

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**Telecommunications – Operations,
Chapter 480-120 WAC**

Docket No. UT - 990146

JOINT COMMENTS OF

Advanced Telcom Group, Inc.

AT&T Communications of the Pacific Northwest, Inc.

Centurytel of Washington

Sprint Communications Company

TDS Telecom

Verizon Northwest Inc.

Washington Independent Telephone Association

WorldCom, Inc.

XO Washington, Inc.

ON THE COMMISSIONERS' OCTOBER 10, 2001 STATEMENTS

November 16, 2001

Advanced Telcom Group, Inc., AT&T Communications of the Pacific Northwest, Inc., Centurytel of Washington, Sprint Communications Company, TDS Telecom, Verizon Northwest Inc., Washington Independent Telephone Association, WorldCom, Inc., and XO Washington, Inc. (collectively "the Companies") submit these comments on the Commissioners' policy direction outline distributed -- and their explanatory statements made -- on October 10, 2001.

INTRODUCTION

We share the Commission's commitment to ensuring Washington customers receive high quality telecommunications service. The point of departure has been in establishing the best means to achieve this objective. Since the Commissioners have become involved, the companies note positive developments in both the substance of Commission proposals and in the process itself. While there is now significant consensus on many issues, there are several controversial areas that remain. We hope that the Commission will continue to work with the industry to address these remaining issues.

We are very encouraged by the Commissioners' recent active personal involvement in rulemaking workshops and by the sincere interest in learning about the Companies' operations and concerns the Commissioners have displayed in those and other meetings. We also greatly appreciate the Commissioners' presenting their thoughts on

some critical issues at their October 10, 2001 meeting. We strongly encourage the Commissioners to continue this type of process and involvement as a matter of course. Early participation in rulemaking policy issues should greatly improve our collective understanding of the issues and consequently, increase regulatory efficiency.

The Commissioners' October 10, 2001 policy direction outline and their oral comments resolved several of our concerns with the Commission Staff's proposed service standards rules. The Commissioners' directives evidence a better understanding of our operational realities. We also appreciate the Commissioners' invitation to submit alternatives and additional details for rules on several of those issues. We provide that input briefly below and in the attachment to these comments.

The main purpose of these Joint Comments is to again urge the Commissioners to pursue good service for Washington consumers through a cooperative approach that preserves innovation and management responsibility, rather than by financial and operational mandates imposed in a rulemaking.¹ The Commissioners' October 10 outline is an improvement over the prior draft rules, in that the proposed credits are somewhat less onerous and unreasonable in their financial and operational impact. But the proposal still calls for wielding a heavy regulatory hand when there is no service quality crisis to fix; for imposing new guarantor obligations only on the telecommunications industry; and for replacing company initiatives, creativity and

¹ See our June 26, 2001 Joint Comments

diversity with government mandates. As described in more detail below, we can realize a sensible shared vision of good customer service under a better, alternative approach--the type of approach this Commission and the industry have used successfully before.

SERVICE INSTALLATION STANDARDS

We support the Commissioners' directive on aggregate performance standards for service provisioning and the related reporting. We propose rule language on this point in the attachment to these Joint Comments.

APPOINTMENT SCHEDULING

On October 10 the Commissioners stated their intent to replace the current flexible approach of WAC 480-120-051 with a mandate that all installation and repair appointments be set within a four-hour window, regardless of individual customers' situations. We are disappointed that the Commissioners apparently do not have confidence that we are operating responsibly under the current rule and managing our activities to reasonably meet customer needs. We explained in our June Joint Comments that a four-hour window mandate is: (a) not needed to meet customer requirements in all cases; (b) would unnecessarily introduce new complexities and costs

in the industry's operations; and (c) would usurp management judgment and flexibility.²

For these reasons, no change should be made in the current rule.

MANDATED GUARANTEES

We share with the Commissioners the ideal of providing Washington consumers good service, including keeping service activation commitments and installation and repair premise visit appointments. We do not, however, share the Commissioners' apparent view that providing such good service requires government mandated automatic credits that would make companies guarantors of ideal service provisioning. In our June Joint Comments we described several practical problems with this type of regulation, which we reaffirm here.³ But in these comments we will focus on the Commissioners' stated philosophical basis of their view and will propose a workable alternative approach.

Good service does not require the Commission to make companies guarantors.

On October 10 the Commissioners explained that their interest in mandated automatic credits is based on their presumption that when an installation or appointment deadline is missed, an inconvenience is invariably imposed on the customer and, perhaps, a cost,

² Some of the Companies addressed this topic further in their individual comments filed on November 5, 2001 in response to the Commission's August 24, 2001 Notice.

³ We also still have the practical concern with the proposed automatic pro rata credits for out-of-service conditions lasting over 24 hours. Since local service rates are so low, the administrative costs of making credits for every such situation would likely exceed the amount of the credits themselves, resulting in a net negative impact on the ratepayers. The current standard of making such billing adjustments upon request meets the needs of customers who really value the small credit involved without unnecessarily incurring additional operating costs.

for which the companies should pay the customers.⁴ This approach would make the companies guarantors of customers' presumed convenience -- a radical departure from current regulation, and a requirement not expressly imposed by any statute. It would impose new costs that were not part of the assumptions upon which current rate levels and pricing strategies were based.

Perfection is; of course, impossible for even the best run companies. The proposed rules mandating credits, however, would effectively impose a standard of perfection and make the companies financial guarantors of obtaining perfection.

