BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Telecommunications Companies, Chapter 480-120 WAC; Tariffs, Chapter 480-80 WAC; Registration, Classification and Price Lists, Chapter 480-121	)))))	**Docket Nos. UT - 990146, UT - 991301, UT - 991922**

JOINT COMMENTS OF GTE NORTHWEST INCORPORATED AND GTE COMMUNICATIONS CORPORATION

INTRODUCTION

GTE Northwest Incorporated (GTENW) and GTE Communications Corporation GTECC (hereinafter collectively "GTE") appreciate the opportunity to comment on the first discussion draft of the telecommunications rules released by the staff of the Washington Utilities and Transportation Commission ("Commission"). This draft reflects some, but not all, of the changes advocated by GTE, U S WEST and WITA in comments submitted in June of 1999. The discussion draft, however, fails to address many of the concerns stated in the June Comments, which remain outstanding. The discussion draft also needs further major work to comply with the standards stated in the Governor's Executive Order 97-02.

These comments will be divided into three parts. The first section establishes the perspective or framework in which to accomplish the major rule revisions contemplated by these dockets. The second section identifies general problems with the overall approach of the discussion draft and suggests possible solutions. The third section provides substantive comments on specific rules and proposed suggested language where appropriate.

Accomplishing major substantive telecommunications rule reform is a major undertaking. GTE is committed to working with the Commission staff to write a practical set of rules which will fulfill the Commission's regulatory responsibilities and promote a competitive telecommunications environment.

I.

THE PURPOSES AND GOALS OF TELECOMMUNICATIONS RULEMAKING IN A COMPETITIVE ERA MAY BE DIFFERENT FROM THOSE IN A PREVIOUS REGULATORY ERA

This rulemaking began in the spring of 1999. At each step it is critical to test each revision against the standards set forth by the Governor's Executive Order 97-02. This Order listed seven criteria against which to test an existing rule or to write a new one:

Need;

Effectiveness and efficiency;

Clarity;

Intent and statutory authority;

Coordination;

Cost;

Fairness.

In addition, the participants in this rulemaking should strive to achieve the national shared goal of promoting competition in order to achieve a fully competitive telecommunications marketplace. To do this, the Commission staff may have to step aside and allow market forces to work where regulation had previously assumed responsibility. Regulators must be extremely sensitive to the additional costs and burdens imposed by regulatory mandates on both new entrants and incumbent telecommunications companies. A goal of streamlining regulation has been recognized by regulators as a means of enabling the development of competition.[1] This means state regulators should not unnecessarily duplicate regulation already handled by other agencies and should not add unnecessary new costs and burdens to regulated entities. For example, reporting requirements should be examined carefully to determine if state regulators really need the required information to fulfill their legal responsibilities. GTE advocates a "less is more"

approach to rulemaking. This approach is forward looking. A progressive regulatory agency will take this approach and will allow competitive market forces to work, rather than cling to an outmoded "heavy" regulation model.

Finally, GTE acknowledges that telecommunications rules must be enacted that protect consumers from possible abuses in the competitive environment. Again, however, the Commission should allow competitive market forces to operate where possible. The Commission should assume that consumers can and will protect themselves by switching providers.

A. The Commission should not impose reporting and service measurements on all carriers.

While GTE generally supports the concepts of competitive neutrality, parity and non-discrimination, it also recognizes that strict parity in the application of service quality reporting and measurements is not appropriate in every circumstance. For example, it is illogical to apply service quality measurements and reporting requirements to CLECs that are pure resellers.

The Commission should not seek to impose rules that simply cannot be met by some carriers. The service measures adopted by the Commission must address the differences that exist because of the way carriers operate. For example, a reseller does not control the underlying facilities that provide service to their end customer and cannot impact the achievement or non-achievement of the proposed rules relating to these facilities. It should not, therefore, be required to report on and be held accountable for these results. A carrier providing service using a combination of UNEs and its own facilities

should similarly not be held accountable for the entire service, only the facilities it provides. For example, a carrier owning a local switch but purchasing unbundled local loops would control the dial tone delay, but would have no control over speed of loop repair. The carrier's ability to control the result should be considered in the application of the adopted measures.

In addition, the Commission's rules should reflect the deregulatory objectives of the Telecommunications Act of 1996 and should focus on the basic services that receive special protection under that Act. GTE therefore recommends that service quality measures be applied only to carriers that are designated an "eligible telecommunications carriers" (ELTEL).

B. The Commission should not increase service quality regulation and reporting requirements at a time when competition is increasing.

As the Commission has clearly recognized in the past, competition must replace regulation. The Commission should not prejudge what customers want by maintaining a stringent set of rules. In a competitive market, the customer should be permitted to choose the telecommunications service provider that meets his or her needs and expectations. Customers are not homogeneous in their requirements and desires. A customer may desire to choose a different level of customer support consistent with the value received from a carrier for a range of services, products and prices. If a telecommunications carrier does not meet a customer's needs in service quality and/or price, the customer can seek another provider.

