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VIA E-MAIL, FACSIMILE & FIRST CLASS MAIL

Carole Washburn
Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Drive SW
Olympia, WA 98504-7250

**RE DSHS Petition to Increase the WTAP Client Co-Payment
WUTC Docket UT-031033**

Dear Ms. Washburn:

Public Counsel submits these comments in response to the Commission's June 27, 2003 Notice of Opportunity to Comment in this docket. Public Counsel is a strong supporter of an effective and healthy Washington Telephone Assistance Program (WTAP). The petition filed by the Department of Social and Health Services (DSHS) to increase the monthly WTAP rate from its current level of \$4 to \$9 would have a significant impact on low income customers. While we recognize the importance of ensuring the health of the WTAP fund, we believe every effort must be taken to minimize the burden placed on low income customers. Public Counsel has begun to analyze the DSHS petition, but we have several questions regarding many of the assumptions and budget estimates included in the proposal. To that end, on July 2, 2003 we sent a list of questions to DSHS in order to facilitate our understanding of their petition. Commission Staff have posed several questions to DSHS as well. Public Counsel looks forward to reviewing DSHS' responses to these questions so that we may better understand the petition.

At this time, Public Counsel respectfully requests that the Commission deny the DSHS petition as filed in its current form, and request that DSHS modify their petition in two major respects. First, we recommend that DSHS modify their petition to include a one-cent increase to the monthly WTAP excise tax assessed on switched access lines. Second, we believe that several of the assumptions and estimates included in the proposal should be further reviewed and possibly modified. While it may still be necessary to increase the amount of the WTAP monthly client co-payment, it is our hope that as a result of these modifications the size of the increase will be much less than the \$5 increase currently proposed by DSHS.

The burden of restoring the health of the WTAP Fund should not be placed solely on low income customers

According to RCW 80.36.430, the WTAP excise tax shall not exceed fourteen cents per month. WAC 480-122-060 provides that the Commission shall establish the excise tax rate "by order at the request of the department [DSHS]." The WTAP excise tax has been set at 13 cents per month since 1992. Public Counsel recommends a one-cent increase in the monthly excise tax, which DSHS estimates would result in approximately \$400,000 in additional annual revenues for the WTAP fund. (DSHS petition at p. 3). A one-cent increase would impose a very minimal additional burden on residential and business customers. In contrast, such a small increase could result in an approximately 50-cent reduction in the amount by which the client co-payment must be increased. We believe that the benefits of the one-cent excise tax increase far outweigh the additional burden imposed on ratepayers. We strongly encourage DSHS to modify their petition to the Commission to include a request for the one-cent increase allowed by RCW 80.36.430.

Some of the projected expenditures in the DSHS petition may be overstated

As we mentioned previously, Public Counsel has submitted a list of questions to DSHS, seeking clarification and further information about several of the assumptions and budget estimates included in the petition. Some of the assumptions upon which we seek further clarification include the following:

- *WTAP participation levels are unlikely to rise at assumed levels unless carriers are required to enhance their outreach efforts.* One of the areas in which Public Counsel is seeking clarification from DSHS relates to assumptions regarding estimated WTAP participation levels for State Fiscal Year (SFY) 2004. Since the DSHS petition did not include historical participation data or projected participation levels, we were unable to determine exactly how DSHS calculated their assumed growth rate. Table A to the petition indicates that with respect to estimated WTAP fund expenses associated with the monthly rate discount (SC300), DSHS assumed that participation levels would rise each month "using SFY 2003 growth pattern per month." (Table A, note 2). It appears that DSHS has assumed that Qwest will enroll an additional 2,100 WTAP customers each month, for a total projected annual increase of over 23,000 new WTAP customers during SFY 2004. In comparison, during SFY 2002 WTAP participation levels in the monthly rate discount increased by 12,880 for all carriers. (DSHS Report to the Legislature on Year 15 of Program Operation: July 1, 2001 through June 30, 2002, December 2002, at p. 7).

