customers could afford. GTE urges the Commission to determine whether Washington Telephone Assistance Plan support can be used to help defray line extension charges. GTE is aware that the Commission's current rule excludes line extension charges, but the authorizing statute does not appear to require such limitations. See WAC 480-122-010(8); RCW 80/36.410 to -.475. The more realistic the initial and monthly charges are, the less likely that resorting to the terminating access charge will be necessary.

The staff proposal that line extension charges should apply to any applicant requesting service in an area where the line extension is less than five years old measured from the date of the initial service should be eliminated. Under proposed rule (3) Cost Recovery for Extensions of Service, a company with a universal service terminating access tariff may file a tariff to increase the universal service element in an amount necessary to recover the cost of an extension of service. In the absence of a state universal service fund, GTE appreciates this creative cost recovery solution the Commission has proposed. Cost

recovery via a tariff mechanism permits companies required to provide service under these rules to recover line extension costs. Of course, the universal service tariff rate would be calculated net of the estimated cost recovery from applicants. However, it would be administratively burdensome and as a practical matter nearly impossible to keep track of the completion date of line extension projects and when and where new applicants are applying for service.

Public Counsel's Comments propose that an ILEC not recover costs in excess of the costs recovered from applicants until five years after the line extension is first placed in service. This inappropriately ensures that companies bear the cost of a given line extension for a five year period. Further, Public Counsel posits that any other method that does not wait five years will inevitably result in overcompensation to the companies. Public Counsel alleges it is reasonable for companies to carry the cost of a given line extension for five years, since under staff's proposed language, recovering costs from new applicants who directly benefit from a given line extension will require the company to maintain a separate accounting record for the line extension for five years. Public Counsel has well pointed out exactly the type of the administrative problem with staff's proposed language. Most important however, is that in a competitive telecommunications environment it is not reasonable to expect any company to carry costs for five years before allowing recovery.

The provision contained in Section 2(B)(i) and Section 2(B)(ii) regarding urban growth

areas should be deleted, for the reasons discussed above.

Again, GTE supports the deletion of "direct" and simply speaking of "cost." However, the definition of cost should be deleted from this subsection; this definition should be handled in a separate subsection. In addition, it should not exclude costs for reinforcement of the network or network upgrades that are required to provide service.

### **PROPOSED RULE (3) -- COST RECOVERY FOR EXTENSIONS OF SERVICE**

GTE supports Staff's replacement of the term "direct cost" with a more straightforward approach. That is, the "cost" to be recovered under this rule is simply the cost caused by the service extension request. However, in no case should the rule exclude the costs of "reinforcement" if that is meant to preclude recovery of costs to add facilities all the way back to the central office, as discussed by U S WEST.

GTE agrees that it is appropriate to deduct any other funding that is targeting directly to a given line extension project -- such as from a future state Universal Service Fund.

GTE agrees with WITA that there is no need to include the phrase "and in the public interest" here; it should be deleted.

GTE also agrees with the timing concern voiced by WITA. A company may be at risk of substantial expenditures if approval of the tariff does not occur until after all permits are received.

#### **PROPOSED RULE (4) -- EXTENSION OF SERVICE TO NEIGHBORING EXCHANGE FACILITIES**

Staff's revision to this section clarifies that this rule is meant to provide an option that is voluntary on the part of both companies. GTE suggests that there is no need to set it forth in a rule and it should be deleted. If any such situations arise, the involved companies should have the flexibility to deal with them on an individual basis, making any necessary contract, tariff or other filings with the Commission at the time. If, as GTE recommends, the Commission uses an Interpretive and Policy Statement approach rather than a rule, the Commission should express its encouragement of such arrangements and generally set forth the type of cost recovery mechanisms it will approve.

#### **PROPOSED RULE (5) -- EXTENSIONS TO DEVELOPMENTS**

This section should be reworded as the basic thrust of this section is that no recovery of line extension costs for developments with four or more residential lots and all commercial developments should be from increases to the terminating access rate. As other commenters have noted, a carrier may want to take a different approach in a given situation. Moreover, the tariffs cannot be modified to regulate the building activities of developers as would be required by the proposed rule.

Again, it is not clear that the Commission can create the cause of action against developers contemplated by this section. Disputes as to who should order and pay for

service extensions should be left to property owners and developers. Carriers should be able to recover line extension charges from whoever applies for the service extension.

The language in the proposed rule that excludes recovery of the cost of service extensions to development boundaries must be modified. If there is a significant distance between facilities and the development boundaries then the costs could be extensive and recovery should be allowed.

### CONCLUSION

GTE appreciates the Commission Staff's willingness not only to listen to parties' concerns but also to act positively on several of them. GTE acknowledges that the currently proposed line extension tariff rules represent significant progress on critical issues such as cost recovery. GTE agrees with WITA and U S WEST that the Commission may not lawfully use a rulemaking to achieve the desired result by mandating that companies change their present tariff rates, terms and conditions. GTE agrees with WITA that the Commission can and should address the matter by means of an Interpretative and Policy Statement. GTE looks forward to working on this issue as this docket moves forward.

<sup>1</sup> "Unfiled unserved" areas refers to areas that are outside of incumbent local exchange carrier exchanges as established by maps filed with the Commission. Such areas are addressed by proceedings such as the Commission's current dockets UT-991930, UT-991931, and UT-993000. This rulemaking, on the other hand, applies to "in-franchise unserved" areas; i.e. areas inside the filed exchange boundaries. GTE agrees with U S WEST's comments on the legal necessity of so limiting any line extension rule.