

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET NO. UT-030273
)	
Qwest Corporation)	ORDER NO. 01
)	
Seeking exemption to the)	
Provisions of WAC 480-120-)	ORDER GRANTING EXEMPTION
253(5)(a) and (c) Relating to the)	FROM WAC 480-120-253(5)(c) AND
Automatic dialing-announcing)	DENYING EXEMPTION FROM
device (ADAD).)	WAC 480-120-253(5)(c)
.....)	

BACKGROUND

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

DISCUSSION

- 2 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 requested in its petition a permanent exemption from these requirements.
- 3 In discussions with Commission Staff, Qwest clarified 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.

- 4 Qwest clarified 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) 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 believed that CLECs would prefer that such customer service calls not be branded as Qwest calls. Qwest proposed 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.
- 5 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, the Commission will grant a temporary exemption to Qwest for the six specific programs it has identified. The Commission will grant the exemption until October 1, 2004.
- 6 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, the Commission denies the petition for exemption from this requirement.

7 This matter was brought before the Commission at its regularly scheduled open meeting on September 10, 2003. The Commissioners, having determined this Order to be consistent with the public interest enters the following Order.

FINDINGS

- 8 (1) Qwest Corporation is a public service company subject to the jurisdiction of this Commission under the provision(s) of Chapter 80.36 RCW.
- 9 (2) The exemption, with respect to ADAD calling to unlisted numbers and limited to the six specific programs until October 1, 2004, is consistent with the public interest and should therefore be granted.
- 10 (3) The exemption, with respect to identifying the calling party and the callback number, is not consistent with the public interest and is denied.

ORDER

11 After the effective date of this Order, Qwest Corporation is granted, with respect to ADAD calling to unlisted numbers and limited to the six specific programs identified in the body of this Order, an exemption from WAC 480-120-253(5)(c) until October 1, 2004. Qwest Corporation's request for an exemption from WAC 480-120-253(5)(a) is denied, with respect to identifying the calling party and the callback number.

DATED at Olympia, Washington, and effective this 10th day of September, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

PATRICK J. OSHIE, Commissioner