To the extent DSHS assumes WTAP participation levels will increase in FY 2004 at the same pace that it increased in 2003, we believe that assumption is misguided. First, during FY 2003, community action agencies and other community-based consumer advocacy organizations conducted outreach to raise awareness of WTAP and facilitate

enrollment. Our understanding is that these agencies, such as Spokane Neighborhood Action Programs (SNAP) and Senior Services of Seattle-King County, are now downsizing their programs and laying off staff, which should contribute to slower growth in WTAP enrollment. Second, the “high-cost” carriers such as TelWest and Vilaire engaged in aggressive marketing efforts and fairly quickly they enrolled over 10,000 customers for phone service at the WTAP rate. In some respects these carriers capitalized on the fact that the major incumbent carriers have done little outreach aside from bill inserts. By using targeted marketing efforts, including television and radio advertisements, these carriers were able to sign up customers who may otherwise have been able to sign up with Qwest or Verizon had they known about WTAP and other rights afforded them under the Commission’s consumer rules. In light of DSHS’ new emergency rule, and the waiver petitions these carriers have filed with the WUTC, it appears highly uncertain whether these carriers will remain in the residential market, and even if they do, whether they will continue to market to WTAP eligible customers.

- *Projected expenses for connection fee reimbursement appear to be high.* In addition to the monthly rate discount, WTAP provides a 50% discount on connection fees. The federal Link-Up program provides a matching 50% discount. For example, a Qwest WTAP customer should receive a full waiver of the \$31 connection fee, with the WTAP fund providing \$15.50 reimbursement to Qwest, and the Link-Up program providing Qwest with the remaining \$15.50. Public Counsel is seeking clarification from DSHS regarding the \$523,200 the department has estimated for connection fee expenditures for Vilaire and TelWest. Table A of the petition includes estimated payments of \$403,200 to Vilaire and \$120,000 to TelWest for connection fees (SC200) during SFY 2004. If reimbursement is assumed to be \$22 per client (the maximum amount allowed under the new emergency rule, WAC 388-273-0035), this seems to suggest that DSHS assumes that Vilaire will have approximately 18,327 new WTAP customers and TelWest will have 5,454 new WTAP customers in SFY 2004. However, page three of the petition states “No caseload growth was assumed for the four high cost companies that were affected by the June 1, 2003 subsidy rate change.” Given that these carriers may withdraw from the Washington residential phone market, these budget estimates seem inappropriately high.
- *Projected expenses for telephone company administrative costs appear to be high.* Table A of the petition includes an estimate that total telephone company administration costs will be \$225,024 during SFY 2004, which represents a 96% increase from the \$114,915 in telephone company administration costs during SFY 2002. Qwest’s administration costs are estimated to increase by 50% from their SFY 2002 levels (\$94,572) to \$144,000 in SFY 2004. Table A shows an estimate of TelWest administrative costs of \$54,000 for SFY 2004. Since Table A appears to assume that TelWest will have 6,750 WTAP customers during SFY 2004 ($\$7,898 \div \$1.17 \text{ reimbursement} = 6,750$), this translates to an administrative cost of \$8 per WTAP customer—a level that far exceeds the amount carriers have typically

billed to the WTAP fund. We question whether this level of administrative costs will be considered reasonable and consistent with WTAP statutes and administrative rules.

Conclusion

For the foregoing reasons, Public Counsel respectfully requests that the Commission deny the DSHS petition as filed June 25, 2003 and request that DSHS modify the petition to include a one-cent increase to the excise tax, as allowed under RCW 80.36.430, and modifications to budget estimates as necessary. Once DSHS is able to provide responses to questions posed by Commission Staff, Public Counsel, and other stakeholders, we will have an opportunity to conduct further analysis. At that point we will be in a position to provide a specific recommendation regarding whether the WTAP client co-payment amount should be increased and if so, by how much. Again, Public Counsel strongly supports an effective and healthy WTAP and we want the WTAP fund to remain healthy. We look forward to working with DSHS, Commission Staff, the Consumers Utility Alliance and other stakeholders to resolve these issues and provide for a sustainable WTAP program.

Mary Kimball of our office plans to attend the Commission's July 9, 2003 open meeting should you have any questions regarding these comments.

Sincerely,

Mary M. Kimball
Analyst, Public Counsel Section

MMK:cjw

CC: Phyllis Lowe, Acting Assistant Secretary, DSHS
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