In addition, the ability of carriers to offer creative and innovative service offerings is

one of the benefits of competition. By mandating that all carriers continue to be subject to these reporting requirements and service quality rules, the Commission disregards the changing competitive environment in provisioning local service and distracts the carriers from focusing on providing consumers competitive offerings and value. Maintaining the current rules or adopting the Staff proposed service quality rules would be similar to requiring retail stores such as Target and Montgomery Ward to provide the same level of service and quality as Nordstrom. Requiring Target and Montgomery Ward to provide the same level of quality and service as Nordstrom, however, would force them to expend significant resources, which would then have to be passed on to their customers in the form of increased prices. In the end, consumers are left with little or no choice of quality, price, or service delivery, and competitors have no ability to differentiate themselves from one another by their offerings. GTE submits that the Commission should move towards a minimum set of regulations designed to protect consumers from fraud and misrepresentation.

II.

THE DISCUSSION DRAFT SUFFERS FROM SEVERAL OVERRIDING DEFECTS

A. If the discussion draft were adopted, telecommunications companies would face increased – not decreased – regulation.

At the current time 51 rules exist in Chapter 480-120 of the Washington Administrative Code (WAC).[1] The discussion draft would move five rules from Chapter 120. However, even with such a move, this rulemaking proceeding would create 20 additional rules. Such a result does not promote any of the goals discussed above in

[1] In its formal published form (1999 edition).

Part I. GTE urges the Commission to take a scalpel to Chapter 120. Many existing and most, if not all of the proposed new rules can be eliminated because they duplicate existing state or federal law, or add new unnecessary regulatory burdens. Creating many more burdensome rules contradicts regulatory streamlining, reflects outmoded regulatory thinking and will be a real deterrent to competition.

B. A definition subsection is needed before the rules are adopted.

It is very difficult to assess the changes proposed by the discussion draft without a set of definitions. It is important to establish definitions at the outset. The Commission should retain but modify WAC 480-120-021.

C. Rules should be eliminated when dealt with by federal law.

Many of the rules in the discussion draft could be eliminated because they duplicate federal law that regulates in the same area. GTE urges the Commission to not duplicate federal regulation and to adopt rules that are consistent with federal requirements to promote simpler, more consistent regulations for carriers to follow in multiple jurisdictions. The existence of repetitive rules in the state and federal jurisdictions may require carriers to grapple with inconsistent standards, whether intentional or not. This can be accomplished by adopting the federal rules by reference:

1. WAC 480-120-041.

This WAC deals with information that must be provided to customers. Federal law already regulates what should be disclosed to customers. See Telephone Consumer Protection Act of 1991, Pub. L. 102-243, December 20, 1991; 47 U.S.C. § 227 and Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991; Report

and Order, Docket No. 92-90; 7 FCC Rcd. 8752 (1992); Memorandum Opinion and Order, 10 FCC Rcd. 12391 (1995); Order on Further Reconsideration, 12 FCC Rcd. 4609 (1997).

2. WAC 480-120-087.

Because the subject of telephone solicitation is addressed in a slightly different manner at the federal level, in 47 U.S.C. § 227, the state rule is somewhat inconsistent. For example, the federal rule defines "telephone solicitation" so as to exempt calls placed from a tax-exempt non-profit organization, whereas the Washington rule does not. While the Commission is free to adopt different standards than those set forth at the federal level on the issue of telephone solicitation, consistency is to be encouraged between jurisdictions where practical.

3. WAC 480-120-088, -089.

The subject of these rules has been comprehensively addressed in federal law. See, i.e., 47 C.F.R. § 64.1200, 47 C.F.R. § 64.1501-1515.

4. WAC 480-120-106.

The FCC has established truth in billing rules to deal with the issue of bill format. See generally, Truth-in Billing and Billing Format, cc Docket No. 98-170. First, Report and Order and Further Notice of Proposed Rulemaking, FCC 99-72 (Rel. May 11, 1999).

5. WAC 480-120-144, -151, -152, -153.

These rules deal with customer proprietary network information. These rules deal

with a topic extensively regulated at the federal level pursuant to 47 U.S.C. § 222(f)((1).[2] Since it is clear that the FCC will extensively regulate CPNI, it is inappropriate to maintain state rules that fail to pass the test set out by the standards of the Governor's Executive Order 97-02. A short and simple approach might be to cross-reference federal law (i.e., WAC 480-120-136 which requires companies to adhere to the FCC's record retention requirements).

6. WAC 480-120-520.

The FCC already has reporting requirements for major outages. See 47 C.F.R. § 63.100.

