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June 9, 2014

Via Web Portal

Steven King
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket UT-140680

Enclosed for filing are comments by AT&T Corp., New Cingular Wireless PCS, LLC, and Teleport Communications America, Inc. (collectively "AT&T") in the above mentioned docket.

Sincerely,

Cynthia Manheim by Doe with permission

Cynthia Manheim
General Attorney

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

Rulemaking to consider amending rules in)
WAC 480-120, Telephone Companies,) **Docket UT-140680**
WAC 480-121, Registration and)
Competitive Classification of)
Telecommunications Companies, WAC)
480-122, Washington Telephone)
Assistance Program, WAC 480-123,)
Universal Service, WAC 480-140,)
Commission General – Budgets, and)
WAC 480-143, Commission General –)
Transfers of Property, due to competitive)
changes within the telecommunications to)
meet consumer, commission and industry)
requirements no longer applicable under)
the existing WAC rules)
_____)

COMMENTS OF AT&T

In response to the notice of opportunity to file written comments and notice of workshop filed by the Washington Utilities and Transportation Commission on May 9, 2014, AT&T Corp., New Cingular Wireless PCS, LLC, and Teleport Communications America, Inc. (collectively “AT&T”) hereby submit the following comments.

All pleadings, correspondence, and other communications concerning this docket should be sent to the following addresses:

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I. Introduction

AT&T appreciates the opportunity to submit comments in this rulemaking proceeding to consider amending the rules in WAC 480-120. AT&T appreciates the table and redlines provided by staff and has used this as the basis for its comments. As the Commission recognized in the *Notice*, many changes “have occurred in the telecommunications marketplace since 2007.” Updating the Washington telecom rules to reflect these changes is helpful.

Staff has clearly put a lot of time and effort into this matter. AT&T has only started its review of the proposed changes along with the telecom rules generally, but offers some preliminary comments below. AT&T is looking forward to the workshop scheduled for July 28, 2014 to further discuss the changes that should be made to the telecom rules.

II. Universal Service Rules; WAC 480-123 et seq.

a. Elimination of Washington-Specific Annual Reporting Requirements:

As the Commission is aware, there have been substantial changes to the funding mechanisms and requirements for eligible telecommunications carriers (ETCs) that receive federal high-cost universal service support. In addition, there have been changes in the

telecommunications industry. Together these changes necessitate the Commission revising its universal service rules.

The federal Communications Act of 1934, as amended by the Telecommunications Act of 1996, provides for the designation of telecommunications carriers as eligible to receive federal Universal Service Support. See 47 USC §214(e). In 2011, the FCC's *USF/ICC Transformation Order* established substantial changes to the federal high cost support mechanism. These changes include phasing out traditional high-cost support for CETCs, establishment of additional funding mechanisms (e.g., Connect America Fund, Mobility Fund, Remote Areas Fund), and new mandatory annual reporting requirements for all ETCs receiving federal high-cost support.¹ High-cost annual reporting requirements are codified in 47 CFR §54.313.

High-cost annual reports must be filed using the Office of Management and Budget (“OMB”) Form 481. Reports are due to the FCC and the Universal Service Administrative Company (“USAC”) on or before July 1st. A complete copy of the Form 481 must also be provided to the relevant state commission. AT&T submitted a copy of the Form 481 to the Commission last year and will do so again this year. The Form 481 addresses many of the same areas as are currently required in the Washington annual ETC high-cost report. For example, for CETCs that receive federal high cost support, the Form 481 requires the following information for the prior calendar year:

- Outages filed with the FCC (47 CFR 54.313(a)(2))
- Unfulfilled requests for service (47 CFR 54.313(a)(3))
- Customer complaints per 1,000 connections (47 CFR 54.313(a)(4))

¹ See Connect American Fund et al., WC Docket No. 10-90, FCC 11-161, Report and Order and Further Notice of Proposed Rulemaking (rel. Nov. 18, 2011).

- Certification that complying with applicable service quality standards and consumer protection rules (47 CFR 54.313(a)(5))
- Certification that carrier is able to function in emergency situations (47 CFR 54.313(a)(6))

To avoid duplication and create an efficient process, AT&T recommends that the Commission delete the Washington-specific annual reporting requirements and instead require a complete copy of the Form 481 along with an affidavit that the high-cost recipient is using the support for its intended purpose. This will allow the Commission to avoid receiving slightly different information that covers the same general topics. In addition, carriers will not have to comply with slightly different yet mostly duplicative filing requirements. A similar approach has already been adopted in Oregon and other states.

In 2006, the Oregon Public Utility Commission (“OR PUC”) issued an order establishing requirements for carriers seeking designation as an ETC along with Oregon-specific annual reporting requirements.² In 2013, the OR PUC adopted a stipulation entered into by a number of carriers and OR PUC staff which provided that in lieu of filing the Oregon-specific annual report, ETCs could instead submit a copy of the Form 481 along with an affidavit from an officer that the federal high-cost support received by the ETC in Oregon was being used for its intended purpose. Competitive ETCs were also required to file network improvement plans.³ This year, the OR PUC approved a second partial stipulation entered into by a majority of the parties and OR PUC staff regarding ETC annual reporting. ETCs will again be required to file a copy of the Form 481 with the OR PUC along with an affidavit certifying that the federal high-cost support received by the ETC was being used for its intended purpose. This year, however, CETCs will not be required to file a network

² See Docket NO. UM 1217, Order No. 06-292, (June 13, 2006).

