



King County

E-911 Program Office

Office of Emergency Management
Department of Executive Services
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February 4, 2005

Via Electronic Mail

Ms. Carole J. Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

RE: Rulemaking Docket No. UT-041629

Dear Ms. Washburn:

Pursuant to the Notice of Opportunity to Comment, dated January 14, 2005, the King County Enhanced 911 Program Office provides the following comments in response to the Washington Utilities and Transportation Commission Staff's questions regarding an amendment to WAC 480-120-450, Enhanced 9-1-1 (E911) Obligations of Local Exchange Companies.

1. What are the policy reasons for treating wireline and wireless carriers differently or alike for purposes of recovery from PSAPs of the cost of transport to the selective router (WITA page 2)?

The reason that all telecommunications service providers, whether they are an ILEC, CLEC, or wireless carrier, should be treated alike for the purposes of cost recovery for transport to the Selective Router is that they all provide competitive services to their customers. Customers now view the telephone services provided by these three types of providers as comparable options for service, and make a choice on what type of service to subscribe to. Many people now use a wireless phone as their sole means of telephone service, whereas in the past, people viewed a wireless phone as an augmentation to their wireline phone service. Since all three types of providers offer comparable, competitive service, they should all be treated the same in regards to the provision of E911 service and cost recovery for that service.

2. How is the recovery of E 911 implementation costs and specifically transport to the selective router, presently handled with respect to customers of competitively classified telecommunications companies?

Currently, ILECs receive cost recovery from the counties for E911 implementation costs and transport to the Selective Router, and CLECs do not. I do not believe that CLECs are currently prohibited from seeking cost recovery, but none of them have chosen to pursue the process to establish cost recovery.

- a. What are the policy reasons for treating ILECs and CLECs differently or alike for purposes of recovery of the cost of transporting E 911 calls to the selective router?

As was stated in the response to Question 1 above, since ILECs and CLECs offer competitive, comparable telecommunications services, they should be treated the same for the purposes of cost recovery for transporting 911 calls to the Selective Router.

One concern that must be addressed if the E911 jurisdictions will no longer be required to provide cost recovery for transport to the Selective Router is that without compensation, the E911 jurisdictions could lose control over the level of E911 service that is provided by the telecommunications companies. Currently, the ILEC 911 tariffs specify that the E911 customer must purchase sufficient facilities necessary to maintain a minimum of P.01 Grade of Service. The ILECs are then required to provide quarterly traffic studies for the counties to use as a tool to determine the number of 911 trunks needed to maintain this level of service. In fact, King County has set a standard of E911 service that specifies that between central offices and the Selective Router, double the number of trunks needed to maintain a P.01 Grade of Service will be in place, to ensure public access to 911 even during a highly visible emergency event. King County takes this responsibility very seriously, and routinely checks the traffic studies and works with the ILECs to maintain this high standard of service. King County has attempted to establish this same working relationship and level of service with the CLECs and wireless carriers. Due to the fact that King County is a large, urban area, we have extensive experience in working with a multitude of CLECs and wireless carriers. Since these entities are not regulated, we have developed an E911 service agreement for CLECs and wireless carriers, and have attempted to establish this same network standard through these agreements. We have had little success in doing so, and I believe that the difference in our working relationship with the ILECs versus the CLECs and wireless carriers is cost recovery. Since they are compensated for the E911 network between their central offices and the selective router, the ILECs have been very cooperative in providing the traffic studies and working with us to add network as

needed. After years of effort, King County has not received any traffic studies from either CLECs or wireless carriers. We have no traffic data to inform us of the network capacity or level of E911 service being provided to their customers. We are totally dependent on the service providers to ensure that there is sufficient 911 network in place to provide a comparable level of service across all carriers. I am concerned that if cost recovery is no longer provided to the ILECs, we will be in this same situation with them. If the cost recovery requirement for ILECs is discontinued, there must be a mechanism put in place that allows the E911 jurisdictions to continue to specify and monitor the amount of 911 network that is in place and the level of service to be provided.

- b. Do competitive considerations favor treating CLECs and ILECs alike with respect to recovery of E 911 service costs?

As was stated in the response to Question 1 above, since ILECs and CLECs offer competitive, comparable telecommunications services, they should be treated the same for the purposes of cost recovery for transporting 911 calls to the Selective Router.

- c. Should CLECs be entitled to charge PSAPs for the cost of transport to the Selective Router? If so, would those charges be subject to tariff or price list regulation; what kind of regulation should they be subject to?

Over the past several years, I have been contacted by many CLECs who wanted to discuss initiating cost recovery for their E911 network costs. I do not believe that they are currently prohibited from seeking cost recovery, so I have referred each of these CLECs to the WUTC to initiate the process of establishing a cost recovery mechanism. To date, none of them has pursued that action. I am concerned that ILECs and CLECs are treated differently at the WUTC in the process used to establish E911 cost recovery. The ILECs are required to file a tariff, and go through a process that allows the E911 jurisdictions to comment and have input into the cost recovery rates that are set. It is my understanding that for a CLEC to establish cost recovery, they simply must file a price list with the WUTC, and the rates are set with no opportunity for the E911 jurisdictions to comment on or influence the rates. Only after the rates are set and activated would the counties be able to comment. There is one CLEC who investigated the process for establishing a price list with the WUTC, and provided King County with their proposed rates. If the rates they proposed had been approved and established for all CLECs, the CLECs as a group would have received cost recovery for their network alone that is equal to the amount of funds paid to the ILECs for the entire E911 system (network, database,

and selective routing), even though they are only providing service to 17% of the access lines in King County.