In sum, adopting GTE's approach would minimize regulatory burdens for many carriers which are national in scope, allowing for the development of consistent business practices governed by federal, and derivatively by state law.

D. Eliminate rules that intrude on the jurisdiction of other state agencies.

GTE proposes eliminating WAC 480-120-126 and WAC 480-120-131 because the Department of Labor and Industries already regulates the telecommunications industry in these areas, like other Washington industries. Consistent with Standard 5 of the Governor's Executive Order 97-02, this Commission should not maintain rules where similar regulatory requirements have been promulgated by other agencies, such as the Department of Labor and Industries.

In addition, with respect to WAC 480-120-032, the industry proposes striking the rule entirely. Such reporting requirements are governed by the Public Disclosure Commission

[2] The FCC adopted CPNI rules implementing 47 U.S.C. § 222 which were challenged last summer in U.S. West v. FCC, 17 Comm. Reg. (P&F) 87 (10th Cir. 1999). New rules have not yet been adopted.

as set forth in RCW Ch. 42.17. Similarly GTE sees no need for WAC 480-120-036 which repeats requirements in WAC 480-143 and WAC 480-146.

E. The Commission should not adopt new rules that duplicate existing rules.

Several of the new rules proposed by the Commission duplicate existing rules and appear out of place. For instance, WAC 480-120-X16 duplicates existing WAC 480-120-520(6)(a) and should be eliminated.

In addition, the reporting and accounting requirements for competitive telecommunications companies in WAC 480-120-033 has been split into two rules WAC 480-120-X01 and revised WAC 480-120-033. The Staff's proposed changes to WAC 480-120-033 and 480-120-X01 fixes a wheel that "is not broken," for no apparent reason. The Staff's proposed changes create new administrative burdens for competitive carriers, many of which do not keep the types of detailed separate jurisdictional expense accounts called for by the proposed revision to WAC 480-120-033.

F. Rules that relate to other ongoing proceedings should not be dealt with in this docket.

Several of the rules addressed by the discussion draft are already the subject of ongoing open Commission dockets. (i.e., WAC 480-120-X06, dealing with unserved areas). See Dockets UT-991930, UT-991931, UT-993000, UT-990301. The obligation to serve and other issues raised by WAC 480-120-X05, X5.05 and X06 should be dealt with in these dockets. These rules should not be considered, if at all, until those dockets are concluded.

G. Related rules should be grouped together.

Because these rules are undergoing a major overhaul, it makes sense to group them by related subject matter. The rules at issue in this proceeding should be grouped by category and numbered sequentially.

GTE supports moving WAC 480-120-022, -023, -024, and -025 to WAC Chapter 480-121. Chapter 121 is an appropriate place to deal with all related issues of registration and classification of telecommunications companies. GTE would support this move but would revise some language in these rules, as reflected in Attachment A.[3]

Accounting, reporting and record retention rules should similarly be grouped together. The focus on the accounting and reporting requirements for both competitive and non-competitive companies should be stated in this section. GTE advocates moving those rules that deal with records retention to the area of finance, accounting and reporting.

Finally, rules requiring the provision and disconnection of service should also be streamlined and re-grouped, covering WAC 480-120-051, -052, -056, -057, -061 and 081.

III.
SPECIFIC COMMENTS OF DRAFT DISCUSSION RULES AND PROPOSED REVISIONS

The following narrates GTE's position on each rule in the discussion draft. GTE's proposed language will appear in GTE's redlined version of the discussion draft. (Attachment A.)

WAC 480-120-011.

This rule should contain a caveat to allow certain competitive carriers to be exempt

[3] GTE will propose changes to WAC 480-80 when the Commission specifically requests comments on this chapter in the future.

from certain rules. For instance, rules that apply to facilities-based providers should not be applied to resellers or to competitive carriers, who are not designated as eligible telecommunications carriers (ELTEL).

WAC 480-120-016.

GTE's proposed language should be adopted. The first addition places procedural restrictions on Commission action. This second addition should be added to avoid establishing a per se breach of duty in suits brought against companies by third parties.

WAC 480-120-022, -023, -024, -025.

The changes to WAC 480-120-022 and –023 will streamline the competitive classification process. Subsection (1) of 480-120-025 should be deleted as the referenced rule WAC 480-120-027(7) no longer exists. In a reclassification proceeding initiated by the Commission, the burden of proof should be on the Commission to demonstrate that the current competitive classification is not in the public interest. The telecommunications carrier provided the justification that the existing classification is in the public interest in its application that the Commission approved. The Commission should demonstrate why its prior approval of the competitive classification is now determined improper and inconsistent with the public interest.

WAC 480-120-026, -027.

GTE has no objection to the staff proposal. As a housekeeping change, -027 should be deleted and its subject title combined with -026.

