

May 12, 2000

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Docket No. UT-990146 – Supplemental Comments

Dear Ms. Washburn:

This letter will constitute the supplemental comments of the Washington Independent Telephone Association (“WITA”) in the above referenced docket. I am enclosing ten copies and a disk with an electronic copy in Word 97.

The workshops that have been held to date have been encouraging in the free exchange of ideas and the willingness of staff to accept industry comment. It has been a constructive process to date, and WITA anticipates that it will continue to be a constructive process.

The purpose of these comments is to provide supplemental input into the portion of the rules designated as the “Consumer Rules.” The first comment that WITA offers is one of concern. There are a list of potential definitions for the Consumer Rules. However, to date there has been no effort to actually define those terms. A major change in the substance of the rules can occur depending upon the definitions that are adopted. WITA requests that an effort be made to provide the definitions for the terms to be used in the Consumer Rules early, rather than late in the process.

The remainder of the comments offered in this filing will address the issues raised at the April 11, 2000 work session.

WAC 480-120-041

The apparent purpose of this rule and the proposed changes to the rule are to provide sufficient information to the consumer so that they understand their basic rights and obligations and that there is a means of confirming to the consumer the services that they have ordered. To accomplish these purposes, WITA suggests that WAC 480-120-041 be written as follows:

Each company shall provide to customers and applicants for service the following information:

The rates, and rules and regulations of the company by making those available upon request and for inspection at any of its listed business offices;

The rights and responsibilities of the customer by publishing in its directory a consumer information guide which details those rights and responsibilities. Such guide shall describe the processes for establishing credit and determining the need and amount of deposits, the procedure whereby a bill becomes delinquent, the steps which must be taken by the company to disconnect service, and the right of the customer to pursue any dispute, including the procedures for pursuing such dispute; and

A confirmation of a customer service order either by separate notice as determined by the company or by the initial bill following the service order. In addition, each company must provide a means to allow the customer to contact the company for additional information; for example, by toll free number or use of a web site; provided, that, a web site may not be the sole means of accessing the company for additional information.

WITA notes that there are Federal Truth In Billing requirements. These are contained in 47 C.F.R., §64.2001. Given the direction that the FCC is going with the truth in billing requirements that apply to all carriers, the need for WAC 480-120-041 is reduced. An effort should be made to focus WAC 480-120-041 on those additional requirements that the WUTC feels are absolutely necessary above and beyond those established by the FCC.

Staff did ask for comments about providing information electronically to customers. WITA believes that as use of the internet expands exponentially, there will be less and less need for such things as publication of consumer rights and responsibilities in a directory. It is questionable to what extent that publication is used even today. The rule should be constructed in a way to allow as much flexibility as possible so long as the goal of the rule is accomplished -- informing consumers of their rights and responsibilities. WITA agrees that as of this moment in time, electronic dissemination of information would not reach all customers. It may not be too long before the vast majority of customers are able to obtain that information electronically.

WAC 480-120-042

Staff has asked for comments on the cost recovery for additional directories and the handling of intercept service and cost recovery for that service. Before addressing those concerns, WITA wants to emphasize one of its earlier comments that the introductory paragraph should not be limited to local exchange company, but should include its affiliates or designee. For many small companies,

Ms. Carole J. Washburn

May 12, 2000

Page 3

they accomplish the publishing of a directory through an affiliate or designee.

It is WITA's position that \$.50 is not an adequate handling fee for an additional directory. Additional directories should be made available to customers at the actual cost of the directory plus the actual cost of shipping and a reasonable handling fee. When a customer requests an additional directory, the company must process that request, take the time to obtain the additional directory out of storage (if available) or from the directory publisher, and then ship the directory to the customer. This process will often involve more than one individual. One person will receive and note the request. A second will obtain the directory from storage or from the directory publishing company and return the directory to the first person for delivery to the customer. That first person will then prepare the directory for shipping. This process can easily take fifteen minutes, and may take longer. Assuming a fully loaded labor rate of approximately \$20.00 per hour, the minimum cost to the company is \$5.00 (not \$.50).

