

DOCKET NOS. UT-990146, 991922, 991301
SUPPLEMENTAL COMMENTS OF GTE NORTHWEST INCORPORATED AND GTE
COMMUNICATIONS CORPORATION
May 12, 2000

GTE Northwest Incorporated (“GTE NW”) and GTE Communications Corporation (“GTE CC”) (hereinafter collectively “GTE”) submit the following supplemental comments on proposed rule changes to certain consumer protection rules contained in WAC 480-120. GTE has participated in all phases of this rulemaking docket,¹ which will revise the rules that govern telecommunications companies operating in Washington.

These comments respond to a request from the Commission Staff for additional comments following the discussion at the workshop on the Consumer Protection Rules held on April 11, 2000. In addition, these comments will respond to a request for further comment on several rules discussed at the April 18 workshop. The Commission Staff, representatives from GTE and several other telecommunications companies participated in this daylong workshop, in which the Staff-proposed changes to the consumer rules in WAC 480-120 were discussed. The April 11, 2000, workshop was quite productive. The Staff was very responsive to the expressed concerns of industry members and called for additional information to assist the Staff to further refine the contemplated rule changes. GTE appreciates the Staff’s openness and responsiveness, and its willingness to work in a cooperative manner to hear the concerns of industry members, while protecting the interests of Washington consumers.

GTE supports the Commission’s goals of encouraging competition, protecting the rights of consumers and ensuring that consumers understand those rights. Recent and rapid changes in the telecommunications industry require a significant reexamination of existing regulations to

¹ GTE incorporates its previously filed comments on these rules as well.

test their continuing vitality in the current competitive environment. GTE appreciates the Commission's ongoing effort to comprehensively review and revise its telecommunications rule, with the goal of eliminating those that are no longer necessary in a competitive market place while protecting consumer interest. GTE's proposed suggestions in these comments help achieve those goals. GTE expressed its views on the Staff-proposed changes in its initial comments filed on February 4, 2000. However, as a result of the workshop additional questions arose and the need for further clarification or revision was evident. GTE's comments herein are intended to respond to this need.

WAC 480-120-041 AVAILABILITY OF INFORMATION

Staff concerns with this rule relate to a desire to ensure that information is provided to customers about their rights and obligations in connection with their service provider. The Staff's notes of the April 11 workshop reflect three concerns. In GTE's view their concerns are not adequately addressed by the proposed rule revision and can be addressed in a more efficient, clearer manner.

The first concern dealt with the issue of a company providing a confirming notice about the services ordered by a customer. No language in the revised rule specifically requires such customer notification. GTE would propose deleting all of subsection 1 in the revised rule and replacing this section with a simple requirement that:

Each company must provide to residential service customers a confirmation of a customer service order. This may be by separate notice to be determined by the company or by the initial bill. Each company must also provide sufficient information to allow the customer to contact the company for additional information by some reasonable means, including but not limited to, a toll free 24-hour telephone number, a website, or provision of a brochure or telephone directory.

GTE's proposal would address Staff's concern and allow customers several options for seeking additional information, if desired, at the time of ordering service. After service commences, additional information would then be provided to a customer via the company bill and by the provision of a published directory that will contain a consumer information guide detailing the rights and responsibilities of a customer. There is no need to further duplicate the information provided by the bill and a directory by requiring companies to also provide a customer brochure.

GTE NW sends out a customer notification letter (CNL) to all residential customers who place an order via the company's contact center or through telemarketing efforts within two business days after the customer places the order. The CNL references any service changes affecting charges on the bill and instructions on the use of new services that the customer ordered. It also refers the customer to a telephone directory and GTE NW's website for additional information. If the customer places the change order through a GTE NW phone mart, the customer is advised of the changes at the time of the order.

GTE NW uses several means to advise its customers about the availability of information about GTE NW's services and practices.² A reference to GTE NW's website is provided on all GTE NW telephone bills in Washington (i.e. GTE.com). GTE NW provides a website as an option for customers who may wish to use that method to obtain further information about GTE NW. Personal computers, while widespread, are not sufficiently available to every customer to allow electronic access to be the preferred option for the majority of GTE NW's customers.

² GTE NW already provides the consumer information guide called for by subsection 2 in the Information Pages of its directory.

GTE's bill also lists 1-800 numbers for questions or information about billing, repair and ordering services.³

Finally, GTE provides detailed and sufficient billing and service information in its telephone directory as well as in the bill.

In light of all of the informational opportunities provided by GTE to its customers, GTE does not view the specific requirements of section 1 to be necessary.

