

Agenda Date: November 16, 2001
Item Number:

Docket No.: UT-010558, Cessation of Telecommunications Services

Staff: Kristen Russell, Policy Specialist
Dave Dittmore, Telecommunications Engineer
Marjorie Schaer, Administrative Law Judge
Tani Thurston, Consumer Affairs Specialist
Greg Trautman, Assistant Attorney General
Dave Griffith, Telecommunications Policy Specialist

Recommendation:

Staff recommends that the Commission direct the Staff to prepare a Rule Adoption Order for Commissioner's review to adopt WAC 480-120-083 as set out in Attachment A to this memo.

Background and Process:

On May 10, 2001, the Commission adopted WAC 480-120-083 – Notice of Cessation of Certain Telecommunications Services - on an emergency basis. This was in response to a growing number of business failures and the effect of companies' departures on stranded customers. On September 7, 2001, the Commission adopted an identical emergency rule in order to have a cessation of services rule in effect until a permanent rule is adopted. The two emergency rules deal primarily with the cessation of local services typically used to access 911. The proposed permanent rule addresses cessation of all or any telecommunications services, as well as the cessation of telecommunications services in certain geographical areas in the state.

On June 6, 2001, the Commission filed a CR-101 to begin the process of exploring whether it should adopt a permanent rule governing cessation of telecommunications service. The Commission held a workshop on June 28, 2001, for interested parties to discuss potential changes to the rule. Commission Staff prepared and sent out a Small Business Economic Impact Statement (SBEIS) questionnaire and analyzed the responses.

On September 5, 2001, the Commission filed a notice of proposed rulemaking (CR-102) with the Office of the Code Reviser, along with the SBEIS analysis, and requested comments on the proposed rule language. The Commission has received comments from the following stakeholders:

Public Counsel,
Qwest Corporation,
Verizon Northwest Inc.,
Sprint Communications, Inc., and
Julie Stormes

Issues:

1. Verizon and Qwest voiced concerns that the draft language was unclear or issues were not addressed, in particular subsections (1) and (2) use the term “reduce” which is used in the FCC’s rules but is “largely arcane”, and the apparent 30 day notice requirements for the cessation of services that have no subscribers.

- Staff has modified language in subsections (1) and (2) to more clearly address the situation in which a carrier ceases service in any portion of the state. In addition, subsection (1)(d) has been added which specifies that the rule does not apply to discontinued services that have no subscribers.

2. Public Counsel would like the rule to contain the Commission’s toll-free number.

- Staff believes providing the Commission’s toll-free number would not significantly benefit the customers and would, on the other hand, add to customer confusion, as shown by our experience in similar situations.

3. Verizon and Qwest believe that the rule is too broad and should be narrowed to companies completely exiting the Washington market, and then only to discontinuance of basic local service.

- Staff believes companies that plan to discontinue any telecommunications service, or exit a particular geographic area within the state, should give their affected customers 30 days notice in order to allow customers the opportunity to obtain service from another provider.

4. Verizon, Qwest, and Sprint voiced concerns with the oral notice requirement in subsection (4).

- Staff has modified the language to allow companies that are discontinuing a voice service either the oral notice option currently listed, or a new alternative option of completing one direct call to the customer. In addition, the revised draft will allow companies to provide the customer with an option to bypass future announcements.

5. Verizon voiced a concern that the rule creates excessive market exit regulations which may impede market entry, claiming that the FCC has modified its discontinuance rules to reduce regulatory exit burdens and the WUTC should as well.

- The WUTC's rule is consistent with 47 CFR § 63.71 which requires carriers to file an application for discontinuance with the FCC on or after the carriers have given notice to their affected customers. The application is normally granted on the 31st day for non-dominant carriers and on the 60th day for dominant carriers. The WUTC's draft language is requesting a minimum of 30 days notice to affected customers and the Commission.

6. Qwest also expressed concern that the rule is too restrictive in that it is limited to requirements of the same provider. If a customer selects comparable service from the same provider, no notice is required, but if a customer replaces the discontinued service with another provider's service, notice is required.

- The Commission has jurisdiction over the actions of telecommunications companies. The draft language of the rule is aimed at carriers that are permanently discontinuing a service to their customers. Staff believes that companies that plan to discontinue any telecommunications service, without replacing it with a comparable service, should give their affected customers 30 days notice in order to allow customers the opportunity to replace the discontinued service with comparable service from another provider. The rule does not apply to situations where a customer chooses to drop service with one ongoing provider and switch to a different ongoing provider.

7. Qwest voiced a concern that the prohibition on using the information included in the notice required in former section (5)(b), i.e. the circuit identification number/UNE components for marketing efforts should apply equally to CLECs and resellers.

- Staff has deleted the language in former section (5)(b). Restrictions on use of customer proprietary network information are already provided in state rule (WAC 480-120-152) and federal rule (47 CFR 64.2007), as well as federal law (Section 222 of the 1996 Telecommunications Act, as well CC Docket 96-115, and CC Docket 96-149).

8. Julie Stormes, an interested person, voiced her support for permanent adoption of WAC 480-120-083.

The companies contend that the rule is too broad because it covers all services, or it is too restrictive, that it creates unwarranted regulatory burdens, and that ILECs are singled out. Staff has modified the rule language to address some of their concerns. Staff does not consider any of these changes to be significant changes. The changes either delete requirements, clarify the rule, or provide alternative means for meeting requirements imposed in the CR-102 rule language. Staff believes that the rule is in the public interest because it allows customers time to replace a

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discontinued service or carrier, and maintain their telecommunications service. This rule attempts to strike a balance between consumer needs and company interests.

Summary:

Staff recommends that the Commission direct the Staff to prepare a Rule Adoption Order for Commissioner's review to adopt WAC 480-120-083 as set out in Attachment A to this memo.

Attachment A