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Ms. Carole Washburn
Executive Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

Attention: Sharyn Bate

Re: Docket No. UT-040015, Rulemaking to Consider Possible Corrections and Changes in Rules in Chapter 480-120 WAC, Chapter 480-80 WAC, and Chapter 480-122, Relating to Telecommunications

Dear Ms. Washburn:

Qwest Corporation offers the following comments in response to the Commission's January 28, 2004 Notice of Opportunity to File Written Comments in conjunction with the CR-101's filed in Docket No. UT-040015 on the Commission's web site.

1. Telephone customer privacy rules (WAC 480-120-201 through -216)

The WUTC was permanently enjoined from enforcing its telephone customer privacy rules on August 27, 2003.

Qwest Comments:

Qwest assumes that the Commission's proposal is to delete the affected rules. Qwest would agree with this proposal in light of the federal court decision and the fact that the FCC's privacy rules apply to both interstate and intrastate CPNI.

2. Record of third-party verifications in anti-slamming rule (WAC 480-120-147)

As part of the anti-slamming rule, companies are required to retain records when a third-party verification firm is used to confirm a customer's change in service. The rule specifies the type of information that must be retained, but the current rule does not require that companies record the date of the third-party verification. This information would assist in resolving disputes about whether a customer actually authorized a change in service.

Qwest Comments:

In principle, Qwest does not oppose the added requirement that companies record the date of third-party verification. Qwest would note that the FCC rule, 47 C.F.R. §64.1120(a)(1)(ii), states that the submitting carrier must maintain the record of verification of subscriber authorization for a minimum of two years after obtaining the verification, which inherently assumes the retention of the third-party verification date. Qwest will await a specific proposal before making further comments.

3. Update anti-slamming rule to be consistent with federal rule (WAC 480-120-147)

The anti-slamming rule, WAC 480-120-147, has not been updated to reflect recent changes in the federal rule. Consumer Affairs' Slamming Complaint Procedure incorporates the federal rules, as set out.

Qwest Comments:

Upon initial review, it is unclear what changes are proposed, and if such changes would be applied to PIC changes, preferred carrier freezes, or both. In principle, for PIC changes only, Qwest would not oppose rule changes that reflect the federal rule requirements. Qwest will await a specific proposal before making further comments.

4. Refund of deposits to business customers (WAC 480-120-128)

In the rule on deposits, the subsection on refunding deposits has a title that refers to residential customers only. This is confusing, because the text of the rule does not limit the provision to residential service.

Qwest Comments:

Qwest would support a correction to WAC 480-120-128 (3) deleting the reference to residential service.

Qwest would also recommend an additional modification to WAC 480-120-128 in subsection (2), Interest on Deposits. Customer deposit interest rates are updated and changed each year based on the rate for the One-Year Treasury Constant Maturity calculated by the U.S. Treasury, as published in the Federal Reserve's Statistical Release, H.15, on January 15 each calendar year, effective on January 1. Unfortunately, by the time the new rate can be implemented in Qwest's systems, an entire month of interest recalculation is required on all customer accounts where interest is due. Therefore, Qwest proposes to change subsection (2) to allow either the new rate to become effective on February 1 of each year or the use of an

interest rate published in the Federal Reserve's Statistical Release, H.15, by November 15th of the previous year.

5. Application of the out-of-service credit provision (WAC 480-120-164)

WAC 480-120-164 requires pro rata credits when service is not available for more than 24 hours in a billing cycle. The rule does not limit the credit to customer-reported outages, and there have been questions about whether companies are required to detect out-of-service conditions. Staff has provided informal advice that the rule does not require companies to implement systems to detect all outages but must provide the credit when it detects an outage in its normal course of business. Verizon withdrew a petition for clarification in Docket UT-030955 based on the Staff interpretation.

Qwest Comments:

Qwest supports clarifying WAC 480-120-164 that pro rata credits apply when a specific customer outage is reported by the customer and when service is not available for more than 24 hours in a month.

6. Application of rule on restoring service after discontinuation (WAC 480-120-173)

WAC 480-120-173 establishes conditions under which a company must restore service when a customer has been disconnected. It is not clear from WAC 480-120-173 how long after disconnection a customer can be "restored," as opposed to having to apply for service as a new customer. The rule could be clarified to specify the time period, after disconnection, where a customer could have service restored.

