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Via Web Portal

Steven King
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket U-170031

Enclosed for filing are the Comments to the Notice of Opportunity to File Written Comments by AT&T Corp. and Teleport Communications America, Inc. (collectively "AT&T") in the above mentioned docket.

Sincerely,

A handwritten signature in cursive script that reads "Cindy J. Manheim".

Cynthia Manheim
AVP – Senior Legal Counsel

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

Rulemaking to consider adopting a rule in)
WAC 480-120, Telephone Companies,) **Docket U-170031**
relating to standards for restoring)
regulated telecommunications services)
following an outage and customer)
notification of planned service)
interruptions)
_____)

COMMENTS OF AT&T

AT&T Corp. and Teleport Communications America, Inc. (collectively “AT&T”) respectfully submit these comments in response to the Washington Utilities and Transportation Commission (“Commission”) Notice of Opportunity to File Written Comments issued on August 7, 2017 (“Notice”). The Commission seeks comment or suggestion on alternatives to a firm repair interval that would enable consumers to receive timely restoration of impaired services while affording providers greater flexibility in addressing marketplace conditions. AT&T agrees with previous commenters that a firm repair interval is not necessary. Nevertheless, to be responsive to the Commission’s request, AT&T has provided some suggested revisions to the proposed rule.

To provide more meaningful comments and suggestions on the proposed rule, it would be helpful to know why the Commission is undertaking this effort. WITA initially raised this point in its March 6, 2017 comments.¹ In its August 7, 2017, Notice of Opportunity to file comments, the Commission stated that it remained concerned about unreasonable repair intervals, yet did not provide any additional information about the

¹ Opening Comments of the Washington Independent Telecommunications Association (WITA), Docket No. UT-170031 (March 6, 2017) (*WITA Comments*), p. 1-2.

underlying reason for that concern or cite to any incidents which precipitated the concern. AT&T is not aware of any repair issue impacting its Washington customers which would point to the need for a rule. Further, the Commission has not explained the purpose of the benchmark or how it will be used. The Commission has invited parties to provide suggestions on alternatives to firm repair intervals, but it is difficult to suggest revisions to a proposed rule when the Commission has not detailed the concern that it is attempting to address or how the rule will be used. For example, it would be helpful to know if the Commission has experienced a situation or situations that it has felt it cannot address under the current Washington regulations.

Additional Regulations Are Not Necessary

AT&T continues to agree with previous comments filed in this docket that a firm benchmark for service restoral is not necessary as the competitive market ensures that companies restore service in a reasonable timeframe.² Otherwise, customers will simply move their service to other entities that provide voice service, including ILECs, CLECs, Voice over Internet Service (“VoIP”) providers, and wireless providers.

The majority of Washington customers have competitive options for their voice service, with the opportunity to choose either a landline, cable or wireless provider. There has been explosive growth of wireless service over the last decade. In 2015, only a very

² *WITA Comments*, p.4 (“WITA strongly urges that the Commission not establish a benchmark for service restoral.”); *LocalTel Communications Comments*, Docket No. UT-170031 (Mar. 6, 2017), p.1 (“No, a benchmark for service restoral is not needed.”); *Frontier Communications Comments* (Mar. 6, 2017), p.4 (“It is Frontier’s position that reimposing a benchmark for service restoral is a step in the wrong direction. As the telecommunication industry is becoming less regulated and ILEC providers have lost a majority share of voice customers, creating a benchmark is both unfair and could have unintended consequences by focusing on one product.”); *CenturyLink’s Comments* (March 6, 2017), p.4 (“No, it is CenturyLink’s position that the Commission should not establish a benchmark for restoral, for both policy reasons and practical reasons.”)

small percentage of households, 5.9 percent, relied solely on landline service.³ This number has likely decreased further as wireless companies continue to expand coverage and make other network improvements. Operating in a fiercely competitive market, wireless carriers have invested (and continue to invest) billions of dollars to build out networks to provide reliable service. All this has occurred without the imposition of service restoral benchmarks. This competition drives wireline carries to institute reasonable restoral timelines as customers will otherwise seek other providers.

When the Commission revised its regulations in UT-140680 in 2015, it was acting in a similar manner as other states to reflect in regulations the changes that have occurred in the telecommunications landscape. While AT&T is a CLEC in Washington, in the majority of the 21 states in which AT&T operates as an ILEC, the states have eliminated benchmarks for restoration of service to retail customers. In eliminating the reporting requirements in Docket UT-140680, the Commission was acting consistently with the trend in other states.

In revising its rules in Docket UT-140680, the Commission effectively streamlined its telecommunications rules and did so without eliminating protections in place for the consumer. Specifically, Washington Administrative Code (“WAC”) 480-120-439 (1) requires all companies to retain for at least 3 years all records that would be relevant in the event of a complaint or investigation to determine the company’s compliance with service quality standards established by several regulations including those included in WAC 480-120-411. Therefore, if a complaint is filed with the Commission or the commission decides to launch its own investigation, carriers will be required to provide records to the

³ CDC, National Health Interview Survey Early Release Program, August 2016.

commission showing that it is “providing adequate maintenance” (WAC 480-120-411(1)(a)), correct immediately hazardous conditions endangering the continuity of service (WAC 480-120-411(b), and promptly repair or replace broken, damaged, or deteriorated equipment when found to be no longer capable of providing adequate service (WAC 480-120-411).

