



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

900 Fourth Avenue, Suite 2000 • TB-14 • Seattle, Washington 98164-1012

May 25, 2001

Carole Washburn
Secretary, Washington Utilities and Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
PO Box 47250
Olympia, WA 98504-7250

Re: ***Telecommunications Rulemaking, Docket No. UT-990146***

Dear Ms. Washburn:

It is Public Counsel's understanding that at the May 30, 2001, Open Meeting, Commission Staff will ask the Commission to move four draft rules in the telecommunications rulemaking docket (UT-990146) to the CR-102 rulemaking stage. In this letter we provide comments on three of these draft rules, as provided to stakeholders via e-mail from Commission Staff on May 10, 2001. We have no comments on WAC 480-120-131 at this time.

Service Installation Requirements (WAC 480-120-XXX and 480-120-XXY)

The proposed draft rule WAC 480-120-XXX establishes standards regarding the installation or activation of basic service. On May 10, 2001, Commission staff provided stakeholders with two new alternative versions of this draft proposed rule for review and consideration. Public Counsel is generally supportive of the new language proposed by Commission Staff. In particular, we support the following aspects of 480-120-XXX as drafted:

- Public Counsel supports Commission Staff's proposal to modify the standard to require local exchange carriers (LECs) to complete 95% of all orders of up to the initial five access lines within five business days, as measured on an exchange basis (subsection (1)(a)). The current standard is 90%.
- Public Counsel supports the inclusion of those orders where a customer requests an installation date beyond five business days into the 95% standard discussed above. Currently, these orders are excluded from the existing 90% standard, as outlined in WAC 480-120-051.
- Public Counsel supports the requirement that LECs complete 100% of all orders for installation or activation of access lines within 180 days (subsection (1)(c)). We also support retention of the existing requirement that 99% of all orders for up to five lines be completed within 90 days (subsection (1)(b)).

However, although we support many elements of the proposed draft rule, Public Counsel does have some concerns with the most recent versions of the rule, as distributed by Commission Staff on May 10, 2001. Our concerns primarily relate to the three-tiered measurement structure proposed by Commission Staff.

The most recent versions of the draft rule provide that, with respect to the requirement that 95% of orders for basic service be completed within 5 business days, the LECs performance would be measured on an exchange basis, but the *measurement period* would vary depending upon the average number of orders received during the previous calendar year within each exchange. This would effectively create a different standard depending the level of order activity in the exchange, such that:

- Exchanges with more than 30 orders per month would be measured on a *monthly* basis.
- Exchanges with 10 to 30 orders per month would be measured on a *quarterly* basis.
- Exchanges with less than 10 orders per month would be measured on an *annual* basis.

Our concern is that these standards may be overly complicated. Consequently, the rule may prove to be difficult to administer and enforce. This structure could also be considered to be inconsistent in the sense that the service quality standard would vary depending upon where in Washington you are trying to obtain basic telephone service. Finally, we are concerned that it may be difficult or even impossible for customers to know exactly which standard the LEC is required to meet—is it 95% of orders for basic service taken during the month, the quarter, or the year?

Public Counsel continues to support the proposed draft rule 480-120-XXY, which requires LECs to complete all orders for non-basic services within 180 days of the order, unless the customer requests a later installation date.

Service Quality Credits (WAC 480-120-X08)

Throughout this rulemaking docket, Public Counsel has been supportive of Commission Staff's proposed new rule, WAC 480-120-X08, which would require LECs to provide customers with service quality guarantees and credits. Public Counsel continues to strongly support this draft proposed rule. The general purpose of this rule is to ensure that customers receive appropriate credits when local exchange carriers fail to meet baseline standards of service quality. In particular, the rule would require the following:

1. Incumbent local exchange carriers (ILECs) are required to issue customer credits when orders for the first residential line or the first two business lines are delayed beyond 5 business days from the receipt of the order, unless the customer requests a later due date. (Section 1).
2. For all other services not captured by Section 1 (outlined above), the ILEC or the competitive local exchange carrier (CLEC) must give the customer a due date, and if the carrier fails to meet that due date, customer credits would apply. (Section 2). For example, if a customer places an order with a CLEC, the company must provide a due date, and credits would be

Comments of Public Counsel to Secretary Washburn
UT - 990146
May 25, 2001

warranted if the due date is not met. Similarly, if a customer places an order with an ILEC for the first residential or the first two business lines and requests a due date beyond five business days, credits would be warranted if the ILEC fails to meet that due date.

In both of these instances, the amount of the credit increases as the order is delayed for each additional week or partial week beyond the due date.

3. Section 3 of the draft rule includes a \$50 credit for missed appointments.

Public Counsel believes that these customer credits would provide appropriate and justified compensation to customers that have received inferior service from their telecommunications provider. The vast majority of consumers in Washington, particularly residential consumers, do not have an ability to choose their telephone provider. Thus, if the company does not show up for an appointment, or fails to install lines for primary service on time, most consumers simply do not have the option of turning to another provider.

Service delays do have real economic costs for consumers, both residential and business customers. Individuals may have to take time off of work to meet a technician at their house, and thus a missed appointment can result in unexpected costs. Also, for many businesses, high quality telephone service is critically important and they may suffer significant revenue losses from a delayed installation order.

Public Counsel believes that 480-120-X08 is appropriately focused on the customer's interaction with their telecommunications provider. We also believe that X08 appropriately allows for customer credits regardless of whether the customer is obtaining service from an incumbent or competitive provider. If a CLEC is unable to meet a commitment date as a result of the incumbent's failure to provide contracted service as required, the retail customer should not have to sort through conflicting claims. The retail customer should be compensated through the credits provided for in this draft proposed rule. If the incumbent is indeed at fault for failing to provide service as required to the wholesale customer, the CLEC should pursue all appropriate remedies either from the incumbent or through a Commission complaint.

Thank you for your time and consideration of these comments. Mary Kimball of Public Counsel is planning to attend the May 30 Open Meeting and will be available for questions.

Very truly yours,

Simon ffitc
Assistant Attorney General
Public Counsel Section Chief

cc: Glenn Blackmon
Vicki Elliott
Bob Shirley