

Agenda Date: September 10, 2003
Item Number: A2

Docket: UT-030273

Subject: Petition for Exemption from WAC 480-120-253(5)(a) and (c)

Staff: Sharyn Bate, Telecommunications Regulatory Analyst
Glenn Blackmon, Assistant Director, Telecommunications

Recommendation:

Grant the request of Qwest Corporation for a temporary exemption of WAC 480-120-253(5)(c), with respect to an automatic dialing-announcing device (ADAD) dialing unlisted numbers and limiting the exemption to six specific programs until October 1, 2004, and deny the request for an exemption from WAC 480-120-253(5)(a), with respect to identifying the calling party and the callback number.

Discussion:

On February 26, 2003, Qwest Corporation (Qwest) filed with the Commission a petition requesting exemption from WAC 480-120-253(5)(a) and (c).

WAC 480-120-253(5)(a) requires that, except for emergency notification, an automatic dialing-announcing device (ADAD) may be used for calls to telephone customers within the state only if the recorded message states the nature of the call, identifies the individual, business, group, or organization for whom the call is being made, and telephone number to which a return call can be placed. WAC 480-120-253(5)(c) requires that the ADAD, with some exceptions, does not dial unlisted telephone numbers. Qwest requests in its petition a permanent exemption from these requirements.

In discussions with Commission staff, Qwest clarified that it is seeking an exemption to the prohibition on calling unlisted numbers, WAC 480-120-253(5)(c). The exemption would apply to six specifically enumerated and described programs. The six programs are VMS Mailbox Set Up, Working Left In (WLI), Enhanced Call Back (ECB), provisioning pre- and post-installations, repair pre- and post-call, and Voice Reach. Qwest seeks the exemption because it would likely be cost prohibitive to attempt to provide these additional services to customers manually through the use of live calls. Attachment A identifies the programs and the potential cost to the company.

Qwest requests an exemption to the requirement that the user of the ADAD identify the calling party and provide a specific return number, WAC 480-120-253(5)(a). This exemption would apply to just

one program, Project Enhanced Call Back. This program would place ADAD calls to both its customers and affected customers of competitive local exchange carriers (CLECs) following repair of a cable cut. Qwest believes that CLECs would prefer that such customer service calls not be branded as Qwest calls. Qwest proposes to generically refer to the caller as "telephone repair" and not to provide a specific return phone number. Instead, recipients of the calls would be instructed to follow up, if need be, with their service provider regarding any problems stemming from the cable cut incident.

The requirement in WAC 480-120-253(5)(a) that ADAD users identify themselves and their callback number is an important protection for the consumers who receive these calls. Even if the call is made in good faith and provides information that would appear to be useful to the called party, the need for caller identification remains. Qwest would have the called party call their telephone company with any questions, but the company that then receives those calls might not know anything about the source of the ADAD call or the information that was being provided in that call. There is no evidence of any actual concern among competitors about having Qwest identify itself when it notifies other companies' customers of a service restoration. Therefore, Staff recommends the Commission deny the petition for exemption of this requirement.

The petition raises legitimate concerns about the intent and application of the provision in WAC 480-120-253(c) prohibiting the used of ADADs to call unlisted numbers. This prohibition has existed for many years, and no stakeholder raised a concern about it when the rule was reviewed in 2002. Nonetheless, the term "unlisted" is not defined and has become more difficult to interpret as the number of competitive and wireless companies has increased. This prohibition applies to anyone who would use an ADAD, even those with an existing relationship with the called party, and the prohibition cannot be waived by the called party. In addition to business use of ADADs, there may be many non-commercial applications, such as by schools and libraries, which include calls to unlisted patrons with unlisted numbers. This portion of the rule deserves further consideration. In the meantime, Staff recommends the Commission grant a temporary exemption to Qwest for the six specific programs it has identified until October 1, 2004.

Conclusion

Staff recommends that the Commission direct the Secretary to file an order granting Qwest Corporation a temporary exemption of WAC 480-120-253(5)(c), with respect to an automatic dialing-announcing device (ADAD) dialing unlisted numbers and limiting the exemption to the six specific programs until October 1, 2004, and denying an exemption from WAC 480-120-253(5)(a), with respect to identifying the calling party and the callback number.

Docket UT-030273
September 10, 2003
Page 3

Attachments