³ See Order No. 13-228.

improvement plan.⁴ Part of the rationale for the elimination of the requirement to file a network plan is that as of July 1, 2014, CETCs are only receiving forty percent (40%) of the federal high cost support received in 2011 and this will decrease to zero in July 2016. In addition, Oregon Staff found that the 2014 funding has been reduced to levels that now only support the maintenance of facilities that the CETCs previously built or installed with earlier support funding.⁵

b. Changes to WAC 480-123-070(1)(a) and WAC 480-123-080

In the event the Commission does not accept AT&T's suggested change to eliminate the Washington reporting requirements and instead rely on the Form 481, AT&T is concerned about the addition of the following sentence in WAC 480-123-070(1)(a) and 480-123-080:

The report must include the Company's budgeted gross capital expenditures and maintenance expense for the previous [coming] calendar year along with a description of major projects and affected exchanges.

AT&T recommends deleting this sentence as it could be read to require reporting on capital expenditures and maintenance expenses beyond the federal high cost support received by the ETC. Alternatively, this sentence should be limited to the expenditures (capital and operating expense) made with the federal high-cost support received by the ETC.

c. Backup power requirement:

Washington is one of the few states in the country that requires ETC to provide a specific amount of backup power for cell sites.⁶ Most states have language similar to the federal requirements which provide that the ETC must demonstrate "that is has a reasonable amount

⁴ See Order No. 14-198.

⁵ See Oregon Staff Investigation into Eligible Telecommunications Carriers' Requirements, UM 1648, Joint Testimony (May 15, 2014), p. 9.

⁶ Alaska also has a requirement for a specific amount of backup power.

of back-up power to ensure functionality without an external power source.”⁷ AT&T’s urges the Commission to eliminate the Washington-specific backup power requirement and instead follow the federal requirement in 47 CFR 54.202(a)(2). If that is not acceptable to the Commission, AT&T supports the changes to the backup power rule proposed by Staff and as set forth below:

(g) Information that demonstrates its ability to remain functional in emergency situations including a description of how it complies with WAC 480-120-411 or, for a wireless carrier, information that demonstrates that, when commercial power is not available, it has a reasonable amount of backup power (fixed, portable or other backup power source) for its cell sites, and backup power for its switches is as prescribed in WAC 480-120-411(3) for LEC central offices; and cell sites do not include any small cell facility as defined in RCW 80.36.375(2)(d) or any in building wireless installation; and

The proposed changes to the WAC 480-123-030(g) make the rule more consistent with the federal requirement and recognizes the evolution of the wireless network. In recent years consumers are increasingly using wireless service for everything from voice conversations to video streaming. Consumers are also increasing using their wireless phones more in their homes. In addition to building more “traditional” macrocell sites, carriers are also using alternate technologies such as distributed antenna systems (DAS) and small cells to meet the needs of customers. DAS and small cells are difficult to supply with permanent backup power due to the nature of the installation and/or ownership issues.

DAS is typically a system of spatially separated antennas connected via cables to a signal source, such as a base station or an external antenna. DAS can be used indoors to distribute wireless signals through large structures such as office building, stadiums or

⁷ See 47 CFR §54.202(a)(2).

outdoors on existing infrastructure such as utility poles to provide service. The DAS may be owned by a “neutral” host (not necessarily AT&T) and the nodes/antennas may be owned by the building owner. When the DAS antennas/nodes are owned by the building owner, AT&T does not have the ability to provide backup power to the antenna/node. The building owner, however, may have backup power (generators) that provide power to the entire building for a period of time.

Another alternate wireless facility is small cell. Small cells antennas are small (each antenna is smaller than 3 cubic feet in volume). Outdoor small cells attach to existing utility poles, light poles or similar structures. Each small cell only covers a few hundred feet and requires its own power source. AT&T does not believe it is feasible to provide 4-hours of backup power for each small cell and still mount everything on a utility pole, light pole or similar structure. Further, requiring this amount of backup power may make small cells infeasible due to financial constraints.

The changes proposed by staff to this section recognize the difficulties in providing backup power to these alternate wireless facilities. In addition, the proposed rule recognizes that there are often a number of ways to provide backup power to a cell site, such as through battery backup, permanent generator and portable generators.

III. Service Quality Reporting (WAC 480-120-439)

AT&T supports the proposed changes made to this section. These rules made sense when there were few, if any, options for customers to receive telephone service. In those days, the Commission needed to take an active role in overseeing the service quality of companies. However, the telecommunications market has changed. Customers today have a number of options for voice service, including other providers, wireless service and Voice

over Internet Protocol (VoIP). For many of these options the Commission does not have the ability to regulate service quality. In addition, consumers are the biggest enforcers of service quality because they can vote with their feet. As such, it makes sense that the rules should be eliminated so that a subset of providers is not encumbered by additional reporting.

In addition to Staff's proposed changes, AT&T offers the following additional edit to the first section of WAC 480-120-439(1).

Each Class A company must report monthly the information required in subsection (3), ~~(4) and (6) through (10) of this section.~~

IV. Terminating Access (moved to WAC 480-120-259)

This rule is no longer necessary and should be eliminated. The FCC's *ICC/USF Transformation Order* adopted bill-and-keep as the default methodology for all intercarrier compensation traffic⁸ and then set out a "default transition path for terminating end office switching and certain transport rate elements."⁹ The federal rules for transitional access service pricing are contained in Title 47, Part 51, Subpart J, and Section 51.901 through 51.913. The Commission, therefore, should eliminate the Washington terminating access charge rule.

V. Conclusion

AT&T commends the Commission for considering changes to existing rules that would address competitive changes within the telecommunications to meet consumer, commission and industry requirements that are no longer applicable.

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⁸ ICC/USF Transformation Order, para. 736.

⁹ Id., para. 798.

Submitted this 9th day of June, 2014

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