

**BEFORE THE WASHINGTON UTILITIES  
AND TRANSPORTATION COMMISSION**

Rulemaking to Consider Amendment )  
of WAC 480-12-450, Enhanced E911 )  
Obligations of Local Exchange )  
Companies )  
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DOCKET NO. UT-041629

**COMMENTS OF CENTURYTEL**

CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc. (collectively "CenturyTel"), pursuant to Commission notice issued November 16, 2004, hereby submit comments on the Proposed Statement of Inquiry issued in this docket. As stated in the notice, the Commission is considering whether to amend WAC 480-120-450, Enhanced 9-1-1 (911) obligations of local exchange companies, or adopt additional rules to address the allocation of Enhanced 911 implementation costs between local exchange telecommunications companies and Public Safety Answering Points (PSAPs). The Commission is responding to a request from the Military Department, Emergency Management Division (EMD). For the reasons discussed herein, CenturyTel submits that there is no need or justification for any rule amendment.

**I     The current allocation of costs established by tariffs is just and reasonable, and in no way conflicts with FCC rules or orders.**

The allocation of 911 implementation costs associated with local exchange carrier networks is currently established in the local tariffs of those carriers (in CenturyTel's

case at WN U-1, Schedule 37 and WN U-5, Section 9.2.1). The standard Commission tariff review process assures that the resulting charges are just and reasonable.

The EMD cites the FCC's 2002 *King County* decision<sup>1</sup> for the proposition that the Commission should overrule existing tariffs and impose a general rule that the demarcation point for allocation of costs on the wireline networks should be at the selective router. EMD's reliance on the King County decision for such a proposition is totally misplaced. First, the FCC in the King County decision addressed only the allocation of costs associated with wireless networks. The FCC exercises exclusive jurisdiction over wireless networks. In the King County decision, the FCC in no way set out to dictate cost allocation for wireline networks which is a matter of state jurisdiction. In fact the FCC acknowledged that generally states have made the PSAP responsible for costs associated with transmission from the local exchange carrier's end office to the selective router.

Specifically, the costs associated with the transmission of an E911 call from the ILEC's end office to the 911 Selective Router are generally borne by the PSAP, but this is not necessarily true for CLECs.<sup>2</sup>

EMD asserts that the demarcation point must be the same for all carriers (ILECs, CLECs and wireless) and again refers to the FCC's King County decision as support for this proposition.<sup>3</sup> However, the King County decision does just the opposite. In rejecting arguments that treatment of all carriers must be the same, the FCC stated:

We reject the Petitioner's argument that the Bureau erred in treating wireless carriers differently than wireline carriers for E911 cost-allocation purposes. ... In *US Cellular* the court sanctioned the Commission's disparate treatment of wireless and wireline carriers, stating that "an important difference in the way [wireless and wireline] service is regulated," provides "more than sufficient

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<sup>1</sup> Order on Reconsideration, CC Docket No. 94 102, released July 24, 2002, (King County decision)

<sup>2</sup> King County, at Paragraph 15

<sup>3</sup> EMD letter to the Commission dated July 22, 2004

reason” for eliminating the cost recovery prerequisite for wireless carriers, despite wireline carriers’ ability to recover their costs through PSAP tariffs.<sup>4</sup>

The FCC properly recognized that there are differences, both in regulatory scheme and network configuration that justify differentiation when it comes to 911 cost allocation.

The FCC’s King County decision does not dictate that this Commission revise its approach to 911 cost allocation for wireline networks. On the contrary, the King County decision fully supports the Commission’s current approach.

**II. A change in the point of demarcation, by rule or otherwise, would not be good public policy.**

A properly functioning E911 system is clearly a compelling societal objective. It is good public policy that such objectives be supported on an explicit versus implicit basis. Accordingly, the Washington legislature has implemented explicit funding of E911.<sup>5</sup> The current demarcation established in local exchange carrier tariffs allows the legislature’s explicit funding mechanism to operate in a truly explicit manner. The network functions specifically dedicated to operating E911 (including the transport of calls from the end office to the selective router) are identified and priced in the tariff. PSAPs then pay those charges from the explicit funding source established by the legislature.

If instead, as EMD proposes, the demarcation point was changed by rule, the local exchange carriers would have to absorb these E911 costs. They would have no choice but to recover these costs in charges for unrelated services, a form of cross-subsidization. This would result in hidden implicit support of E911, circumventing the intent of the

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<sup>4</sup> King County, at Paragraph 14

<sup>5</sup> RCW Chapter 82.14B

legislature that these costs be supported by the explicit funding mechanism it had established.

The better course would be to continue the current practice. The Commission's tariff review process, coupled with its setting of the level of the state enhanced 911 excise tax,<sup>6</sup> will assure that E911 is supported on an explicit basis as the legislature intended.

For the reasons discussed herein, CenturyTel respectfully submits that the Commission should decline to amend WAC 480-120-450 for the purpose of changing the demarcation point for cost allocation of E911 services on the wireline local exchange carrier networks.

Submitted December 10, 2004.

CENTURYTEL



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<sup>6</sup> RCW 82.14B.030 (4)