If this new philosophy were valid, it would be applicable to many more industries regulated by the Commission than just telecommunications, such as natural gas, electric power, and water. The legislature's general charge to the Commission is the same for all these industries,⁵ and the companies' statutory duties are described similarly.⁶ Yet the Commissioners apparently are contemplating making only telecommunications companies guarantors. The point is that since perfection is not required in order for companies to be providing a good level of service, the Commission need not and should not force any industry to become guarantors.

⁴ By this logic, customers that miss appointments should pay the companies. The companies suffer the costs of the technician's futile trip, and customer-missed appointments divert technicians from helping other customers.

⁵ RCW 80.01.040(3).

⁶ RCW 80.28.010, 80.36.080.

It is often said that regulation is a substitute for market forces. While market forces may sometimes induce companies to strive for excellent service, we are not aware of any industry in which market forces have resulted in the companies becoming guarantors of optimum service in the way the Commissioners propose.

The Companies can address the Commissioners' concerns without the imposition of controversial rules.

A few years ago the Commission was concerned with several areas in the state that lacked extended area service, while the local exchange companies were wary of an indefinite continuation of mandated calling area expansions. Rather than take the traditional top-down regulatory approach of issuing rules or other orders requiring the creation of certain new EAS routes, the Commission worked with the industry to develop a "win win" resolution. The involved companies committed to creating new EAS routes in the several areas of concern to the Commission, and the Commission replaced its traditional extended area service rule with one that takes a market-based approach to the issue. We urge the Commissioners to take a similar cooperative approach again, rather than impose new rules.

As we have informed the Commission, many companies already have in place tariff or price list provisions or operational practices focused on assuring good customer service, including practices related to appointments and installation commitments. They provide a variety of effective approaches to customer satisfaction, including billing credits, "money back" guarantees, and alternative service arrangements. Free of regulatory

strictures, companies could also experiment with other customer satisfaction approaches, such as on-the-spot vouchers, prepaid calling cards, cash -- perhaps even frequent flyer miles. There is no need for the Commission to preempt these innovative management initiatives with a generic rule. Each of us commits to meet with the Commissioners to review our practices. Should the Commissioners believe any come up short, we each commit to work further to alleviate the Commissioners' concerns.

CONCLUSION

Based on the Commissioners' October 10 statements, we are optimistic that the installation service standards will be updated in a mutually agreeable manner. We cannot support, however, enacting new rules to make companies guarantors. That would be a major expansion of the Commission's role and a controversial and costly departure from precedent -- especially if the Commission were to impose this significant new regulatory burden on only one industry. But there is no reason for the Commission to force that issue. We believe we are already providing customers good service, and we commit to work with the Commissioners to fine tune our practices as necessary, if the Commissioners are willing to work with us on that basis.

ATTACHMENT TO JOINT COMMENTS

Proposed Rule Language

November 16, 2001

We do not express an opinion at this time on the particular section(s) of the Commission's rules in which the following provisions should be placed. For convenience, our recommended language is set forth in separate rules.

SERVICE INSTALLATION STANDARDS AND REPORTS

The following language follows the Commission's direction to retain the current structure, with the clarification that the standard applies at the company-wide level for the state and with the additions of a 100%/180 day standard⁷ and reporting below the state-wide level for surveillance purposes.

WAC 480-120-* Installation of service**

Each local exchange company shall complete applications for installations of primary exchange access lines as follows, measured on a calendar month basis:

- (1) When all tariff requirements have been met, on a statewide basis ninety percent of applications for installation of up to five residence or business primary exchange access lines shall be completed within five business days after the date of acceptance of the applications or by such later date as may be agreed upon by the applicant and the company.
- (2) When all tariff requirements have been met, ninety-nine percent of all applications for installation of primary exchange access lines shall be completed within ninety business days after the date of acceptance of the applications or by such later date as may be agreed upon by the applicant(s) and the company.

⁷ We still have the concerns expressed in our prior comments with a 100% (i.e., perfect) standard. In some parts of the state, the combination of engineering and material ordering lead times and harsh weather and other conditions can make it impossible to meet a 180-day deadline.

- (3) When all tariff requirements have been met, one hundred percent of applications for installation of primary exchange access lines shall be completed within one hundred eighty business days after the date of acceptance of the applications or by such later date as may be agreed upon by the applicant(s) and the company.
- (4) The timelines set forth in subsections (1), (2) and (3) do not apply when customer-provided special equipment is necessary; when the customer has not obtained required permits, right-of-way, or easements; when a later installation is permitted under WAC 480-120-071 (Service extensions); when the commission has waived the requirement for installation of a particular order under WAC 480-120-015 (Exemption from rules); or during the existence of force majeure conditions. In addition, for Competitive Local Exchange Carriers (CLECs), these timelines do not apply when the CLEC is reliant upon an underlying Incumbent Local Exchange Carrier (ILEC) to complete the installation.

480-120-### Service installation report

Class A local exchange companies shall submit a report of their service installation performance, as follows:

- (1) The report shall be submitted monthly.
- (2) The report shall separately show the company's performance in relation to the standards set forth in WAC 480-120-*** (Installation of service) subsections (1), (2), (3), and (4).
- (3) The report shall show the company's performance at a statewide level and at disaggregated levels corresponding to the company's operation, such as districts or exchanges.