WAC 480-120-031.

As reflected in Attachment A, GTE also recommends revision to subsection (3)(d) in order to normalize tax timing differences for federal and state tax purposes as Part 32 recommends.

Subsection (4) should be deleted. It is unnecessary because the Commission has

broad authority under 480-120-016 and RCW 80.01.040.

The Commission should carefully scrutinize the information that it requests to determine if it is really related to a reasonable regulatory need. The Commission should determine whether any new reporting requirement places an additional burden on telecommunications carriers that can only be justified by a clearly stated regulatory need.

WAC 480-120-032.

GTE recommends deleting this rule because it duplicates requirements in RCW Ch. 42.17.

WAC 480-120-033.

The Staff's proposed rule creates significantly more onerous financial reporting requirements for competitive carriers than the current rule. This additional burden is questionable, as the Staff's need of additional financial information has not been justified.

There is no compelling reason for a competitive telecommunications company to report its access lines on an annual report. Access line data is highly confidential competitive information that would allow competitors to derive sensitive market information. Since the WAC does not regulate the earnings of a competitive carrier, there is no reason for the carrier to provide balance sheets and income statements. The provision to the Commission of state specific information is only relevant for those companies which are rate-of-return regulated. State specific financial statements do not provide any significant business information to a competitive carrier, as the carrier only analyzes its operations for the entity as whole, not a specific state. GTECC does not maintain state specific financial statements, nor does it have results of operation in Washington or Washington intrastate. To obtain Washington intrastate results would require a competitive carrier to perform Part 36 separations study or utilize some other method of cost allocation to derive intrastate results. No other state or federal regulatory agency has placed such a burden

on competitive carriers. Finally, there is no logical reason for a competitive provider to report all information delivery services and blocking service revenues as separate revenue items.

WAC 480-120-036.

GTE recommends deleting this rule because other statutes and rules deal with this issue (i.e., RCW 80.08 and WAC 480-146).

WAC 480-120-041.

GTE recommends deleting this rule. The proposed rule requires an additional annual notification to customers of a company's regular business hours, mailing address, a twenty-four hour toll-free number and a twenty-four hour emergency telephone number. This notification is not needed, as the company emergency twenty-four hour toll-free contact number(s) are included on every customer's bill. The customer may call the company to obtain its mailing address if the customer requires that information. Since the customer can contact the company twenty-four hours a day, the company's normal business hours are immaterial.

The proposed rule requires all telecommunications service providers to develop a new customer information brochure which describes the Commission's rules on establishing credit, deposits, discontinuance of service, bill disputes and the complaint process. This is the same information that the rules currently require companies to publish in every telephone directory.

In addition to the consumer brochure, the rule imposes a new requirement for an annual notice to all customers of the availability of the consumer brochure and applicable rate information. This is unnecessary because the consumer information is contained in the directory which customers receive annually and customers already receive notice of any rate increases.

It is unclear to GTE why the Commission is proposing to require each company to provide it with a copy of each pamphlet, brochure, bill message and other information provided to customers. With more local service providers in Washington now than before, the Commission will be inundated with documents. The Staff has provided no justification as to why this information is required, and GTE questions how the Commission will manage all of this information and what purpose will be served.

In subsection (6) it is unclear upon whose request the company must make the interexchange carrier information available and for what purpose.

In subsection (7) it is unclear to which "company" the rules are referring. Generally, most customers or potential customers of interexchange carriers will contact the interexchange carrier directly to switch providers and to select the appropriate rate plan. This subsection imposes a burden on the local service provider's customer service representative to inform customers of actions that inherent common sense would dictate.

WAC 480-120-042.

GTE supports the language changes in Attachment A. A local exchange company should only be responsible for providing a directory not publishing a directory. Mandatory publication of directories is no longer necessary since there are many publishers of directories in this competitive business.

The proposed rule in subsections (3) and (7) should allow a telephone company to recover its actual costs for providing services.

WAC 480-120-045.

No comment.

WAC 480-120-046.

No comment.

WAC 480-120-051.

GTE proposes several language changes as reflected on Attachment A.

The installation due date should only be applied to the primary line of the customer. This rule should promote connectivity to the network and advance universal service. Any rules directed toward subsequent lines are unnecessary because of the power of the competitive market.

GTE supports deleting subsection (4) because new service installation order practices, like the provision of customer information, should be left to the discretion of company management in a competitive market. Customers will not choose companies that fail to keep appointments.

Subsection (5) should be amended as set forth in Attachment A. Use of an "average due date interval" provides a better indication of performance on average for all customers and allows the carrier to identify more readily changes in service delivery.

WAC 480-120-052.

