BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re: Telecommunications Rulemaking	)	
	)	**Docket No.UT-990146**
Chapter 480-120 WAC Telecommunications - Operations	)	

COMMENTS OF WORLDCOM

INTRODUCTION

In reviewing the proposed rules and, generally, in determining whether to regulate telecommunications carrier activity, the Commission should first define the problem and the extent of the problem. If significant, the Commission should explore the options available to address the problem and related costs before considering whether a rule is necessary to address the solution. In determining what that regulation should be, the Commission must balance the benefit of the regulation to the public against the harm, that is, the burden of the regulation on the affected carriers. The Commission should then explore how the goal of the proposed rule can be accomplished with minimal burden on the carriers. It is a fact of life that new rules may require changes in systems, added employees or other added costs to carriers. Increasing costs to carriers in a particular state versus others may cause carriers to reconsider their investment in a state and actually harm competition in that state. It is particularly important in this difficult financial period for new entrants that the Commission considers carefully any increase in the burden on new entrants.

Additionally, as the Commission considers the burdens on incumbents, it should target those benefits to the public interest, which are to bring the highest value in a holistic manner. Eventually, all costs must be recovered from customers if financial commitments to investors are to be met -- both financial indices in the short run and return on investment in the long run.

As guided by the 1996 Federal Telecommunications Act, state public utility commissions are tasked with moving telecommunications from a completely regulated monopoly industry to a competitive marketplace -- where consumers have choice, where the market encourages innovation and where market forces, rather than regulation, meet and create customer desire and allow customers to dictate standards to which the carriers will perform. The move to deregulation must be tempered, however, by clear recognition of the power of the incumbent monopoly. Incumbent local exchange carriers (ILECs) should be slowly deregulated in order to allow competitors to become established and capture market share. Eventually it is the new entrants that provide the discipline needed to prevent the monopoly from continuing monopoly abuses, but only where customers have choice and choice is wide-spread.

Competitive local exchange carriers (CLECs), on the other hand, should be minimally regulated in order to minimize regulatory expense, which can be significant, and to allow them flexibility. Moreover, regulation often is designed to address large incumbent local exchange carrier practices, procedures, systems and resources and not those of carriers that are just entering the local marketplace. In addition, in evaluating whether to regulate CLECs, the Commission must recognize the challenges of local entry and the CLECs' reliance on ILEC systems and operations.

As a competitive local exchange carrier, existing regulatory burdens are significant. Because rules vary from state to state and regulatory practice varies from state to state, in house counsel, regulatory and support staff and outside counsel, who regularly practice before state commissions, must be hired to educate the company on the myriad rules that apply and to ensure the company's compliance with those rules. Rules are not consistent from state to state. Systems must be created to track and implement the various rules on a state-by-state basis. Regulatory accountants must be consulted and special systems must be adopted to deal with each state's accounting and reporting requirements. Tariff writers must be consulted and tariffs or price lists must be prepared, filed and regularly updated. These activities severely hinder carriers with limited capital resources and minimal local service revenue.

Regulation also hinders the carrier's autonomy in its business practices. Fifty different state rules and regulations dictate significant business decisions such as customer service, billing, services to be provided, customer markets and service discontinuance. As a competitive entity, these issues would be addressed even without regulation and be driven by the incentives to provide quality customer service, increase market share and optimize profits.

The point is that the Commission should not regulate just to regulate. The Commission must be mindful in its evaluation of the proposed rules of the burden that rules place on carriers and of the goals of the Act:

- To encourage competitors to enter the market in Washington and provide local telecommunications services to Washington consumers;
- To encourage innovation in business practices and business markets.

In the end, the competitive marketplace will protect consumers and provide customers with quality choices for local providers.

