

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Rule-Making
Proceeding Related to the Washington
Telephone Assistance Program

DOCKET NO. UT-003074

**Comments of
Public Counsel
Attorney General of Washington**

January 31, 2001

Public Counsel files these comments in response to the Commission's January 9, 2001 Notice of Opportunity to File Written Comments. Public Counsel's initial comments in this rulemaking for the Washington Telephone Assistance Program (WTAP), submitted September 22, 2000, focused primarily on the need to modify the current rule to include provisions related to outreach and publicity of the program. We also recommended that all ILECs, CLECs and resellers be required to participate in WTAP, and further recommended that wireless telecommunications providers be allowed to participate in WTAP. In these comments, we reiterate our belief that the should Commission take steps, through this rulemaking process, to enhance the outreach and publicity of WTAP, and we offer comments on certain language in staff's draft proposed rules for WTAP (WAC 480-122-010 to 090).

Participation in WTAP by Local Exchange Companies (WAC 480-120-020)

As we stated in our previous comments in this docket, Public Counsel believes it is in the interest of all ILECs, CLECs and resellers to participate in WTAP, given that the program offers

consumer benefits and provides participating telephone companies with a revenue stream that minimizes their exposure to uncollectibles. We would expect companies to recognize these benefits and therefore participate in WTAP.

The draft proposed rules require that “every local exchange company must offer the telephone assistance rates and discounts in accordance with RCW 80.36.410 through 475 *when ten percent or more of its access lines are subscribed to for residential service.*” (WAC 480-120-020 emphasis added). As a matter of law, we question whether this draft language comports with the statutes governing WTAP, which state in relevant part:

“The commission shall establish a single telephone assistance rate for all local exchange companies operating in Washington.” RCW 80.36.420 (a)

Thus, we question whether it is legally appropriate for the Commission to establish a threshold level of this kind, whereby only certain local exchange carriers—those with ten percent or more of their access lines subscribed to for residential service—would be required to make a WTAP offering. However, should the Commission determine that such an exemption is in fact permissible, we would respectfully disagree with that approach. As a matter of policy, we believe that customers of all of the local exchange companies should have the opportunity to participate in WTAP if they meet the program eligibility requirements. Public Counsel would instead recommend that all LECs participate in WTAP, but carriers could have the option of seeking a *De Minimus* waiver from the Commission, if the WTAP offering would be unduly burdensome for the carrier.

With respect to participation in WTAP by wireless carriers, we support staff’s proposed language for WAC 480-122-020, which provides that “Radio communications service companies may offer the telephone assistance rates and discounts.”

Outreach

The Commission's original Notice of Opportunity to File Written Comments, dated August 23, 2000, sought comment on whether the rule should be modified to include minimum requirements of ILECs, CLECs and resellers for outreach related to WTAP. In our previously filed comments, we stressed the need for improved outreach and marketing efforts for WTAP, and suggested that the Commission and all stakeholders consider implementing an automatic enrollment process for those individuals who are eligible for WTAP and currently have phone service. The current draft proposed rules do not include suggested mechanisms for outreach or streamlined enrollment.

We recognize that the FCC has placed a fairly general requirement upon eligible telecommunications carriers that they "publicize the availability of Lifeline and Link Up services in a manner reasonably designed to reach those likely to qualify for those services."¹ The FCC further stated, "We take this action based on evidence in the record that the lack of awareness of the Lifeline and Link Up programs contributes to low penetration rates and to eliminate any confusion concerning eligible telecommunications carriers' obligation to publicize the availability of these services."²

With respect to outlining specific guidelines regarding outreach and publicity efforts, however, it is the belief of Public Counsel that the FCC has indicated that this is a matter best left to the states. In their first universal service order, the FCC refrained from adopting nationwide standards governing the advertising of supported services, and instead emphasized the important

¹ Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, CC Docket No 96-45, FCC 00-208 (released June 30, 2000), para 79.