The revisions in Attachment A were made because some card services may require the use of an access card and authorization card. GTE also wants to modify the time period in subsection (e) to 24 months. Maintaining call detail records is very expensive and a 24-month period is more reasonable than a 30-month period.

WAC 480-120-056.

GTE recommends deleting this entire rule. In a competitive environment, each telecommunications company should develop sound business practices, with minimal Commission oversight, that are responsive to individual customer needs while serving to protect the interests of the company (minimizing bad debt, reducing administrative expenses, subject to existing consumer protection laws, etc.).

Telecommunications companies should be allowed to establish their own definition of satisfactory credit that is not unreasonably discriminatory in a competitive marketplace.

With the advent of competition telecommunications carriers satisfactory credit criteria needs to allow for the integration of business objectives of customer acquisition along with reasonable protection from bad debt. All telecommunications providers have a unique mix of these two business objectives. Only minimal oversight by the Commission is required to ensure basic customer protection.

Telecommunications companies need more flexibility to develop sound business practices with respect to establishing customer accounts. Such companies are frequently national in scope and have the benefit of experience in other jurisdictions to guide them on issues such as establishment of credit. Companies should be allowed to devise practices that will allow them to minimize bad debt, reduce administrative expenses within the bounds of existing consumer protection law.

Requiring telecommunications companies to provide confirmation of payment history is an unnecessary administrative burden. The customer's payment history, if not satisfactory, should be reported to a recognized credit reporting bureau. Most telecommunications companies perform credit checks on applicants for service by accessing a credit reporting bureau database. Full-time employment by an applicant for services does not guarantee payment of a telephone bill, nor does owning or purchasing a home. Payment history is the most reliable indicator of an applicant's ability and intention to pay a telecommunications service bill.

WAC 480-120-057.

This rule should be deleted in its entirety. The establishment of credit by resellers with the underlying service provider is determined by contract provisions agreed to by the parties. It is unnecessary for the Commission to insert itself into these contractual agreements.

WAC 480-120-058.

GTE proposes a minor change to subsection (1)(c) as this is no longer necessary in today's environment of electronic banking.

WAC 480-120-061.

GTE strongly opposes the new language in subsection (3) in the discussion draft and has modified this rule in Attachment A. This change creates a new burden for companies to "make every effort to secure rights-of-way, easements and permits." This affirmative responsibility interjects utility companies into expensive real estate matters that are the responsibility of the customer seeking phone service. Securing the required permits could add a tremendous new expense (i.e., litigation costs) to companies, such as GTE, which would have to be recovered from all ratepayers. The burden should be placed upon the customer to provide the necessary real estate permission over private property to obtain phone service. The proposed change in the discussion draft must be deleted because it would impose a new, expensive, major regulatory burden.

GTE also recommends that the new language in subsections (4)(a) and (4)(b) of the discussion draft be deleted, as shown in Attachment A. The new language creates an exception for a "non-telecommunications company." This term is not defined and is unclear. Does it cover business and residential customers? If so, what is the rationale for giving both classes the right to payment arrangements? This "right" contradicts subsection (4) that allows companies to make payment arrangements "satisfactory to the company." This new right is a serious intrusion into the companies' business practices and could increase bad debt levels. In a competitive marketplace, the proposed changes are another unnecessary regulatory intrusion.

GTE has serious concerns about Subsection (7), which limits a customer picture identification requirements to circumstances where the company must have evidence of fraud or intent to avoid payment.

This new restriction hinders GTE's credit department ability to do a responsible job. GTE needs to be able to ask for positive customer identification to ensure a proper credit check. In turn, this is needed to minimize uncollectibles, which will grow if the Staff's proposed rule changes are adopted. Ultimately, GTE's customer may have to absorb the cost of increased uncollectibles. GTE should not be restricted to circumstances of fraud to ask for positive customer identification. If the customer declines to give a social security number, then GTE uses other means, such as a driver's license or passport.

The requirement to maintain a business office or payment agency also creates a problem. Many providers may not necessarily have local business offices or payment agencies because the typical business structure is centralized service centers and remittance centers that perform those types of functions for multiple jurisdictions.

GTE also has concern over new subsection (10) in the discussion draft that states "under no circumstances" may a company refuse to disconnect or release a customer's telephone number to another company. GTENW does not port disconnected telephone numbers. Therefore, GTE is confused as to what new subsection (10) means. It should either be clarified or deleted.

WAC 480-120-066.

This rule can be deleted. Services subject to tariff or price list rules must be offered in conformance with either the tariff or price list. Any contract terms will be specified in the tariff or price list, and any documentation provided to a customer will, necessarily need to conform to those terms. Because of these other documents describing terms and conditions, it is not necessary to keep contract forms on file. In addition, as the market changes more and more quickly, particular document formats may change frequently, and a more up-to-date reflection of current contract terms will be found in the tariff or price list.

