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MILITARY DEPARTMENT
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Emergency Management Division
Enhanced 911 Program
Robert G. Oenning, Administrator

February 4, 2005

VIA ELECTRONIC AND FIRST CLASS MAIL

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

RE: **Rulemaking to consider Amendment of WAC 480-120-450, Enhanced 9-1-1 (E911), Obligations of Local Exchange Companies, Docket No. UT-041629**

Dear Ms. Washburn:

INTRODUCTION

Pursuant to the Notice of Opportunity to File Written Comments dated January 14, 2005 the Washington State Enhanced 911 Program provides the following comments.

DISCUSSION

We appreciate the opportunity to provide additional comments on Docket No. UT-041629. For ease of discussion have followed the format of the notice.

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)?

Types of Wireline and wireless carriers have been treated differently within Washington State through a process that has grown incrementally over the years. Currently CLECs and wireless carriers do not receive any cost recovery for transporting the 911 call to the selective router (SR). ILECs receive cost recovery for transporting the 911 call to the selective router. Under this situation, over 50% of 911 calls are the responsibility of the carrier to transport to the selective router. The contention is that this is inconsistent within the state and requiring all carriers to transport the call to the selective router provides a consistent policy.

The FCC, in its King County decision, selected the selective router as the logical demarcation point for PSAP cost recovery for wireless carriers. CLECs made a similar decision. Owners of private phone systems also make arrangement, usually acquiring facilities from tariffs, for transport to the selective router. However, all three have pushed for, and in many cases received, capabilities to connect to the E911 networks in ways that minimize the additional effort while ILEC connections have not progressed with a view of making them easier to manage as an integral part of the enterprise telecommunications

The technology of wireless and wireline carrier's connection to the Enhanced 911 system is virtually identical. Number portability has been implemented to assure that customers have a choice of wireless service while keeping their phone number. The clear policy of the United States has since divestiture been to take measures to assure competition in the telephone marketplace. The interest of competition is served if all carriers are treated equally with respect to cost recovery for particular network components required to provide comparable service.

One difference between wireless and wireline has been that the non-competitive wireline carriers have supplied the connection under tariff where they specified transport in terms of single circuits. Wireless carriers have been permitted to utilize high capacity circuits for all or part of the transport by dedicating some circuits in the capacity group to 911. Carriers should all have the option to manage this connection without restrictions connected with making these billing elements.

All carriers monitor the circuits to the 911 selective router. For carriers utilizing single circuits necessary to provide for billing to the PSAP this monitoring requirement adds a layer of specialized monitoring that is unnecessary if the carrier is relieved of the billing requirement and permitted to utilize high capacity circuits that are monitored as part of normal operation.

Carriers in Washington State have been supportive of 911 and it was the LECs who laid the groundwork for Enhanced 911 implementation, statewide. The effort they undertook to connect to the E911 network was done in that environment before a

distinction was made between Incumbent or Competitive. Competition is evident with at least half the calls to 911 coming from competitive carriers and a clear indication that the trend will continue as telephone services begin to be widely available from carriers utilizing Voice over Internet Protocol technologies. All should have equal access to 911 systems, and should have equal opportunity to manage that access without restraint of billing elements in tariffs that artificially restrict opportunities.

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 CLECs meet their 911 obligations with transport of the 911 call to the selective router and do not receive cost recovery from the PSAPs. The management of those facilities is cooperative between the CLECs and the PSAPs.

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?

ILECs were traditionally paid for the connection to the selective router as part of the agreed to service packages necessary to implement E911. There were no CLECs at that time this policy was implemented. By the time CLECs entered the telecommunications market Enhanced 911 had been established as the standard for customer safety as the access to emergency services required of all carriers. It was natural for CLECs to assume the cost of getting the 911 call to the selective router as part of the requirement for providing service. Payment of transport to the selective router became a legacy practice instituted before effective telecommunications competition was encouraged.

Both provide wireline service to subscribers and subscribers see any no difference between the service offered. The distinctions between CLECs and ILEC have become blurred from the customer perspective and each competes for the same customers. Treating all carries equal is competitive neutral.

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

Yes. Continuing to permit ILECs to receive reimbursement for network components that are part of the basic services costs of their competitors is an advantage for the ILECs. It also does not serve to encourage ILECs to evaluate how those connections are deployed as part of their basic operational costs. Verizon and Qwest have permitted competitive carriers to utilize a portion of already acquired facilities for all or part of the transport to the selective router. ILECs have continued to provide the transport at higher cost single channel rates, or if they have bundled the transport into high capacity facilities have continued to bill at the single channel rate.

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?

