

September 24, 2002

Carole J. Washburn, Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. SW
P. O. Box 47250
Olympia, Washington 98504-7250

Re: Docket No. UT-020667

Dear Ms. Washburn:

By this letter, the Commission Staff supplements its comments submitted on September 19, 2002, regarding the process the Commission should follow to resolve the issues raised by WITA's request for declaratory order in this docket.

Staff continues to support an informal process for resolution of this issue. Staff opposes a Commission-initiated complaint as the means to resolve the issues. Ordinarily, where the Commission initiates a complaint, it does so through Staff, and Staff carries the burden of proof. However, with respect to the issues raised by WITA's petition for declaratory order, the Commission Staff disagrees with WITA on the substantive issue of how VNXX is being used by competitors. Therefore, if this matter were to proceed as a Commission-initiated complaint, Staff would be in the position of advocating against the complaint, rather than in support of it.

Staff understands WITA to object to the association of a telephone prefix (in industry parlance, NXX) with a switching machine outside the local calling area to which that prefix is assigned and contends that this calling arrangement is not local exchange service. WITA apparently believes that the companies using NXXs in this way are bypassing access charges that should be paid to its members. Staff disagrees and believes that the physical location of the switching machine is irrelevant to the question of whether the calls in question constitute local exchange service. If the calls in question are Internet-bound calls, then the FCC's *ISP Remand Order* concludes that the traffic is not local exchange telecommunications. This is the case regardless of whether the switching machine resides in the local calling area, as is typical with WITA's members, or outside the local calling area, as is typical with competitive local exchange companies (CLECs).

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If it were inappropriate for CLECs to use a local NXX to route Internet-bound calls to a switching machine in another exchange, then it would also be inappropriate for the WITA companies to use a local NXX to route Internet-bound calls to its local switching machine. To the contrary, neither the CLEC's use of a VNXX nor the incumbent's use of an NXX is inappropriate.

Both uses, however, may be an inefficient use of numbering resources. Since Internet-bound traffic is declared by the FCC not to be local traffic, it would appear to be unnecessary to use a different NXX in each local calling area. This practice, which developed when Internet-bound calls were still considered to be local, is a major contributor to the shortage of telephone prefixes. Staff believes that there are hundreds of prefixes and thousand-number blocks in Washington state that are used only for Internet-bound traffic and would be unnecessary if the declared non-local nature of this traffic were properly recognized.

Staff would like to work with the telecommunications industry to implement a more efficient use of numbering resources for Internet-bound traffic. This might involve the creation of a "virtual rate center" that would be included in the local calling area of every actual rate center in the state, and all prefixes dedicated to Internet-bound traffic would be assigned to the virtual rate center. This approach could dramatically reduce the number of prefixes dedicated to the routing of Internet-bound telephone calls, and it could assist the industry in properly rating these calls for compensation purposes.

It is unfortunate that companies on both sides of this dispute appear to favor a formal complaint over any informal method of dispute resolution. Staff does not support the suggestion of a formal complaint and respectfully suggests that it would be particularly inappropriate to, in effect, designate it as the complainant in such a proceeding.

Very truly yours,

Shannon E. Smith
Assistant Attorney General

cc: Service list