WAC 480-120-076.

GTE did not recommend deletion of this rule in its June Comments. GTE believes that this rule remains appropriate, as revised in Attachment A. No reason for the deletion is stated in the discussion draft.

This issue of undergrounding of utility facilities is important and expensive and should be the subject of a rule that allows carriers to define the terms of undergrounding.

WAC 480-120-081.

This rule is vital to telecommunications companies that need to have a reasonable means of discontinuing service to customers who do not pay or who harm the telecommunications system. GTE has modified the Staff's discussion draft in several significant ways as shown on Attachment A to recognize a CLEC's reasonable concern and to bring the proper focus back to customer responsibility. The Staff's proposed new language goes too far to over-protect consumers who abuse the system at the expense of the vast majority of responsible customers.

GTE recommends to add "next business day" to Subsection (1). For a reseller of local service, completing the disconnection of a customer no later than the next business day following the requested disconnection date may not be possible. It is contingent on when the customer notifies the company, on the timing of issuing the disconnection notice to the underlying provider and the ability of that provider to complete the request within the timeframe requested.

Add "restrict non-essential service and features" in subs (4) (b), (c) and (6). This is a reasonable change, consistent with allowing total restriction ability.

Delete "within four hours" in subsection (6). The proposed rules added a

requirement requiring reconnection within 4 hours for a disconnected customer with a medical emergency condition. This new time limit is too restrictive. GTE may not be able to reinstate a customer within 4 hours who has been disconnected.

Delete the different timelines for mailing “out of state” in subsection (7)(a)(i). This is not necessary. The mail system may deliver a letter more quickly out of state than in state.

Delete subsection (7) (c) and (d). The written notification required by subsection (7)(a)(i) is adequate. The additional notification requirement in the existing rule is onerous, increases administrative cost and yields insignificant results, based upon GTE’s experience. Customers must be personally responsible for paying for services they receive and the seriousness of a disconnection notice should not be diminished by follow-up notification calls. A requirement to attempt to contact the customer not once, but twice, prior to service suspension is unnecessary and costly to the carrier. Any decision on additional notification should be determined by each company’s business practice using defined criteria, such as the amount due, how delinquent the customer’s past payment history, etc. If the Commission insists upon additional notification prior to disconnection, a requirement to make two call attempts is no longer justified and allows customers more time to run up additional charges.

Delete subsection (7)(f). Employees of a CLEC that is strictly a reseller, would not visit the customer’s premise to disconnect service. The underlying facilities provider's employees perform this function. It is not a sound business practice to require the employees of the underlying facilities provider to accept payment on behalf of the CLEC. Typically, the underlying facilities provider does not perform business office functions on behalf of CLECs.

The acceptance of cash payments in the field creates a serious breach of fiduciary

responsibility. A field technician has no means to secure cash payments and this creates a safety risk to the technician.

Delete subsection (7) (g). If the company is providing service to persons other than the customer of record, those persons should be required to immediately change the customer of record to the appropriate person. This is only a billing system change that can be done immediately. The customer should not be given 5 business days to rectify this billing issue. This extended period of time has the potential to allow for fraud on this account as the service user is likely to know the "customer of record" is not accurate.

WAC 480-120-087, -088, -089

These rules duplicate federal law and should be deleted.

WAC 480-120-091, -096

GTE supports the deletion of these rules.

WAC 480-120-101

GTE has proposed minor changes in Attachment A.

In a multi-carrier environment multiple providers may be involved (i.e., resellers, UNE providers) in the complaint process. The requirement in subsection (4)(a) to report within two (2) working days on any investigation is too short. GTE recommends changing two (2) working days to ten (10) working days. In a competitive market, more time may be required to adequately investigate and report on any initial findings to the Commission.

In subsection (5), GTE recommends record retention of two years which is consistent with federal requirements for slamming and truth-in-billing complaints.

WAC 480-120-106.

GTE recommends deleting this rule. In a competitive environment companies should be allowed to establish their own payment due dates. Like WAC 480-120-087, -088, -089, this rule on form of bills duplicates federal rules in this area. The Commission

should not enact or maintain Truth-in-Billing rules that are repetitive of federal rules that apply to intrastate services. To simplify the rulemaking process, the Commission should incorporate the FCC rules by reference to be consistent.

WAC 480-120-116.

GTE would revise the time period for overcharge refunds to two years, pursuant to RCW 80.04.240.

WAC 480-120-121.

GTE supports deleting this rule.

WAC 480-120-126, -131

These rules should be deleted because they intrude into, or duplicate, regulation from other administrative agencies, such as the Department of Labor and Industries.

WAC 480-120-136.

GTE proposes reducing the time period for records retention from three years to two years. Record retention is very expensive for companies and should be set at the minimum requirement. Two years is appropriate as the liability by the company for any refund of overcharges is two years per RCW 80.04.240.