Qwest Comments:

It is Qwest's current policy to provide service to a customer qualifying for treatment under WAC 480-120-173 any time after prior service has been completely discontinued. Qwest would not object to a change in the rule that indicates that the opportunity provided under WAC 480-120-173 is available any time a customer becomes eligible under the rule.

7. Application of WTAP "fresh start" rule to former customers (WAC 480-120-174)

WAC 480-120-174 requires companies to restore service to customers who were disconnected for nonpayment and subsequently enroll in the telephone assistance program for low-income customers. There are differences of interpretation about whether this opportunity is available only immediately after service is discontinued or whether a former customer may obtain service under this rule at any time.

Qwest Comments:

It is Qwest's current policy to provide service to a customer qualifying for treatment under WAC 480-120-174 any time after prior service has been discontinued and the customer has subsequently received TAP eligibility. Qwest would not object to a change in the rule that indicates that the opportunity provided under WAC 480-120-174 is available any time a customer becomes eligible under the rule.

8. Definition of Class A and Class B companies (WAC 480-120-021, WAC 480-120-302)

The rules define a “Class A” company as one with 2 percent or more of the state’s access lines and a “Class B” company as one with less than 2 percent of the lines. Class B companies are exempt from various reporting requirements. This was meant to conform to the statutory definition of companies exempt from reporting requirements. However, the statute provides that access lines of affiliated companies be counted in measuring the 2 percent threshold, while the definition in the rule does not include this provision.

Qwest Comments:

Qwest will await a more definitive proposal before making comments.

9. Prohibition on using ADADs to dial unlisted numbers (WAC 480-120-253)

WAC 480-120-253(5)(c) prohibits the use of automatic dialing and announcing devices (ADADs) to call unlisted telephone numbers.

In Docket UT-030273, the WUTC granted an exemption from this requirement to Qwest Corporation and said the requirement should be given further consideration. It noted that the term “unlisted” is not defined and difficult to interpret, that the prohibition applies even where there is an existing relationship, and that the prohibition cannot be waived by the called party. It appears that ADADs are commonly used, without objection, for non-commercial purposes that include the dialing of unlisted numbers.

Qwest Comments:

Qwest supports changes to WAC 480-120-253, which regulates the use of ADADs. Qwest would suggest the elimination of the prohibition on dialing unlisted telephone numbers contained in subsection (5)(c). As Staff noted in its Open Meeting Memorandum in Docket No. UT-030273 (Qwest's ADAD waiver petition), the current rule is somewhat unclear in its use of the term "unlisted" and the prohibition on its face limits many beneficial non-commercial uses such as by schools and libraries. As a matter of statute, ADADs may not be used in Washington for commercial solicitation. See RCW 80.36.400(2). The elimination of the “unlisted” prohibition would not impact this statutory prohibition.

Qwest has found that the ADAD is a cost-effective and efficient means for providing non-commercial information (that is, information that does not involve commercial solicitation) to its customers, and that without the use of the ADAD, Qwest would be unable to provide such service to its customers. For example, Qwest uses an ADAD to confirm repair appointments with customers, both pre- and post-repair. To manually call those non-list and non-published customers for that program in Washington alone would cost Qwest in excess of a million dollars a year, making the program cost prohibitive. For these reasons, Qwest recommends that WAC 480-120-253(5)(c) be deleted.

10. Clarify obligation of LECs to update E-911 information (WAC480-120-450)

WAC 480-120-450(2)(e) requires LECs to resolve reports of data base errors within five working days. In Docket UT-030394 the WUTC issued an interpretive statement:

Subsection (2)(e) of WAC 480-120-450 requires LECs to resolve reports of data base errors within five working days. That obligation falls on LECs in their role as service providers. That subsection does not impose those obligations on LECs that administer an E-911 data base, but do not provide service at the location where an error is reported.

This clarification could be incorporated in the text of the rule.

Qwest Comments:

Qwest supports incorporating the Commission’s interpretive statement into the text of the rule.

11. Cross-references to “deceptive practices” (WAC 480-120-173, 480-120-122)

“Deceptive practices” are listed in subsection (1) of WAC 480-120-172, with further subsections (a) through (d).