Second, Staff asked GTE to provide references to any federal rules or statutes that might provide adequate customer protection with respect to the required provisions of information about telephone service. In GTE's view, only the requirements of 47 CFR § 2001 which establish federal truth in billing requirements should be incorporated in Washington rules. A copy of this rule is attached. The rule requires common carriers to inform consumers about possible disconnection consequences, how to contest charges prior to payment and sets forth detailed requirements for what should be contained on a bill. This federal mandate provides a reasonable template designed to provide critical information to consumers. If this critical information is provided via the bill, the need for rules such as WAC 480-120-041 decreases. As such, this rule should be pared down to the minimal level, or perhaps eliminated entirely in favor of using the customer bill as the primary means of advising consumers.

Finally, Staff wanted comments about providing information electronically to customers. As discussed above, GTE NW maintains a current website. Not all companies have electronic means to inform customers or to bill and receive payments from customers. Thus, this should

³ A small subset of GTE NW customers do not see the GTE.com reference because they do not have to send back to GTE NW a portion of the bill if they have a credit balance or are bank draft customers, simply because of the way the bill is formatted. GTE NW is currently developing a separate bill page that will list all references (pertinent telephone numbers and websites) on one page that will be available later in 2000.

remain a voluntary company option.

WAC 480-120-042 DIRECTORY SERVICE

Staff called for additional comments on the issue of cost recovery for intercept service when ordered by a customer. In its February 4th comments GTE had proposed that a customer be required to pay for the intercept service for as long as the intercept service is in place when the telephone number is changed at the customer's request. To the extent GTE incurs a cost when the customer requests an intercept or requests an extended period of time for the intercept service, GTE should be allowed to recover that cost. GTE NW would do so with filed tariffs and appropriate cost support. GTE NW should not be precluded by rule from recovering its costs through appropriate tariff charges that are reviewed and approved by the Commission.

GTE continues to maintain that the company should be allowed to recover its actual costs (plus shipping and 50¢ for handling) if a customer requests additional directories. Handling charges are incurred to process the request and to prepare the directory for shipment.

WAC 480-120-056 ESTABLISHMENT OF CREDIT

Staff requested additional comments on how to ensure that companies collecting deposits for interexchange carriers are collecting them from IXC's who are authorized to collect them, as referenced in subsection 4. It is GTE NW's policy to not collect deposits for interexchange carriers.

Staff also asked for comments on the issue of toll restrictions. GTE does not clearly understand the Staff's concerns on this issue. As a toll provider GTE needs to retain the flexibility to apply a toll restriction which would limit a customer's ability to run up toll charges. This occurs through toll blocking that prohibits a customer from placing calls with the exception

of local, 911 and toll free numbers. Toll blocking does not interfere with the provision of basic local service. GTE does not see a gap between toll restriction and coverage for local services.

WAC 480-120-057 DEPOSIT OR SECURITY

GTE continues to view this rule as inappropriate in today's competitive environment. GTE NW attempts to vigorously protect itself from revenue shortfalls by contractual provisions specifically negotiated with resellers. The best way to achieve such protection is through private contract. Clear, detailed payment obligations and consequences for lack of payment are contained in GTE-NW's contracts with resellers. There is no need for a deposit requirement in these rules.

GTE would encourage the Commission to clarify that the rules contained in WAC 480-120 are not intended to apply to other carriers, such as resellers, but are intended to deal with the provision of end user services. Such clarification could be achieved first, by deleting this rule and second, by providing clarification in WAC 480-120-081 that only end user services are covered by this chapter.

WAC 480-120-061 REFUSAL OF SERVICE

GTE would remind the Commission to revise subsection 3, as discussed at the workshop, to clarify that the obligation to secure rights of way, easements and permits is a customer obligation, not a carrier obligation. Therefore, the second sentence in the revised rule should be deleted.

GTE has an obligation to institute reasonable business practices that minimize bad debt or uncollectibles. GTE has an obligation to verify that customers can order phone service (i.e., are of appropriate age), and that they can pay for the ordered phone service.

Much discussion ensued at the April 11 workshop about requiring photo identification. The provision of a photo ID is the only viable alternative for GTE with respect to establishing an applicant's correct identity in the event the customer refuses to provide a social security number. Without the ability to establish an applicant's identity, credit checks cannot be performed. If GTE could not request a photo ID, then GTE would have to revert to requiring other identifying information such as a birth certificate or employee payroll stub which may be even more intrusive upon customers. Photo IDs do not have to be intrusive. These could include alternatives such as driver's licenses, passports, armed services IDs, etc. GTE is not aware of customer complaints about abuse of a photo ID requirement. GTE does not abuse this requirement, but it must have some protection against fraud, which can best be achieved by a photo ID requirement. Therefore, the rule should continue to allow for photo IDs.