If the CLECs are entitled to charge PSAPs for the cost of transport to the Selective Router, since the ILECs and CLECs offer competitive, comparable service, the setting of their cost recovery rates should be required to go through the same process, with the same opportunity for scrutiny of the proposed rates. The CLECs should be required to file 911 tariffs to establish cost recovery rates. To follow up on the comments made in the response to Question 2.a. above, the E911 jurisdictions should be allowed to specify the level of E911 service to be provided and the number of 911 trunks to be installed, and the CLECs should be required to provide quarterly traffic studies to the counties to provide them with the tools they need to monitor the level of service.

3. Please comment on EMD's statement at page 3 that:

Technology has changed and new providers have entered the telecommunications market, each making decisions on market service territory and call transport technology. These new providers may have switches in other states and ILECs have consolidated SRs to the point that only ten SRs serve Washington State. Therefore, the PSAPs should not have to pay for any connections on the telecommunications company side of the SR.

I agree that there have been changes in technology and E911 network configurations. In Washington State, we are experiencing the consolidation of Selective Routers, while at the same time the number of telecommunications service providers has significantly increased, and with them the number of switches. The result is a much more extensive E911 network, with many more 911 trunks needed to connect all of these switches to the Selective Routers. The E911 cost recovery rates established for the ILECs and the E911 excise tax rates set to cover those costs were established when only the ILECs were providing wireline telephone service, and the E911 network was much less extensive. The current E911 excise tax rates do not generate sufficient revenue to cover the cost of E911 transport from all of the CLEC switches to the Selective Router.

4. In reference to the statement in EMD's comments on page 2 that

The WUTC has established access to emergency services (E911) as a basic service to be supplied for voice grade telecommunications customers.

- a. Could ILECs recover the cost of transport to the selective router (SR) as part of basic service costs in the general rate base?

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It should be feasible for ILECs to recover the cost of transport to the Selective Router as part of basic service costs in the general rate base. In the absence of universal cost recovery from all E911 jurisdictions, the wireless carriers have been using this method for E911 cost recovery. Since the CLECs have not sought E911 cost recovery to date, it is assumed that they have also been covering their costs in this manner. Both of these examples serve as evidence that it is possible for a telecommunications service provider to recover their E911 costs through this mechanism.

- b. Assuming that the cost of transport to the selective router was no longer recoverable through PSAP tariffs, could rural carriers obtain reimbursement from Universal Service Funds for transport to the selective router as part of the Basic Services requirement? (State Universal Service Fund)

Since the WUTC has established access to E911 service as a basic service to be supplied for voice grade telecommunications customers, it would be appropriate for carriers to obtain reimbursement from Universal Service Funds for this purpose. I have no knowledge of whether the amount of funding available from the Universal Service Funds is sufficient to cover this additional cost.

7. Please address the comments filed by others in the docket.

Response to EMD Comments

As was stated in the response to Question 2.a. above, any change in the cost recovery rules must be accompanied by a mechanism that allows the E911 jurisdictions to continue to specify and monitor the amount of 911 network that is in place and the level of service to be provided. Since E911 service in Washington State is mandated at the county level, the telecommunications service providers should be required to provide the traffic studies at that level.

Response to Qwest, Verizon, and WITA comments

Qwest, Verizon, and WITA all argue that the rules that provide cost recovery for the ILECs for the transport of 911 calls from their central offices to the Selective Router should not be changed. This position does not address the issue of inequity of E911 cost recovery for all telecommunications service providers. ILECs, CLECs, and wireless carriers all provide competitive, comparable telephone service. All are required to provide E911 services to their customers. All should be treated equally regarding E911 cost recovery. In King County, the ILECs and wireless carriers currently receive cost recovery for the transport between their switches and the Selective Router. The

CLECs currently do not receive cost recovery, although they are not prohibited from seeking it. In the rest of Washington State, neither the wireless carriers nor the CLECs

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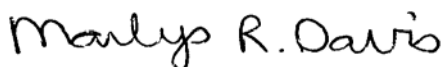
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receive cost recovery for these costs. Thus, the cost recovery status for CLECs and wireless carriers is unstable, and could change at any time, leaving the counties very vulnerable in planning their budgets to cover these costs. We know that the current E911 excise taxes in Washington State are insufficient to cover E911 costs from ILECs, CLECs, and wireless carriers. If E911 cost recovery were to be required for all types of service providers, the requirement would have to be accompanied by an increase in 911 excise taxes. Consistent rules for cost recovery should be set for all types of telecommunications service providers, so the counties can plan their budgets accordingly. Establishing rules that require all telecommunications service providers to include the transport of 911 calls from their switches to the Selective Router as part of basic service, eliminating cost recovery for the ILECs for this E911 service component, would create parity among these competitive businesses. It is unfair for one type of telecommunications service provider to be compensated for a component of E911 service that all types are required to provide. The current E911 excise tax structure does not generate sufficient revenue to cover the cost of this component for all types of telecommunications service providers. Changing the rules to make the cost demarcation point the same for wireline as the Federal Communications Commission set for wireless would create cost recovery parity. The ILECs and CLECs would be free to seek compensation for the cost of providing this service from their customers, just as the wireless carriers are. Since the wireless carriers are regulated at the federal, not the state level, there is no opportunity for the WUTC to create cost recovery parity by requiring cost recovery for this E911 service component for all types of telecommunications service providers, since they are not authorized to place this requirement on the wireless carriers. The only option for creating cost recovery parity on a statewide basis is to eliminate cost recovery for the ILECs.

We appreciate the opportunity to comment on the proposed rule. If you have any questions about these comments, please contact me at (206)296-3911.

Sincerely,



Marlys R. Davis

E-911 Program Manager