WAC 480-120-138.

GTE suggests deleting this rule because it is inconsistent with §276 of the Telecommunications Act of 1996 and CC Docket 96-128.

WAC 480-120-141

GTE recommends deleting subsection 1(b) because OSPs do not know whether a PSP is in compliance with Commission rules.

GTE recommends the deletion of subsection (2)(a) in its entirety. The disclosure requirements are duplicated in WAC 480-120-138 and more appropriately apply to pay phone service providers because they are in the business of providing and maintaining

their payphones. Furthermore, the notice requirements in subsection 2(a)(iii) duplicates the existing federal requirement in 47 U.S.C. § 47.703(4).

Subsection 2(b) should also be deleted as the FCC currently requires the disclosure of rates and surcharges to consumers prior to connection of the call. 47 U.S.C. § 64.703 (2) requires the disclosure of rates and surcharges to the consumer by allowing the consumer to dial no more than two digits or to remain on the line.

In subsection (8), GTE recommends deleting references to payphone specific ANI coding digits as the payphone specific ANI digits are not a call screening device. The FCC requires the use of payphone specific coding digits to enable the identification of payphones for the purpose of Per Call Compensation as ordered by the FCC in Docket CC 96-128.

WAC 480-120-144, -151, -152, -153.

These rules duplicate federal law and should be deleted.

WAC 480-120-340.

This rule should be deleted because the requirements have been met.

WAC 480-120-350.

Delete subsections (2) and (4) because only PSAPs are required to keep a record of reverse searches.

WAC 480-120-500.

GTE has several major concerns with respect to the changes proposed by the discussion draft.

The first relates to the addition of “the availability of comparable services” in subsection (1). This change should not be made. It would impose obligations on carriers, ignore the realities of the telecommunications marketplace, potentially undermine

competition, increase the cost of telecommunications for Washington consumers, and limit innovation. First, the requirement to ensure the availability of comparable services ignores the fact that telecommunications markets are open to competition. If one provider does not offer a product demanded by consumers, the window of opportunity is opened for another competitor to gain market share. Second, neither the telecommunications network nor consumers in Washington are homogenous. Different suppliers do not introduce products simultaneously nor do consumers demand the same products in the same amount at the same time. Imposing the comparability requirement would delay the introduction of services. Also, the actual cost to provision the capability without sufficient demand would increase the actual cost of providing service. Services that might be profitably introduced to meet a limited demand in certain areas would potentially never make it to market under this rule.

Second, the modifications in subsection 2 of the discussion draft should not be made because the proposed language is contrary to the workings of a competitive marketplace. It is unrealistic to expect any firm to supply 100% of projected demands in a multi-firm environment. This requirement would cause firms to overbuild the network resulting in increased telecommunications cost for consumers. Further, this rule would require firms to make uneconomic investment and thus would constitute an effort to provide for the continued quality of telecommunications services under Subsection 254(f) of the Telecom Act and the actual cost must be imposed on all telecommunications providers equitably. There is no provision or plan to accomplish this requirement currently. Thus, this rule should not be imposed at this time.

However, subsection (3) should not be deleted. It provides necessary protection to carriers that increasingly face tort litigation.

WAC 480-120-505.

No comment.

WAC 480-120-510.

Delete this rule because it ignores the realities of a competitive market in which customers can choose companies to meet their needs.

Requiring companies to maintain a costly business expense so a customer can make a cash payment is not necessary in today's business environment credit or debit cards are universally available. A company can take a credit or debit card payment over the telephone.

Beyond a certain point, the speed of answer does not enhance customer satisfaction and can actually inhibit satisfaction if the focus on answer time detracts from taking the time to serve the customer completely. In today's environment, many calls may, in fact, tend to take longer, given the increasingly sophisticated technology and complexity of the services being offered to customers. Customers are less concerned with small delays in answer time if their needs are addressed when their calls are answered. An incentive to quickly terminate a customer call and move to the next customer without genuine resolution of the matter at hand, is contrary to any customer-service goal.

WAC 480-120-515.

GTE has proposed language revisions to the discussion draft in Attachment A. These revisions are consistent with FCC reporting requirements in ARMIS 43.05, Table II.

WAC 480-120-520.

The notification requirements of this rule are unnecessary. The FCC already requires such notification. Under 47 C.F.R. § 63.100, all local exchange, interexchange, CAPS, and facilities based CLEC's must report to the FCC duty officer via fax within 120 minutes major outages that effect 50,000 customers for 30 or more minutes. Additional historical outage information is available via the annual ARMIS report 43-05 table 4.

WAC 480-120-525.