Further, a customer can already file a complaint against any carrier subject to the commission’s jurisdiction, if there is a concern regarding service restoration.⁴ The carrier would then provide all information regarding the particular situation and the Commission would find whether or not the carrier’s actions were reasonable when considering all the factors regarding the situation.

Suggested Revisions to Proposed Rule:

While AT&T believes that the Commission should not amend WAC 480-120-411 to add service restoration standards, at a minimum the Commission should exempt competitive local exchange carriers from any service restoration requirements. By their very nature, CLECs operate in areas in which there is another provider, so customers have the ability to change providers if they are unsatisfied and do not believe the CLEC is restoring service quickly enough. Consumers continue to move to other technologies which would not be obligated to comply with this regulatory burden. In addition, CLECs often rely on Unbundled Network Elements (“UNEs”) and resold services to provide service which means the CLEC is dependent on the carrier from which it is purchasing UNEs and resold services (from the ILEC) to restore service.

⁴ See WAC 480-120-165.

If the Commission decides to enact a rule, it should also only apply to residential as opposed to business customers. Business customers tend to be more aware of the different options available and will readily change to another provider if they are not happy with their service. Further, some business customers will enter into a contract for service which includes specific service level agreements.

If a rule is promulgated, the Commission should also recognize a de minimum threshold when these requirements would not apply. For example, AT&T believes that CLECs with under 5,000 consumer lines should be expressly excluded from the benchmark. There are burdens for carriers with tracking the information in the manner in which the Commission is requesting which is not offset by a corresponding benefit.

The proposed rule seems to imply that all service restoration issues must be resolved within 48-hours. For the reasons described by CenturyLink⁵ and others in previous comments in this docket, situations will arise where it is not reasonable to restore service within 48-hours. If a benchmark is included in the rules it should specify that 85% of service restoration tickets should be resolved in 48-hours. There are likely situations due to distance, need to order equipment, and other circumstances whereby it will not be possible to meet the 48-hour requirement for all providers.

Last, the rules should clarify that when an entity is purchasing service from another provider for resale or purchasing UNE-P from another provider, that the repair (and related tracking) will be performed by the other carrier.

⁵ CenturyLink Comments, Docket UT-170031, (March 6, 2017), p.1-3.

In Attachment A, AT&T has provided its suggested edits to the Commission's proposed rule in the event that the Commission decides to proceed with a rule. AT&T's suggested revisions are capitalized and in blue.

In summary, AT&T does not believe it is necessary for the Commission to implement repair standards for service interruption and impairment for the reasons outlined above. At a minimum, the Commission should exempt CLECs from these requirements.

Submitted this 11th day of September, 2017



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Attachment A

WAC 480-120-411

Network maintenance and outage restoral.

- (1) Each local exchange company (LEC) must:
 - (a) Provide adequate maintenance to ensure that all facilities are in safe and serviceable condition;
 - (b) Correct immediately hazardous conditions endangering persons, property, or the continuity of service when found, reported, or known to exist;
 - (c) Promptly repair or replace broken, damaged, or deteriorated equipment, when found to be no longer capable of providing adequate service; ~~and~~
 - (d) Correct promptly transmission problems on any channel when located or identified, including noise induction, cross-talk, or other poor transmission characteristics and,
 - (e) Repair ALL 85 PERCENT OF out-of-service interruptions FOR RESIDENTIAL CUSTOMERS within forty-eight hours, excluding Sundays and legal holidays, except in the following circumstances when the company must repair the interruption as soon as practicable:
 - (i) the out-of-service interruption is part of a major outage as defined in WAC 480-120-412;
 - (ii) the customer's inside wiring or customer premises equipment is the cause of the interruption;
 - (iii) the company is unable to make the repair due to circumstances beyond the company's control, including but not limited to severe adverse weather conditions, inability to physically access the repair site, labor disruptions that directly and significantly impact the company's provision of service in Washington, or other force majeure events, AND THE PURCHASE OF ELEMENTS OR SERVICE FROM ANOTHER PROVIDER; or
 - (iv) the repair requires construction or other activities for which local government authority or approval is required; provided that the company contacts the local government as soon as practicable to obtain the necessary authority or approval and the company repairs the interruption within forty-eight hours of receiving that authority or approval.
- (2) Each LEC must install and maintain test apparatus at appropriate locations to determine the operating characteristics of network systems and provide sufficient portable power systems to support up to the largest remote subscriber carrier site. For the safe and continuous operation of underground cables, each LEC must establish air pressurization policies and an air pressurization alarm-monitoring program where appropriate.
- (3) Central offices equipped with automatic start generators must have three hours' reserve battery capacity. Central offices without automatic start generators must have a minimum of five hours' reserve battery capacity. Central offices without permanently installed emergency power facilities must have access to readily connectable mobile power units with enough power capacity to carry the load and that can be delivered within one half of the expected battery reserve time. The company must retain a reasonable inventory of

portable generators to maintain peripheral electronic equipment that is not connected to standby generation, for example, digital loop carrier, servers, etc.

(4) COMPETITIVE TELECOMMUNICATIONS CARRIERS WITH FEWER THAN 5,000 RESIDENTIAL VOICE ACCESS LINES ARE EXEMPT FROM THE REQUIREMENTS IN SUBSECTION 1(E).