

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In Re the Matter of the Rulemaking
Proceeding - Cessation of
Telecommunications Services -
WAC 480-120-083**

DOCKET NO. UT-010558

**COMMENTS OF VERIZON NORTHWEST INC. AND
VERIZON SELECT SERVICES INC.**

October 5, 2001

I. INTRODUCTION

Verizon Northwest Inc. and Verizon Select Services Inc. ("Verizon") submit these comments on the proposed rule referenced in the Commission's September 5, 2001 notification in this matter.¹

The proposed rule is significantly broader than the current rule, which the Commission adopted to address carriers' discontinuance of basic local services and some private line services in order "to preserve . . . telecommunications access to emergency services through the state's 911 program."² The proposed rule goes too far in some respects, requiring needless expense and effort by the affected carriers. This is especially the case for toll and other non-basic local services. Neither the Commission's Notice nor the proposed rules themselves describe a public need for these broad new regulatory burdens.

The proposed rule would be counter-productive for Washington. Excessive market exit regulations impede market entry. The proposed rule should be revised to target basic local services, and the unnecessary and duplicative requirements should be deleted.

II. COMMENTS

Excessive Market Exit Regulations Impede Market Entry

The proposed rule is inconsistent with the 1996 Telecommunications Act's pro-competitive and de-regulatory policies and objectives. As the FCC has recognized,

¹ Opportunity to Submit Written Comments on Proposed Rules; Notice of Proposed Rule Adoption Hearing ("Notice").

² General Order No. R-490, paragraph 5 (9/7/01).

excessive market-exit regulations work against the development of competition and new market entrants. For this reason, two years ago the FCC streamlined its Exit Certification rules. The FCC noted that carriers “assume a certain amount of risk in entering a new market and that, if there are significant barriers to exit, a carrier may be reluctant to assume these risks and may choose not to enter the market.”³ Accordingly, the FCC modified its discontinuance rules for domestic carriers to reduce regulatory exit burdens and advance Congress’ pro-competitive and de-regulatory policies. The Washington Commission should take the same approach.

The Rule Should Remain Targeted to Basic Local Services

As the Commission Staff’s previous reports made clear, this docket was opened in response to some competitive *local exchange* carriers (“CLECs”) ceasing - - or threatening to cease - - operations in Washington. The current rule is appropriately targeted to *local exchange services*. The proposed rule, however, applies to “any telecommunications service.” This includes *interexchange* services (i.e., “toll” or “long distance”) and non-basic local service features such as call waiting and three-way calling and caller identification.⁴ While Verizon supports the business practice of notifying customers when a given service is being discontinued, the notification requirements of the proposed rule are plainly justified only as to basic local exchange services and private line services that impact 911 service. The scope of the proposed rule should be narrowed accordingly in subsection (1).

³ REPORT AND ORDER in CC Docket No. 97-11, SECOND MEMORANDUM OPINION AND ORDER in AAD File No. 98-43 (Exit Certification Order), May 18, 1999, at 26.

⁴ Verizon supports the three exceptions stated in subsection (1) of the proposed rule.

With particular regard to long distance services, the Commission knows that interexchange carriers ("IXCs") and toll resellers have been entering and exiting the Washington market in large numbers for years without major problems or public outcry. Since there is no problem to be rectified, the proposed rule should exempt interexchange services.

At a minimum, the proposed rule should exempt carriers that are providing customers a notice under the Federal Communications Commission's ("FCC") rules⁵ that covers both interstate and intrastate interexchange services. As a practical matter, when an IXC or reseller ceases operation in a state it discontinues both its interstate and intrastate toll services. It would serve no purpose to burden carriers with a duplicative state requirement, and it would likely cause customer confusion.

In any case, proposed subsection (2)(e) should not apply to toll resellers, as their contracts with their underlying carriers specify what notice the reseller must give to the supplier before it discontinues using its services.

Neither should long distance service providers be required - - under subsections (2)(a) and (3) - - to provide the Commission with customer counts at the city or county level. These companies simply do not keep records in a way that makes such information readily available, if it is available at all. Moreover, there is no apparent use to which the Commission would put the information.

The Extra "Oral Notice" Requirement Should be Deleted

Subsection (4)(a) of the proposed rule would require that the company interrupt each call with an "oral notice" of the date on which the service will be discontinued and

⁵ 47 C.F.R. 63.71

a telephone number to call for more information. This burden should not be imposed. It was apparently simply taken out of context and copied by Staff from the Commission's prepaid calling card rule [WAC 480-120-052(10)(c)] without any factual basis for adding it to this rule.

Resellers of local or long distance service would likely rely on their respective facilities-based providers to provide the network functionality for them to comply with the oral notification requirements. Verizon Northwest's local switches do not have the network functionality to provide the oral notice on a customer line that is still in service. In fact, to Verizon's knowledge, that application is not available from the switch manufacturers. In addition, Verizon confirmed that certain long distance facilities-based providers are in the same position as Verizon Northwest.

The cost to comply with the oral notification section of the rules would be exorbitant since the functionality would require specialized switch manufacturer software development, installation and maintenance only for Washington. Verizon is not aware of any other state with such a requirement.

The companies would already have given each customer written notice of the upcoming service termination. There is no reason for the companies to bear the costs or the customers to endure the inconvenience of the proposed interruption of their calls.

"Or reduce" Should Be Deleted from the Rule

The proposed rule uses the phrase "cease, or reduce any telecommunications service." The Commission Staff advises that it means to cover partial discontinuance of a service (e.g., in one part of the state) and notes that the term "reduce" is used in the FCC's rule.

The term "reduce" is used in the FCC's rule, but it is defined in the rule and the definition is largely arcane and not targeted to the simple situation with which Staff is concerned.⁶ A phrase such as "cease, in all or any portion of the state, the provision of . . ." would be more to the point.

III. CONCLUSION

Verizon supports a rule that addresses the emergency service concerns unique to basic local service. There is no justification, however, for imposing new and costly regulatory burdens beyond that subject. The proposed rule is too broad, in that it would also cover long distance and other non-basic local services. Additionally, it would mandate unnecessary duplicate and costly notifications. The rule should be revised to remove these costly and unnecessary burdens.

⁶ 47 C.F.R. 63.60(a). Note that the FCC's rules also require carriers to give notice to state commissions prior to cessation of service. 47 C.F.R. 63.71(a).