

July 15, 2005

NOTICE OF WITHDRAWAL OF RULEMAKING INQUIRY

RE: *Rulemaking to amend WAC 480-120-450, Enhanced 9-1-1 (E911) obligations of local exchange companies, or adopt additional rules to address the allocation of E911 implementation costs, Docket No. UT-041629*

TO INTERESTED PERSONS:

On November 12, 2004, the Washington Utilities and Transportation Commission filed a Preproposal Statement of Inquiry (CR-101) in this docket with the Code Reviser. The CR-101 is published at WSR # 04-23-051. The purpose of this rulemaking inquiry was to consider amendment of WAC 480-120-450 to establish who should be responsible for the costs of connecting each local exchange company switch to the E911 network. Currently, Public Safety Answering Points (PSAPs) use E911 tax funds to reimburse only incumbent local exchange companies (ILECs) for their costs in providing transport between ILEC switches and the PSAP Selective Router. The Selective Router routes E911 calls and customer location data to the PSAP. An issue central to the rulemaking inquiry was whether PSAPs should discontinue reimbursing ILECs for transport and require each company to assume the cost of transporting customer calls and data to the Selective Router.

The Commission appreciates the stakeholders' participation in this rulemaking inquiry, and is conscious of the importance of an efficiently run E911 system to the citizens of the state of Washington. Stakeholders provided two rounds of written comments and participated in a March 2005 workshop. The comments provided a wide spectrum of views on the appropriate allocation of costs to connect ILECs to the E911 network. Comments also demonstrated the complexity of the network and the challenges associated with making E911 work.

Based on the information received from stakeholders, the Commission has decided not to proceed with the E911 rulemaking, and has notified the Code Reviser of the withdrawal of this rulemaking inquiry. In reaching this determination the Commission considered many factors, including:

- The impact of any change in cost allocation on large and small incumbent carriers.
- The possible loss of service quality if the transport facilities required to bring calls from local exchange switches to the E911 Selective Router become the sole responsibility of carriers.
- Increases in cost of transport to Selective Routers, the gateways to the E911 system, due to their location farther from the ILECs' switches.
- Anticipated changes in billing procedures that will allow the state Emergency Management Division (EMD) to bill ILECs on behalf of small PSAPs, and thus provide EMD more accurate information on how PSAPs use E911 funds.
- ILECs' costs for E911 transport are covered by the statewide E911 excise tax imposed on all end-use customers, while competitive local exchange carriers (CLECs) and wireless carriers recover these costs from their end-use customers.
- Significant network design changes, including the recent installation of dual 911 Tandems to improve transport of customer location data to PSAPs statewide, may impact E911 costs and operations.
- Uncertainty surrounding connectivity costs and network allocations with the emergence of new technologies, such as wireless telephony and Voice Over Internet Protocol (VOIP) telephony, that require connection to the E911 system.
- CLECs and wireless carriers bear the costs of transporting E911 calls to Selective Routers without recovering those costs from PSAPs. CLECs have never sought recovery of transport costs, and the question of whether CLECs are entitled to recover such costs has not come before the Commission.

In light of these factors, the Commission concludes that a legislative solution to the cost recovery issue would be more appropriate than a rule amendment at this time. The Commission would be receptive to future petitions for rulemaking on this subject as clarity about new telephony services evolves.

Sincerely,

CAROLE J. WASHBURN
Executive Secretary