GTE recommends deleting subsection (1) and (3). Beyond a certain point, the speed of answer does not enhance customer satisfaction and can actually inhibit satisfaction if the focus on answer time detracts from taking the time to serve the customer completely. In today's environment, many calls may, in fact, tend to take longer, given the increasingly sophisticated technology and complexity of the services being offered to customers. Customers are less concerned with small delays in answer time if their needs are addressed when their calls are answered. An incentive to quickly terminate a customer call and move to the next customer without genuine resolution of the matter at hand, is contrary to any customer-service goal.

WAC 480-120-530.

No comment.

WAC 480-120-535.

This reporting requirement is exactly the type of unnecessary, burdensome regulatory requirement that should be eliminated in a competitive environment. At a minimum, this rule should be modified as set forth in Attachment A.

GTE continually seeks to determine what is important to its customers. In conducting market research, GTE's objective is to determine what experiences lead customers to acknowledge that they have received quality service. In many cases, the traditional measures mandated by regulatory agencies do not affect the customer's expectation of quality, or are not focused on measuring what is important to them. GTE believes that customer satisfaction is reflected in measures that portray timeliness, commitments met, and reliability. Therefore, "commitments" met is a more appropriate measure and the GTE proposed language changes reflects that in subsection (3)(a).

If the Commission chooses to keep an “appointments” approach, then the term “upon customer’s request” should be added to subsection (3)(a).

Subsection (3)(b) on held orders should be modified as set forth in Attachment A. It is not appropriate to require a report consisting of more than primary requests for service. Such a report would provide enough information to reassure the WUTC that companies are meeting their service quality objectives.

Subsection (3)(c) on major outages reporting should be deleted for the same reason 480-120-520 should be deleted.

Subsection (3)(e) should be deleted because this additional reporting is not required. Sufficient trunk blocking information is available in the annual ARMIS report 43-05, Table II.

Subsection (3)(f) should be deleted. Requesting a new clearing time report is contrary to the mission of this rulemaking.

Proposed New Rules

GTE does not support the adoption of any of the proposed new rules in the Staff’s discussion draft.

WAC 480-120-X01, X02.

These rules should be deleted. These rules impose new, cumbersome requirements on companies that require information for which there is no real apparent regulatory need.

WAC 480-120-X03.

This rule should be deleted because it applies to customers not telecommunications providers.

WAC 480-120-X04.

This rule should be deleted because it duplicates GTE's proposal for WAC 480-120-

024.

WAC 480-120-X05, X05.5, X06.

These rules should be deferred pending the outcome of Docket Nos. UT-990301, UT-991931, UT-991930 and UT-993000.

WAC 480-120-X07.

This rule should be deleted because it duplicates WAC 480-120-081.

WAC 480-120-X08.

GTE strongly opposes this new rule and urges that it not be adopted. The Staff has failed to demonstrate what circumstances have changed that requires the need for this rule in a competitive market. Competition, not additional rules, should drive this type of program. The ultimate price for not meeting customer expectations is the loss of the customer. This type of credit/rebate program should be the result of a Company driven business decision and is one example of a type of service differentiator which competitors can chose to implement to distinguish themselves and their products in the marketplace. As an example, GTENW already has a tariffed Service Performance Guarantee ("SPG") program in Washington. GTENW uses this as one way to show its customers it is dedicated to keeping our commitments. GTENW WUTC complaints related to commitments met shows a 26% reduction from 1998 to 1999. Mandating this rule is not appropriate in a marketplace driven more and more by competition.

WAC 480-120-X09, X10.

Delete these rules because they are unnecessary and repeat existing law.

WAC 480-120-X11.

This rule is outdated and should not be adopted. GTE has consistently advocated that the implicit support in access rates should be removed and recovered from a competitively neutral USF and/or from below cost services. This old rule assumes access

rates are based on Fully Distributed Costs (FDC) in the former manner, which would maintain implicit support in access charges.

Further, in its Access Reform proceeding (Docket No. UT-970325), the WUTC adopted rules governing access charges. Those rules do not order annual filings as required by this Rule. The UT-970325 access rules also change the approach of access pricing from the traditional FDC basis to LRIC based. Since Rule 480-120-X11 relies on FDC cost, it is inconsistent with UT-970325. GTE has appealed certain aspects of UT-970325 with the Thurston County Superior Court and the final rules are not yet determined.

For all the reasons described above, there is no reason or public benefit in expending LEC and Staff resources collecting the annual data required by this Rule.

WAC 480-120-X12, X13, X14, X15, X16, X17, X18.

All of these rules should not be adopted. There is no current, demonstrable need for these rules.

[1] See, e.g., In the Matter of Revision of Filing Requirements, CC Docket No. 96-23, 11 FCC Red 16326, 1996 FCC LEXIS 6274 **53. (Rel. Nov. 13, 1996).