

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

Re: Rules Relating to Pick and Choose)
Provisions of the Telecom Act)
_____) DOCKET NO. UT- 990391

COMMENTS OF GTE NORTHWEST INCORPORATED

GTE Northwest Incorporated (GTE) submits these comments in response to the Commission's October 29, 1999 Notice of Opportunity to Comment (Notice).

SUMMARY

In its Notice, the Commission requests commenters to address the issue of whether rules are necessary to implement Section 252(i) of the Telecommunications Act of 1996 and FCC rule 51.809 (the "pick-and-choose rule"). GTE believes that additional, state rules are not necessary. If the Commission nevertheless determines to adopt some rules, they should be limited to procedural issues.

DISCUSSION

In its Notice, the Commission appropriately asks whether rules are "necessary." This approach is consistent with the fundamental requirements of the Governor's Executive Order 97-02.¹ Subsequent to the issuance of the Notice, the Commission adopted an Interpretive and Policy Statement (Docket UT-990355) concerning implementation of the pick-and-choose rule. GTE believes that this Statement, in combination with the statute and the FCC rule, provide companies sufficient guidance on using the "pick-and-choose rule" in Washington. Rules are, therefore, not necessary.

At a minimum, the Commission should wait a reasonable period of time and see whether significant problems in fact develop in the absence of rules. As the Commission stated at the end of the Interpretive and Policy Statement, as it and other state commissions "gain more experience in resolving issues raised under Section 252(i), [it] may * * * adopt rules" That is a prudent course to follow and is much preferable to putting formal rules in place at this time.

Should the Commission nevertheless determine to adopt some rules now, they should be limited to procedural issues, such as paragraphs 23 through 30 of the Interpretive and Policy Statement. GTE generally supports that portion of the Statement, but does recommend that incumbent local exchange companies should be allowed to conduct discovery and submit facts and evidence on cost and technical feasibility issues. See pages 7 and 8 of GTE's

¹ See, for example, the Commission's April 16, 1999 Notice of Opportunity to File Written Comments in Docket No. UT-990146.

November 10, 1999 comments in Docket UT-990355 (attached).

Should the Commission adopt such a procedural rule, it should expressly refer to the Interpretive and Policy Statement, so that parties using the procedural rule will also be made aware of the substantive principles adopted by the Commission in the Statement.

Should the Commission further determine to include substantive provisions in new rules, GTE generally supports the Statement's ten principles. The Commission should, however, make the corrections and improvements set forth in GTE's November 10, 1999 comments in Docket UT-990355 (pages 1 through 7).

December 3, 1999