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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PETITION FOR WAIVER OF
WAC 480-120-262(3), EFFECTIVE
JULY 1, 2003

Docket No.
QWEST CORPORATION'S
PETITION FOR WAIVER

Qwest Corporation ("Qwest") hereby petitions the Washington Utilities and Transportation Commission ("Commission") for a permanent waiver of certain provisions of WAC 480-120-262(3). WAC 480-120-262 was developed through proceedings in Docket No. UT-990146¹ and becomes effective on July 1, 2003. WAC 480-120-262 replaces the previous rule pertaining to Operator Service Providers, WAC 480-120-141. It contains requirements for Operator Service Providers (OSPs) who are providing operator services from pay phones and other call aggregator locations.

THE RULE

On December 12, 2002, the Commission filed with the Code Reviser General Order No. R-507 which included the newly developed rule regarding Operator Service Providers (OSPs).

As adopted, WAC 480-120-262 subsection (3) reads as follows:

(3) Oral disclosure of rates. This subsection applies to all calls from pay phones or other call aggregator locations, including, but not limited to, prison phones and store-and-forward pay phones or "smart" phones. When a collect call is placed, both the consumer placing the call and the consumer receiving the call must be given the rate quote options

¹ *In the Matter of Amending, Adopting and Repealing Chapter 480-120 WAC Relating to Telephone Companies*, Docket UT-990146, General Order No. R-507, Order Amending, Adopting and Repealing Rules Permanently, filed with the Code Reviser's Office December 12, 2002.

1 required by this section.

2 (a) **Oral rate disclosure message required.** Before an operator-assisted call from a
3 call aggregator location can be connected by an OSP (whether by a presubscribed or
4 other provider), the OSP must first provide an oral rate disclosure message to the
5 consumer. If the charges to the consumer do not exceed the benchmark rate in (f) of this
6 subsection, the oral rate disclosure message must comply with the requirements of (b) of
7 this subsection. In all other instances, the oral rate disclosure message must comply with
8 the requirements of (c) of this subsection.

9 (b) **Rate disclosure method when charges do not exceed benchmark.** The oral rate
10 disclosure message must state that the consumer may receive a rate quote and explain the
11 method of obtaining the quote. The method of obtaining the quote may be by pressing a
12 specific key or keys, but no more than two keys, or by staying on the line. If the
13 consumer follows the directions to obtain the rate quote, the OSP must state all rates and
14 charges that will apply if the consumer completes the call.

15 (c) **Rate disclosure method when rates exceed benchmark.** The oral rate
16 disclosure message must state all rates and charges that will apply if the consumer
17 completes the call.

18 ***

19 (f) **Benchmark rates.** An OSP's charges for a particular call exceed the benchmark
20 rate if the sum of all charges, other than taxes and fees required by law to be assessed
21 directly on the consumer, would exceed, for any duration of the call, the sum of fifty cents
22 multiplied by the duration of the call in minutes, plus fifty cents. For example, an OSP's
23 charge would exceed the benchmark rate if any of these conditions were true:

- 24 (i) Charges for a one-minute call exceeded one dollar;
- 25 (ii) Charges for a five-minute call exceeded three dollars; or
- 26 (iii) Charges for a ten-minute call exceeded five dollars and fifty cents.

27 DISCUSSION

28 Qwest seeks a waiver of WAC 480-120-262(3)(c) and (f) so that Qwest to can continue its
29 current operations as an operator service provider in Washington and avoid the substantial adverse
30 impact to Qwest and its customers that this rule imposes.

31 WAC 480-120-262(3)(c) requires rate quotes on all calls placed from a pay phone or other
32 aggregator location if the sum of the operator service provider's charges for an operator assisted call
33 would exceed, for any duration of the call, fifty cents per minute plus fifty cents. Qwest's costs for
34 providing operator services are more than the benchmark rates detailed in subsection (f). As such,
35 Qwest's rates often exceed the benchmark rate. Under the new rule, Qwest will be required to provide a
36 rate quote for every call originating from a pay phone or aggregator location. Qwest does not currently
37 have an automated program that will provide a rate quote as envisioned by the rule. Alternatively, Qwest
38 does not currently have an adequate number of employee operators to manually provide a rate quote as
39 required. Further, Qwest's systems are currently unable to differentiate, with any degree of certainty,

1 whether a call is originating from an aggregator or non-aggregator location. Some aggregators have their
2 own systems and billing, and do not identify the calls as originating from an aggregator; these calls enter
3 Qwest's system as a business POTS call. Other aggregators pass to Qwest screen codes which enable
4 Qwest to determine where the call is coming from. For the calls Qwest identifies as business POTS calls,
5 Qwest cannot distinguish whether a call is being placed by a calling card customer or not.

6 Qwest's preliminary estimates indicate that it would take an outside vendor 9 to 12 months and
7 approximately \$3.6 million to develop an automated system and software capable of isolating aggregator
8 traffic from non-aggregator traffic (through Washington-specific call routing, switch translations and
9 identification of special queues) and to isolate Washington calls from other state calls. Absent an
10 automated process, Qwest would need to employ approximately 100 additional operators at an
11 approximate annual cost of \$3.2 million for staffing and training to meet the requirements.

12 In their Second Order on Reconsideration in the *Billed Party Preference for InterLATA 0+*
13 *Calls* proceeding (Order FCC 01-355 adopted on December 5, 2001), the FCC re-addressed
14 customer dissatisfaction with the high rates charged by OSPs for calls placed from pay phones and
15 aggregator locations and reviewed the options available to customers to ensure sufficient information is
16 provided about rates. The FCC largely affirmed their existing disclosure rules which are similar to the
17 previous Washington rule, WAC 480-120-141. This previous rule only required OSPs to verbally
18 disclose *how* to obtain rate quotes when calling from a pay phone or aggregator location.

19 **CONCLUSION**

20 Qwest seeks a permanent waiver of WAC 480-120-262(3) (c) and (f) pertaining to verbal
21 disclosure of rates when charges exceed the benchmark rate, due to the extraordinary expense associated
22 with implementation. Qwest seeks approval to continue its current process of instructing customers how
23 to receive rate quote information when calling from a pay phone or aggregator location.

24 RESPECTFULLY SUBMITTED this 11th of June, 2003.

25 QWEST CORPORATION
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