

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RULEMAKING RELATED TO THE
MANDATORY DISTRIBUTION OF
WHITE PAGES DIRECTORIES BY
LOCAL EXCHANGE CARRIERS IN
WAC 480-120-251(3).

Docket No. UT-120451

CENTURYLINK'S THIRD REPLY
COMMENTS

- 1 CenturyLink hereby submits its comments on the proposed directory rule as requested in the Commission's Notice of October 31, 2012.
- 2 First, CenturyLink has some minor but important suggestions for changes in the language of the rule, to clarify that the LEC who is obligated to publish a directory is the entity that determines how that obligation is to be met. In addition, CenturyLink recommends adding language to state that the directory must be published no less frequently than once every 13 months, as in the prior rule. That language is shown in redline format in Attachment A.
- 3 Second, CenturyLink comments on the procedural issue of whether the Commission is required to issue a supplemental CR-102 prior to adopting this rule.
- 4 RCW 34.05.340 applies when there is a variance between a proposed rule and the final rule as adopted. Subsection (1) of that statute states that a supplemental notice (CR-102) must be issued when the adopted rule is "substantially different" from the proposed rule. Subsection (2) provides guidance on how to determine whether the rules are substantially different, instructing the agency to consider (a) whether persons affected by the adopted rule would have known that the published proposed rule would have affected their interests; (b) the extent to which the subject of the adopted rule differs from the subject of the published proposed rule; and, (c) the extent to which the effects of the adopted rule differ from the

effects of the published proposed rule.

- 5 Subsection (3) of the statute addresses the situation where a rule that differs in content from the proposed rule is adopted without a supplemental notice. The agency is instructed to provide a brief explanation of the difference to the code reviser, and the statute establishes a 60 day window after publication of the rule within which interested persons may petition to amend the rule.
- 6 Under the circumstances, it appears that the Commission and the interested parties would be better served by the publication of a supplemental CR-102, since the new rule is substantially different from the published proposed rule, and seems to implicate at least subsection (2)(c) as the effects of this rule are clearly different from the original rule as published. A supplemental notice does not add a significant amount of time to the rulemaking process, and creates greater certainty, earlier in the process, that the adopted rule will not be challenged under subsection (3).

Respectfully submitted this 14th day of November, 2012.

CENTURYLINK, INC.
QWEST CORPORATION

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Attachment A

WAC 480-120-251

Directory Listings

(1) Basic local exchange service includes access to directory listings comprised of the name, address, and primary telephone number for each customer that the local exchange company (LEC) serves in a local calling area unless the customer requests to exclude some or all of this information from the LEC's directory listings.

(2) A LEC ~~must ensure that~~shall determine how each of its basic local exchange service customers ~~has~~will receive access to directory listings for the customer's local calling area ~~through~~using at least one of the following means:

(a) Electronically via a document, database, or link on the LEC's website, provided that the LEC also distributes or arranges to distribute printed directory listings to all of the LEC's customers who request a printed directory; ~~and~~/or

(b) In hard copy via publishing or arranging to be published a printed telephone directory that includes the directory listings and distributing that directory to the LEC's customers, provided that a printed telephone directory shall not be distributed to any customer who requests not to receive a printed directory.

(3) A LEC must establish reasonable means for its customers to request to exclude some or all of their information from the LEC's directory listings and to request to receive, or not to receive, a printed directory.

(4) The directory listings must be updated no less frequently than once every 15 months.