DISCUSSION

480-120-041 Availability of Information

WorldCom requests that the Commission extend the time frame for a customer to receive the confirmation notice in subsection (1) to ten business days. In the alternative, WorldCom requests that the Commission change the rule to allow carriers to mail the information within 5 days after installation. Thus, the new language should read: "The confirming notice or welcome letter must be mailed to the applicant or customer no later than five business days after installation of service and must provide, at a minimum;"

Currently, WorldCom's procedure is to mail its welcome kits within five (5) days after installation. In order to comply with a significantly shortened timeframe, WorldCom would be have to revamp its entire process for issuing welcome kits. The record contains no information as to why this time frame cannot be lengthened. Customers who disagree with their rates, or who are otherwise dissatisfied with their service, will not be treated any differently because the confirmation letter arrived sooner. In fact, if carriers must change systems in order to conform to these new rules, customers may experience rate increases due to the increase in the cost of providing the service. In addition, the proposed rule's current language requires carriers to control the customer's receipt of the information. There is no way for carriers to control when a customer receives his or her mail, especially given the current events. For these reasons, WorldCom urges the Commission to adopt its proposed language.

Regarding subsection (2), WorldCom believes that the Commission already provides for customer notice under its current rules at WAC 480-120-196 Customer Notice for Competitive Carriers. These rules require 10 days written notice for increases in rates, decreases in rates and material changes in terms and conditions. The proposed rule is redundant as it would require the carriers to notify customers twice of these activities, once before the change occurs and once afterwards. Customer notification is expensive. No legitimate reason has been presented in this rulemaking to require duplicate notice as this rule requires. Consequently WorldCom asks the Commission to delete this section.

With regard to subsection (3)(b), CLECs do not necessarily have six months of account history in their records identifying a customer's interexchange carriers, nor do CLECs have every interexchange carriers' (IXCs) phone number. WorldCom suggests that ", if available." be added at the end of the subsection to address these issues.

WAC 480-120-051 Application for Service

Section (1)(b) of this rule conflicts with the service quality rules and places competitive carriers at an unfair disadvantage. Any carrier who relies on another carrier for any portion of service to its customer will not be able to commit to a specific installation date at the time of application. WorldCom suggests the following language for 1(b):

> Inform an applicant of the specific date, when available, when service will be provided; and

Further, since Section (2) covers situations when the date is not available at the time of application, this date should be extended to 10 days for carriers relying on other companies for a portion of their network.

Regarding section (3), WorldCom believes that when an off-site visit is needed on new service orders, carriers need more time to coordinate with their employees, as well as other companies' employees. Companies need 10 days to schedule an on-site date for installation. WorldCom asks the Commission to change this rule accordingly.

460-120-056 – Establishment of Credit

WorldCom objects to the rules proposed for obtaining a deposit for basic local service. CLECs do not have the ability, like the ILEC, to use a customer's previous account history when deciding to obtain a deposit from a customer to ensure payment of his/her account. Therefore under this proposed rule, to gain customers, the carrier is forced to take many customers without a deposit. CLECs, who are already struggling to get into the market, will be put at greater financial risk by taking customers with undesirable credit because they will have no way of knowing from which customers they should be taking deposits.

At a minimum, CLECs, as any business, should be allowed to use credit bureaus to determine whether to accept the risk associated with particular customers and to evaluate the customer's credit risk over time. No other state of which WorldCom is aware has prevented telephone companies from using credit bureaus to evaluate risk. The transaction costs of establishing customer service alone are significant, even greater costs are associated with deploying facilities to customers and where long-term contracts are involved, customers incur significant obligations. CLECs should have the ability to

evaluate a customer's credit risk just as other companies do in entering into a contract, and just as customers have the ability to evaluate a CLEC's financial risk.

<u>480-120-081- Discontinuation of Service – Company initiated</u>

WorldCom has commented on this section in the past; however, based on discussions at the workshop on October 18 and 19, 2001, it reiterates its comments here. WorldCom understands the Commission's role to protect consumers and regulate telephone service. However, it is unclear why a carrier, especially a new entrant, must restore service to a customer who has purposely deceived a company. The financial risk of restoring service goes well beyond customer protection. A consumer committing fraud has not met his or her responsibility and is not deserving of "consumer protection." Carriers need to protect their interests. Carriers must be left to consider whether it is financially prudent to provide service with the knowledge of this risk.