On the subject of the intercept service, it is WITA's position that if the change in the customer's number is made by the company, the company should bear the cost of the intercept service. However, if the change is made at the request of the consumer (absent extraordinary circumstances such as the presence of an anti-harassment order) the cost of the service should be borne by the consumer. WITA suggests subsection 7 be rewritten as follows:

Whenever a customer's telephone number is changed after a directory is published, and the change is made at the direction of the local exchange company, the local exchange company must intercept all calls to the former number, if existing central office equipment will permit, for a minimum period of thirty (30) days or until a new directory is published. The company must provide the calling party the new number for the customer unless the customer has requested that such referral not be made. When the telephone number is changed at the customer's request, absent extraordinary circumstances, the customer shall pay the cost of the intercept service for as long as the intercept service is in place.

WAC 480-120-056

WITA's members have a concern with subsection (8)(b) in this rule. This section requires a company to accept a toll restricted access line in lieu of payment of a deposit. The problem with this restriction is it then allows the consumer to order not only local services, but all sorts of vertical services and enhanced services without paying a deposit. Language should be added that makes it clear that the only service that need be provided on a toll restricted access line without a deposit is the basic local service.

WAC 480-120-057

It is WITA's position that this rule is not needed. WITA's member companies can take

adequate steps to protect themselves and their customers by monitoring interexchange carrier activities. There certainly is no reason to limit this rule to resellers if deposits are to be required. Currently, some of the biggest problems are with facilities based interexchange carriers who use the local carriers as a margin float and delay the payment of substantial access bills by three to four months at a time.

WAC 480-120-061

The first issue that WITA wants to focus upon its comments on is subsection (3). The proposed language would make it the company's responsibility to "make every effort to secure rights-of-way, easements, and permits" to provide service to an applicant. If an applicant for service can not be served over public rights-of-way, it should be the applicant's responsibility to arrange for easements and permits. That should be the basic business relationship between the purchaser of the property and the seller of the property to ensure that adequate access to utilities, including telecommunications services, is provided. It should not become the responsibility of the telephone company to cure the deficiencies in the consumer's purchase and development of their own property. At some point there must be personal responsibility placed on the individual to make sure they protect themselves. The company should not be made the insurer for every defect that a consumer may run across.

The issue of local number portability was discussed in the workshop as it relates to this rule. WITA would support a position to remove all issues of local number portability from the current rule discussion. The relationship between competitive carriers in an LNP environment are still too new to be crystallized into rules.

WAC 480-120-081

It should be made clear that WAC 480-120-081 applies to end user customers, not as between carriers. The relationship between carriers should be defined either by tariff or contract.

WITA agrees that subsection (1) of the rule is no longer needed. Federal rules dealing with local number portability cover the release of the telephone number. Further, the one business day requirement, if it requires a field visit, is onerous.

Given the difficulty of establishing that a customer has obtained service fraudulently, it is WITA's position that if a customer has obtained service fraudulently, the customer should be disconnected and not given the option of paying their bill for the fraudulent use. The current proposed language simply tells the customer that if you defraud the company, you suffer no penalty. If you are caught, it is just an "oh, so what, pay for what you used." Given that fraud entails intent or a purposeful act of the customer, the customer should not be rewarded for that behavior. All of subsection (2)(e)(i) and (ii) should be deleted. The rule should stop at the end of subsection (2)(e)

Ms. Carole J. Washburn

May 12, 2000

Page 5

without the additional subsections.

WAC 480-120-087

There does not appear to be a good reason to place this responsibility solely on local exchange companies and not on other companies.

WAC 480-120-088

WITA does not believe this rule is needed. The statutory restrictions on the use of ADADs is sufficient. If this rule is retained, it should be consistent with the federal rule contained in 47 C.F.R. §64.1200.

WITA finds it difficult to believe that its member companies can perform the responsibilities in subsection (9) and subsection (10). In many cases, the company will not know if ADAD equipment is connected to its facilities.

WAC 480-120-010

WITA supports lengthening the response time from the two days contained in the rule. The two day response often placed an unreasonable burden on the company.

WAC 480-120-106

The question to be addressed here is whether this rule is needed in light of the FCC's truth in billing rules. 47 C.F.R. §64.2001. To the extent this rule is retained, it should be consistent with the FCC's rules on the same subject.

WITA appreciates the opportunity to provide supplemental comments. WITA looks forward to working with Commission Staff to develop rules that reflect a more competitive environment and maintain consumer protection.

Sincerely,

RICHARD A. FINNIGAN

Ms. Carole J. Washburn
May 12, 2000
Page 6

RAF/km
Enclosures as noted

cc: Terry Vann