

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Petition for Permanent Exemption from
WAC 480-120-262, Operator Service
Providers

Docket No. UT-

**QWEST CORPORATION'S PETITION
FOR PERMANENT EXEMPTION**

1 Qwest Corporation ("Qwest") hereby petitions the Washington Utilities and Transportation Commission ("Commission") for a permanent exemption from provisions of WAC 480-120-262(3) as that rule pertains to calls from inmate phones in correctional facilities.

I. THE RULE

2 WAC 480-120-262 became effective on July 1, 2003.¹ It contains requirements for Operator Service Providers (OSPs) who are providing operator services from pay phones and other call aggregator locations.

3 As adopted, WAC 480-120-262 subsection (3) reads as follows:

(3) Oral disclosure of rates. This subsection applies to all calls from pay phones or other call aggregator locations, including, but not limited to, prison phones and store-and-forward pay phones or "smart" phones. When a collect call is placed, both the consumer placing the call and the consumer receiving the call must be given the rate quote options required by this section.

¹ *In the Matter of Amending, Adopting and Repealing Chapter 480-120 WAC Relating to Telephone Companies*, Docket UT-990146, General Order No. R-507, Order Amending, Adopting and Repealing Rules Permanently, filed with the Code Reviser's Office December 12, 2002.

(a) Oral rate disclosure message required. Before an operator-assisted call from a call aggregator location can be connected by an OSP (whether by a presubscribed or other provider), the OSP must first provide an oral rate disclosure message to the consumer. If the charges to the consumer do not exceed the benchmark rate in (f) of this subsection, the oral rate disclosure message must comply with the requirements of (b) of this subsection. In all other instances, the oral rate disclosure message must comply with the requirements of (c) of this subsection.

(b) Rate disclosure method when charges do not exceed benchmark. The oral rate disclosure message must state that the consumer may receive a rate quote and explain the method of obtaining the quote. The method of obtaining the quote may be by pressing a specific key or keys, but no more than two keys, or by staying on the line. If the consumer follows the directions to obtain the rate quote, the OSP must state all rates and charges that will apply if the consumer completes the call.

(c) Rate disclosure method when rates exceed benchmark. The oral rate disclosure message must state all rates and charges that will apply if the consumer completes the call.

(f) Benchmark rates. An OSP's charges for a particular call exceed the benchmark rate if the sum of all charges, other than taxes and fees required by law to be assessed directly on the consumer, would exceed, for any duration of the call, the sum of fifty cents multiplied by the duration of the call in minutes, plus fifty cents. For example, an OSP's charge would exceed the benchmark rate if any of these conditions were true:

- (i) Charges for a one-minute call exceeded one dollar;
- (ii) Charges for a five-minute call exceeded three dollars; or
- (iii) Charges for a ten-minute call exceeded five dollars and fifty cents.

II. DISCUSSION

4 WAC 480-120-262(3) requires rate disclosure on all operator assisted calls placed from pay phones or other aggregator locations, including but not limited to prison phones, if the sum of the operator service provider's charges for an operator assisted call exceed, for any duration of the call, fifty cents per minute plus fifty cents.

5 Qwest has approximately 1776 coinless inmate telephone lines installed in correctional facilities throughout the state of Washington. 1657 (93%) of these lines are on an automated rate quoting platform that provide both the caller and the recipient of a collect inmate call with the required rate quote message.

6 Qwest seeks a permanent waiver for 70 inmate lines in place today (See Attachment 1), utilized as “attorney-client privileged” lines, and for any new lines added in the future that are also utilized as “attorney-client privileged” lines. If these lines were provided in conjunction with rate quote equipment, there is a possibility that such lines could be subject to call recording because, in addition to the rate quote capabilities, such equipment also has call recording and monitoring features. Consequently, when inmates, attorneys, or correctional facility personnel want to ensure they have a secure line on which their calls are not capable of being recorded, they request the ‘attorney-client privileged’ lines. Attached is an e-mail from Don Wilbrecht from the Washington State Department of Corrections stating that “the Department of Corrections requires that inmates be provided with a telephone and telephone line that is in no way connected to the inmate monitoring system. This requirement prevents inadvertent monitoring or the recording of privileged calls.” (See Attachment 2).

III. CONCLUSION

7 Qwest seeks a permanent exemption from the requirements of WAC 480-120-262(3) pertaining to required rate quoting for the 70 current coinless “attorney-client privileged” inmate lines as well as any new lines that might be added in the future that are also utilized as “attorney-client privileged” lines by correctional facilities, due to the monitoring and recording risks associated with the rate quote equipment.

DATED this _____ day of October, 2004.

QWEST

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