Regarding section (2), it is unclear to WorldCom why a company should have to give notice prior to disconnecting service to a customer for unlawful use of service or violation of a rule, law or statute. Particularly at this time of national crisis, where network security is a priority, reducing a company's ability to protect its network or its ability to protect other users of the public switched network seems the wrong way to go.

With regard to Section (7), WorldCom believes that the written notice requirements under Section 6 are sufficient for discontinuance of service. Section 6 provides adequate protection to the public against uninformed disconnection and provides the customer with adequate opportunity to correct the problem before he/she is

disconnected. This is consistent with the rules in most other states. No legitimate reason was presented during the workshops to impose on the carriers yet another discontinuation notice requirement with its accompanying significant expense. WorldCom therefore requests that the Commission delete Section (7) from the proposed rule.

480-120-X07 - Restoring Service After Disconnection

As a competitive carrier dependant on the ILEC for service, WorldCom cannot guarantee reconnection of service within a specific time frame. After the customer has paid his/her entire balance, the reactivation of the account depends on which market and/or company provides the underlying facilities. If a premise visit is needed for reconnection, it will vary based on the date provided by the underlying carrier. WorldCom suggests that the following language be added to subsection (2):

> (d) when service to the customer involves facilities of a carrier other than the billing company, reconnection will be accomplished as soon as practicable.

480-120-087 Telephone Solicitation

WorldCom believes that section 2(a) should be limited to a period of time not longer than six (6) months. CLECs need to be able to compete with the incumbent local exchange companies that have established business relationships with a greater universe of customers. In addition, WorldCom suggests that the Washington State no-call law be cited under 3(d).

480-120-106 Form of Bills

Regarding subsection 2(a), WorldCom requests that the Commission reword this section to make this a reactive requirement for carriers rather than requiring carriers to accommodate a "customer-chosen due date." If a customer calls and asks for the company to accept payment on a certain date that is different than the scheduled due date, companies should be agreeable, as long as the account is not delinquent and the date can be accommodated in its established billing cycles. Carriers cannot be expected to change customer-billing cycles based on customers' financial schedules. A change in the requested due date or a payment plan is a more reasonable requirement.

WorldCom requests that the Commission delete the requirement in Section (5) that carriers delineate on the bill, the amount or the percentage rate at which all applicable taxes are computed. As a competitive carrier, WorldCom provides service in multiple state and local tax jurisdictions. It would be extremely burdensome to attempt to build this type of logic into the billing systems. This information may be provided, instead, by referring customers to a website containing this specific information. Customers can always contact Customer Service for explanations as well.

480-120-139 - Changes in Local Exchange and Intrastate Toll Services

WorldCom requests that the Commission delete the requirement in Section (5) that all LECs must offer preferred carrier freezes with regard to the customer's preferred *local* carrier. WorldCom understands that, in imposing this requirement, the Commission seeks to protect the public against slamming. However, imposing such a requirement with regard to the customer's *local* carrier is premature. The local exchange market in Washington is not yet competitive. Moreover, to WorldCom's knowledge, the

Commission has not received a significant number of slamming complaints, if any, with regard to local exchange carriers. Consequently, the need for such a requirement is minimal.

In contrast, the cost to carriers to create a system for preferred local carrier freezes is significant. To implement the functionality of local carrier freezes would take several months and cost several hundred thousand dollars. Moreover, the functionality is not always available to CLECs that provide local service through resale of ILEC services or by purchasing UNE-P from the ILECs. In these circumstances, the CLEC has no control over whether it can satisfy this requirement.

Finally, implementing a mandatory preferred carrier freeze may actually stifle competition from developing because customers often experience difficulties in lifting such freezes.