Finally, GTE agrees that issues with respect to number portability should not be considered as part of this rulemaking. The issue of number portability is being dealt with extensively at the federal level. It is GTE-NW's policy to not port a number that is temporarily disconnected. If it did, it would reduce GTE-NW's ability to collect money owed to it, thereby increasing bad debt levels.

WAC 480-120-087 TELEPHONE SOLICITATION

GTE would support the Staff's consideration of allowing flexibility with respect to the telephone solicitation notification requirement. In today's competitive environment, companies should be given maximum flexibility with respect to the means they use to inform customers of their rights.

WAC 480-120-088 AUTOMATIC DIALING-ANNOUNCING DEVICES

GTE urges the Commission to make this rule consistent with the federal ADAD rules at 47 U.S.C. § 27, 47 CFR 64.1200. Some differences between the state and federal versions are evident. For instance, Washington does not include exemptions for existing business relationships or tax exempt, non-profit organizations, as in the federal rules.

WAC 480-120-081 DISCONTINUANCE OF SERVICE

Staff asked GTE to define restricted "non-essential" services. These would be defined as any service other than basic local service (dialtone which allows access to 911, toll-free calls and local calling capability). Basic local service is the provision of dial tone allowing customers to make local calls without the addition of any vertical or supplemental features such as voicemail, caller ID, three-way calling or call waiting.

With respect to notification requirements prior to disconnection GTE believes the original written notice is sufficient and should be the only notice requirement. This is the most effective means of alerting customers to the consequence of disconnection. Subsequent notices should not be required.

As emphasized at the workshop, customers need to be held responsible for paying their bills or all other telephone customers must absorb the cost of their bad debt. In GTE's experience disconnection in economically dire circumstances is less frequent than in circumstances of sheer financial irresponsibility or even blatant customer fraud.

Service providers offering billing services online should not be prohibited from providing electronic disconnection notices to those customers whom choose to enter into such an arrangement with their provider.

WAC 480-120-101 COMPLAINTS AND DISPUTES

GTE would encourage the Staff to consider lengthening the response time from the two days set forth in the proposed rule. Two days is an insufficient amount of time in which to thoroughly investigate a complaint which may involve multiple carriers and multiple products and services in today's competitive marketplace. In addition, the complexity of the complaint will drive the time required to adequately research the problem and more importantly identify a solution. This usually takes more than two days. Customers would be best served if the Commission's rules focused on the resolution of the problem within a maximum time period (e.g., ten working days) rather than limiting the amount of time in which to conduct the investigation.

WAC 480-120-106 FORM OF BILLS

The revised rule contains significantly more provisions than is contained in the federal truth in billing requirements (see attached).⁴ GTE advocates a uniform approach between federal and state rules in this case. For instance Section 1 is not present in the federal rule. As discussed at the workshop, the minimum time allowed for payment or billing should be the same whether mailed from within or without the state of Washington. The proposed rule is unclear as to what activity commences a 15 or 18-day period (billing or customer payment). The rule should be clarified. In addition Section 1(b) would obligate GTE to meet all the “requirements of this rule” when providing electronic bills requested by customers. In GTE’s view, providers should have flexibility in offering customers on-line bills without specific required formats and page requirements. Such requirements restrict the ability of the carriers to differentiate themselves in the marketplace.

Section 6 is not in the Federal Act and should be deleted. This section deals with billing of regulated services and would require GTE NW to not provide a billing and collection services code for any company not properly registered. This requirement is administratively burdensome. Section 7, 8 and 9 are also not included in the Federal Act and they impose additional regulatory obligations on GTE.

Like most carriers, which also provide interstate services, GTE is obligated to abide by the federal truth in billing rule. GTE appreciates the efforts of the Staff to include this federal rule in Washington but requests that the provisions, which do not appear in the federal rule, be

⁴ Please note that the FCC most recently revised this rule in March of this year. See in the Matter of Truth In Billing and Billing Format, FCC No. 00-111, CC Docket No. 98-170 (released March 29, 2000). This order revised the definition of “new service provider,” which now appears in subsection 2(b)(ii) of the proposed rule. The state and federal definitions should be consistent.

deleted from the Washington rule.

WAC 480-120-116 REFUND FOR OVERCHARGE

As stated in GTE's February 4th comments, this rule should be revised to limit the time period for refunds for overcharge to two years pursuant to RCW 80.04.240. This provides a two-year statute of limitations for the bringing of suits to collect overcharges.