Two other sections refer to these deceptive practices. In 480-120-173, the reference appears to be too narrow, referring only to subsection (1)(a) rather than subsection (1). In 480-120-122, the reference is too broad, referring to the entire section 172.

Qwest Comments:

Qwest will await a more definitive proposal before making comments.

12. Application of terminating access rule to CLECs (WAC 480-120-540)

The WUTC has granted exemptions to several CLECs permitting them to charge a higher terminating access rate than is permitted by WAC 480-120-540. These CLECs may charge up to the amount that Qwest and Verizon charge, including their universal service rate elements, even though the CLECs do not have customers in high-cost locations.

During the last review of WAC 480-120, the WUTC considered whether to incorporate this treatment of CLECs into the rule itself (thereby avoiding the need for company-specific exemptions) or ending the exemptions (thereby requiring CLECs to charge no more than incremental cost for terminating access).

Qwest Comments:

Qwest will await a more definitive proposal before making specific comments on this issue.

13. Requirement to offer WTAP service (WAC 480-122-020)

WAC 480-122-020 requires that any local exchange company with more than 100 residential customers offer the discounted WTAP service to low-income applicants. The WUTC granted a temporary exemption to this requirement in July 2003, after DSHS changed the reimbursement formula for non-incumbent local exchange companies (Docket UT-030867).

The WUTC could consider whether to remove this requirement from the rule. Another possible action would be to revise the method of applying the resale discount to increase the margin that CLECs earn when they resell incumbents' service to WTAP customers.

Qwest Comments:

Qwest awaits a more definitive proposal before making specific comments on this issue. Qwest would state that any proposed changes should be revenue neutral to Qwest and competitively neutral among all providers, including Qwest.

14. Response to informal complaints (WAC 480-120-166)

Subsection (11) of the rule on informal customer complaints has resulted in some confusion about the circumstances under which a company is required to respond to a staff request for information. The subsection does not refer to subsection (8), and it may duplicate the requirement in subsection (9).

Qwest Comments:

Qwest supports including a reference to subsections (8) and (9) of the rule in subsection (11) in addition to the references to subsections (6) and (7).

15. Emergency contact information (WAC 480-120-414)

The current rule on emergency plans and contacts requires that all telecommunications maintain emergency plans and provide us with contact information. The WUTC recently reminded companies of this requirement, in preparation for a state emergency readiness exercise in January. Several companies that have no network of their own (pure resellers) believe that the plans and contact information are unnecessary for their companies.

Qwest Comments:

Although it is not clear by the issue description what specific changes are proposed, Qwest is not opposed to modification of WAC 480-120-414 to be more explicit regarding the companies that are required to maintain emergency plans and provide the Commission with contact information.

16. Definition of a tariff change not subject to statutory notice (WAC 480-80-123)

WAC 480-80-123 lists the types of tariff changes that do not require statutory notice. One type listed is "a tariff change that does not affect the public."

This description is inconsistent with the corresponding provision covering price list changes and may be inconsistent with the statute.

However, since the statutory provisions in Chapter 80.36 and Chapter 80.28 are different, the best approach may be to have separate provisions for telecom companies and energy/water companies.

Qwest Comments:

To be consistent with WAC 480-80-205, Qwest supports clarifying WAC 480-80-123(3)(c) to mean:

The following types of tariff filings become effective on the later of the effective date stated in the tariff or the date they are filed with the commission: one that introduces a service not previously in the company's tariff; makes changes that do not affect the rates or charges paid by customers; or is a promotional offering.

17. Requirement to include contact information in price lists (WAC 480-80-102)

WAC 480-80-102(1)(f) requires that the title page of each tariff include "the complete name, address, phone number, unified business identifier (UBI) number, and if available, the mail address and web page address of the issuing utility."

The corresponding rule for price lists, 480-80-204(2), does not require that this information be included on the title page.

Qwest Comments:

In order to be consistent with WAC 480-80-102(1)(f), Qwest supports a requirement in WAC 480-80-204 that price lists include the complete name, address, phone number, unified business identifier, mailing address and web page address of the issuing utility.

If you have any questions, I can be reached at 206-345-1568.

Sincerely,