² *Id.*

role that states should play in this regard. In their order, the FCC stated: "...states should establish any guidelines needed to govern such advertising. We agree with the Joint Board that the states, as a corollary to their obligation to designate eligible telecommunications carriers, are in a better position to monitor the effectiveness of carriers' advertising throughout their service areas."³

As we discussed in our previously filed comments, the number of customers participating in WTAP has historically been far below the total number of individuals eligible for the program. This continues to be the case. In FY 2000, 93,078 individuals participated in WTAP out of a total unduplicated pool of 400,361 who met the eligibility requirements. This represents a "penetration rate" of 23%. Public Counsel believes that the WTAP participation rate can be improved, and therefore encourages the Commission to consider modifying the current WTAP rule to provide for the following:

- *Streamlined enrollment.* The eligibility and enrollment procedures for WTAP should offer administrative ease and cost-efficiency. Streamlined enrollment strategies include automatic enrollment, an issue we discuss in further detail below, and the installation of special telephones at DSHS offices that provide a direct link to the local telephone company. Further, we believe that LECs bear a responsibility to ensure that company customer service representatives are aware of WTAP and fully understand the enrollment procedures.
- *Coordination with community groups.* LECs should work in conjunction with DSHS and local community groups, such as community action agencies, tribal organizations and community voice mail programs, to help identify customers eligible for WTAP.
- *General outreach and media campaign.* LECs should work with DSHS and other stakeholders to conduct general mailings to promote WTAP to individuals who meet the eligibility requirements but are not yet enrolled in the program, including targeted mailings to those individuals who do not yet have telephone service. WTAP could also be advertised on local radio and television stations, particularly in areas with low subscribership levels.

³ Report and Order, CC Docket No. 96-45, FCC 97-157 (released May 8, 1997), para. 148.

We believe that expanded outreach and enrollment strategies, including but not limited to those outlined above, will help improve the low participation rate in WTAP. Public Counsel is flexible in terms the specific mechanisms and structure of outreach efforts, and the extent to which requirements should be placed upon LECs. For example, in our previous comments we suggested that as an alternative to some of the outreach requirements that might be placed upon LECs, the Commission could create a centralized marketing board responsible for promoting WTAP. We continue to believe that this represents a solid, competitively neutral approach.

Automatic Enrollment

Public Counsel continues to believe that automatic enrollment represents a promising, cost-effective means of improving participation in WTAP while also eliminating some of the administrative burden associated with enrolling participants. Other states have pursued this strategy and have found it successful. In Ohio, Ameritech has instituted automatic enrollment for the Ohio Universal Service Assistance (USA) Plan. This initially began as a pilot in the Columbus area, and has now been expanded statewide. In the first full month of statewide automatic enrollment, November 2000, Ameritech's enrollment in the USA program increased by about 12%.⁴

The FCC has encouraged states to consider streamlined enrollment procedures such as automatic enrollment. In their first universal service order the FCC stated the following:

Although we generally defer to the states to establish Lifeline eligibility criteria, we encourage states to adopt Lifeline administrative procedures, including eligibility verification procedures, that are as efficient as possible. We observe, for example, that New York, among other states, has substantially cut Lifeline overhead by mandating the exchange of computer files between social service agencies, which administer participation in the other public assistance programs that constitute Lifeline eligibility, and the state's LECs. Thus, Lifeline enrollment in New York is automatic. ... We also

⁴ Telephone conversation with Ellis Jacobs, Attorney, Legal Aid Society of Dayton, January 29, 2001.

note that automatic enrollment could comport with competitive neutrality of all eligible telecommunications providers can have access to the same information indicating which consumers are eligible for Lifeline.⁵

Public Counsel reiterates our belief that the Commission, LECs, DSHS and other stakeholders should consider an automatic enrollment process for WTAP. The Commission may also wish to consider establishing an incentive mechanism to encourage LECs to pursue an automatic enrollment strategy with DSHS, whereby those carriers that develop automatic enrollment procedures would be relieved of certain outreach requirements related to WTAP.

We look forward to working with Commission Staff and all stakeholders during the entirety of this process, and to participating in future workshops for this docket.

⁵ FCC 97-157, para. 378.