WAC 480-120-121 RESPONSIBILITY FOR DELINQUENT ACCOUNTS

GTE supports incorporating this rule into WAC 480-120-060. It makes sense to combine rules relating to similar issues in one rule.

WAC 480-120-107 RECONNECTING SERVICE AFTER DISCONNECTION – SHARED
TENANT SERVICE PROVIDERS

GTE shares many of the Staff's concerns about shared tenant service providers.

However, this proceeding may not be the appropriate forum for resolving Staff's concerns. GTE recommends that the Commission adopt an interpretative policy statement proceeding to determine how to make WTAP and other services available to customers of shared tenant service providers that lack the choice of service providers. The Commission has the authority to do this pursuant to RCW 80.36.440, which gives the Commission latitude to "adopt any rules necessary to implement RCW 80.36.410 through .470 (WTAP). This statute might give the Commission the authority to require STS providers to find a way to make WTAP available for customers.

With respect to overall regulation of STS providers, GTE also recommends that the Commission institute a separate proceeding to establish the criteria upon which the Commission could find under RCW 80.36.370(5) that STS customers "have no alternative access to local exchange telecommunications companies." Such a finding is the predicate for Commission jurisdiction over STS providers. Obviously the issues raised by Staff's concerns need to be addressed by devising appropriate procedures that meet this statutory requirement and which provide due process to STS providers.

In sum, GTE supports the Commission's efforts to look at this question but recommends a separate proceeding to do so.

CHARGING FOR USE OF PAYMENT AGENCY

Payment agencies are a GTE NW customer convenience. GTE NW does not retain the charge paid by the customer - the payment agency does. GTE NW has 11 payment agents in Washington today. Allowing a payment charge will keep the payment agency available for customers.

USE OF COMMON COMPANY NAMES, LOGOS, BILLING STATEMENTS, ETC.

The thrust of Staff's concerns relate to easing potential customer confusion. GTE shares the Staff's goal of attempting to avoid customer confusion. If anything, customer confusion can have a significant negative impact on a company's sales. However, the Commission can only require (as noted in the Federal Truth in Billing Rule) that "the name" of the service provider associated with each charge must be clearly identified on the telephone bill. Therefore existing rules already require that carriers identity be clearly disclosed to customers.

In today's competitive environment carrier names may change frequently because of mergers and consolidations, etc. This may lead to heightened customer confusion. However, the solution is not to regulate any carrier choice of name but instead to simply enforce the Truth in Billing requirements. If the Commission feels that a bill does not clearly identify the service provider associated with the charge, then the remedy lies in enforcing this rule — not in adding a new one.

Indeed, Washington law allows corporations to do business under any name, so long as certain technical corporate requirements are observed. [See i.e. RCW 23B.04.030.] In addition, under the First Amendment to the United States Constitution any telecommunications company has a right to communicate via the selection of its name, free from any regulatory restrictions of

this Commission. See Pacific Gas & Electric Company v. Public Utilities Commission of California, 475 U.S. 1, 106 S. Ct. 903, 89 L. Ed. 1 (1986). Commissions and courts may regulate misleading or deceptive use of a name. However, they cannot dictate the name under which a company chooses to operate. See Pioneer First Federal Savings and Loan Association v. Pioneer National Bank, 98 Wn.2d 853, 862, 659 P.2d 481 (1983).

In sum, GTE views existing rules (WAC 481-20-106 Form of Bills) to have sufficient requirements to protect consumers against misleading or confusing company names. Therefore, no further rulemaking in this area is necessary.

WAC 480-121-X01 CLASSIFICATION PROCEEDINGS
(CURRENTLY 480-120-022)

Once the Commission approves a company's petition for classification of competitive telecommunications services, the approved service(s) should be deemed competitive for all other carriers serving the same market area who may choose to offer them. Once a service is established as competitive in a market, little purpose is served by requiring other carriers to comply with WAC 480-120-023 (to be moved to 480-121-X02). Rather than duplicate efforts, the other carriers should inform the Commission through an information filing consistent with WAC 480-120-027 (to be moved to 480-80-X01/041), if they choose to offer the competitive services. The following proposed rule language should be adopted:

A petition for classification of competitive telecommunications services pursuant to WAC 480-120-023 shall not be required from telecommunications companies serving the same geographic market for services classified competitive for any telecommunications company.

WAC 480-120-X13 CALLER ID

GTE withdraws its previous recommendation that this rule be deleted.

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