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December 10, 2004

VIA ELECTRONIC MAIL

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-041629 – CR 101 Considering Amendment of WAC
480-120-450

Dear Ms. Washburn:

The Washington Independent Telephone Association (WITA) is filing these comments pursuant to the Pre-Proposal Statement of Inquiry filed by the Commission. The apparent purpose for calling for comments at this stage is to determine whether or not the Commission should revisit the allocation of E-911 implementation and operating costs between local exchange carriers and public safety answering points (PSAPs). As WITA understands the issue, the question is whether the demarcation point for E-911 service should be the selective router. The apparent purpose of identifying the demarcation point as the selective router would be to require local exchange carriers to pay the costs of transporting 911 calls from customers to the selective router.

This concept raises several problematical issues. Not the least of these issues is the fact that for many of WITA's members, the selective router is not located within their serving territory. What this means is that the small companies would need to purchase dedicated facilities from their boundary to the selective router. This is not simply the case of a company self-provisioning the circuit to the selective router. Rather, for most small companies, it means having to purchase services from other providers. Moreover, the smaller companies have no control over the selection of the selective router's location;

its location is determined by the PSAP and the company from which the PSAP chooses to obtain selective router services.

Of course, if the local exchange company has to purchase facilities from other telecommunications providers, this raises the question as to why it is appropriate for a small company's customers to be covering the cost of having to obtain facilities to get to the selective router. They already pay a monthly E-911 surcharge.

The inquiry also raises significant questions concerning potential liabilities. The E-911 tariffs that the small companies have in place contain defined allocation of the risk related to 911 services. Potentially, no such allocation of risk will be in place when a leased facility is included. Typically, the providers of leased facilities disclaim responsibility for events that occur, or damages that arise, because the facility is down. Since the relationship would no longer be between the 911 community and the leasing provider, the small company could potentially be facing increased liability for matters that are outside of its control.

In addition, WITA observes that when the E-911 tariffs were created, the Commission undertook a very extensive proceeding. At that time, the Commission reviewed the tariffs in detail and found the costs of getting to the selective router were appropriately borne by the E-911 community. Nothing has changed about that relationship to this date.

Further, as pointed out by Verizon Northwest in its comments, it is incorrect to assume that the Federal Communications Commission expects incumbent local exchange carriers (ILEC) to be treated the same as wireless carriers in the provision of E-911 service. It has often been noted that wireless providers have a local calling area that is much larger than the local calling areas of incumbent local exchange carriers. That large local calling area provides the wireless carriers with tremendous advantages. It may well be that with that wider calling area, there are obligations that are different from the ILEC obligations. One of those differing obligations is to find ways to transport E-911 calls to the selective router; an obligation that the ILECs do not need to assume. The fact that there are different obligations for a different technology should not come as a surprise. It is not a correct assumption that all carriers, wireless and wireline, must have the same E-911 obligation.

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In his July 22, 2004, letter to Mr. Bob Williamson of the Commission concerning these matters, Mr. Robert G. Oenning, Washington State E911 Coordinator, noted, "Rural carriers can access the Universal Service Fund for 911 cost reimbursement as part of the Basic Services requirement." At this juncture, it is not clear that the costs of trunks connecting end offices to the selective routers, especially if located outside the rural ILEC's service area, would be fully recoverable from the federal Universal Service Fund.

In closing, WITA notes that it has had the opportunity to review the draft comments of Qwest Corporation and Verizon Northwest. WITA supports the positions taken by those two companies in their initial comments.

Sincerely,

RICHARD A. FINNIGAN

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cc: Clients