Thus, on balance, the significant negative effects of implementing this rule substantially outweigh the minimal benefit that consumers would receive at this point in time in Washington's local exchange market. Consequently, WorldCom urges the Commission to delete the requirement that LECs offer preferred *local* carrier freezes.

480-120-141 – Operator Services

WorldCom continues to advocate its previous written comments regarding benchmarks. In addition, and since the workshop on October 18, 2001, WorldCom is concerned that the benchmarks set in subsection (3)(f) are arbitrary and are based on complaint levels that were taken using a random and non-cost based process. Staff did not adequately explain how the rates were chosen, although WorldCom understands,

based on the discussion at the workshop, that the rates are based on what consumers who complained believed was reasonable and unreasonable.

Using complaint levels as an indicator for setting benchmark rates is arbitrary and capricious. First, there are different types of complaints and different degrees of concern. There are valid complaints that sometimes are resolved to the satisfaction of the customer when brought to the company's attention. There are also complaints, however, which are not valid and are clearly baseless. Second, nowhere in this rulemaking is there evidence of the costs of operator services to support the benchmark levels. Without knowing the costs, how can the Commission make a determination of the reasonableness of the rates?

In fact, operator services are expensive to provide. Requiring automatic oral rate disclosures will further increase their cost. WorldCom's current system is not technically able to route customers based on whether a particular type of call is above or below the benchmark. If the Commission adopts the rule as proposed, the company will be forced to raise all of its rates above the benchmarks to recover the cost of creating the system, or it will simply be forced to exit the operator services market in Washington.

WorldCom requests that the Commission remove section (3)(f) in its entirety. However, if the Commission rejects this request, WorldCom urges the Commission to adopt a market-driven approach, as outlined in its Comments filed in August 2001.

<u>480-120-X12 - Response Time for Calls to Business Office</u>

Costs of monitoring systems necessary to provide such performance standards are prohibitive for CLECs. Until revenue streams in a particular market are high enough to justify such expense, this measurement is not a management imperative. Other methods

of obtaining the level of customer satisfaction with interaction with the company are available. For example, customer satisfaction surveys could specifically target questions to determine if the company's response is satisfactory. Clearly, if there were significant delays in reaching the business office of a particular company, the Commission would have received a complaint.

480-120 – 500 – Service Quality – general

WorldCom is a strong advocate of the old theory "If it's not broken, don't fix it," which certainly applies here. The positions discussed at the workshops on October 18th and 19th advocated this as well. WorldCom joins in the oral comments made by Verizon and Qwest at the workshop as well as their written Comments filed on this rule and requests that the Commission maintain the existing rule found at WAC 480-120-500(3).

480-120-520 - Major Outages

This section is troublesome for competitive carriers depending on the ILEC for underlying services for all or part of service to its customers. If CLECs have no control over repair to an underlying carrier's network, they will only be able to reinstate service once the underlying network is repaired and reported to the CLECs. The Commission can remedy this problem by restricting this requirement to network facilities owned and/or operated by the carrier or to the timing of the reactions of CLECs, once the facilities-based provider has completed its repairs.

480-120-X08 – Service Quality Credits for Customers

For the most part, WorldCom supports the Commissioners' memorandum that was circulated to interested parties by Staff after the September 18 workshop. WorldCom believes that the $50.00 automatic credit for missed appointments, however, is a barrier to entry, particularly when the CLEC is relying on the underlying carrier to meet an appointment. If a CLEC is unable to meet an appointment due to a problem with the ILEC, will the CLEC be responsible to pay the automatic credit? For example, if the CLEC schedules an appointment in conjunction with a representative of the ILEC and the ILEC representative misses the appointment, will the CLEC be responsible for the automatic credit? These issues are of great concern to CLECs, since this situation may result in extremely anti-competitive consequences to the CLECs.

CONCLUSION

For all of the reasons articulated herein as well as the reasons stated by WorldCom in previous written comments filed in this rulemaking, WorldCom requests that the Commission modify its proposed rules accordingly.

Respectfully submitted this 5th day of November 2001.

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