CLECs should not be allowed to charge PSAPs for the cost of transport to the Selective router. If CLECs were allowed to charge for 911 transport in fairness, wireless carriers should be allowed to charge, and the FCC has determined that wireless carriers are responsible to transport the call to the selective router with cost recovery optional at the discretion of the PSAP. Treating all carriers the same should be the goal within Washington State.
This question appears to propose that all carriers be reimbursed for transport to the selective router equally. If that was to be done those charges would need to be subject to tariff regulation in order to easily be reimbursed due to the acquisition rules of government. In general, local and state government services can be acquired only by competitive bid or from regulated tariffs. These purchasing rules are aimed at assuring that prices paid are either based on competitive bids or are evaluated and approved in a regulatory forum. Given that there is no realistic way to apply competition to these transport elements the only way to adequately permit ease of payment is to have the items in tariffs that are subject to cost review by the Washington Utilities and Transportation Commission. The establishment of tariffs for wireless carriers would also be problematic. Reimbursement of all would be a step backward in moving the telecommunications industry to a competitive platform where carriers can manage their operations without regulatory oversight.

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.

At the time that statement was made it did not reference the emerging new group of telecommunications companies providing voice services over the internet. With major corporations who have established network capabilities to enter the market indicating publicly that they intend to do so this statement takes on even greater significance. Their entry will drive changes in the market and a continuation of support to ILECs support for embedded transport technology will be restrictive on their options to compete, particularly since any changes to the ILEC technology will come with external cost analysis associated with tariff filings that may preclude cooperative ventures between carriers needing to transport calls to the selective routers.

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?

CLECs have traditionally recovered costs for transport as part of their internal cost of service structure. It should be noted that in many instances CLECs have a larger number of transport facilities to the E911 system than an ILEC of comparable size due to the dispersion of the CLEC's customers over a wide area.

A related question that may be considered is, "Could the service costs associated with delivery to the selective routed be reduced by changes to the WUTC rules concerning 911 facilities management? If so, what changes are suggested that would permit carriers to manage the connectivity at a lower cost?"

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)

Has any company who is supported by federal Universal Service Funds had E911 expenses rejected when applying for support, either initially or on appeal?

5. In reference to the statement in EMD's comments on page 2:

> The Federal Communications Commission has also established E911 as the standard for access to emergency services (Attachments A&C). These standards apply to carriers offering local services regardless of the nature of the technology utilized or the regulatory classification of the company.

What cost reimbursement is there for access to emergency 911 services as part of the FCC's basic service requirements as part of the high cost support under the federal Universal Service Fund?

It is our understanding that in some states such as Minnesota carriers are receiving such support not only for transport but also for other elements of Enhanced 911 service delivery.

6. For your company (or companies), how much of the cost of E 911 service is attributable to transport from the end office to the selective router (either in terms of total dollars in Washington, or as a percentage of costs that you currently recovery through rates and charges paid by PSAPs?

No Comment

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

Response to Qwest comments.
Qwest cites the existing compensation structure for 911 service dates back to the 1970's. A revolution in technology has occurred since that time. Now is the time to address this issue of cost recovery because the playing field will only become more cluttered. The explosion in technology continues and the future is here with VoIP and other technology that will substantially change the way 911 calls are processed. Currently the point where all technologies come together is the selective router. To continue the patch work cost recovery models for 911 creates obstacles to providing service to subscribers within the state.

The industry has moved into a competitive arena where some past practices no longer fit the model. ILECs are not subject to the 911 excise taxes on company lines regardless of the use of those lines. ILECs are reimbursed for the cost of transport to the selective router. Some ILECs, unlike Qwest, are reimbursed for enabling their switches to accept 911 dialing. CLECs and wireless carriers receive none of these considerations. Transport to the selective router is the most significant discrepancy in how carriers are treated for purposed of providing E911 access to emergency services.

Response to Verizon comments.
The FCC order does not preclude setting cost recovery for all entities at the selective router. Verizon argues that ILECs would lose revenue and incur new costs. The costs may remain the same but the cost recovery can and should be part of the basic service provided for as part of the cost to subscribers. The costs may also be reduced if the carriers are permitted to manage the connections to the selective router outside of the constraints imposed by making them a billable element.

The statement "…incur new costs by having to pay other carriers to transport traffic to selective router outside of companies' service territories" appears to be inaccurate if the rule making is adopted. The other companies would be required under the same rules to transport the call to the ILEC or selective router. Verizon would be required to transport any 911 calls in their territory. No assumption is made, or should be made, on how the carriers chose to arrange for transport to the selective router. One of the premises is that have options which they may be precluded from using due to the requirement to tariff and bill for these connections.

Response to WITA comments
WITA asserts that small companies would need to purchase dedicated facilities from their boundary to the selective router. The proposal is that the transport of the 911 call would be the responsibility of a company, similar to how other calls are transported across territory boundaries. How that is done would be a company decision.

SUMMARY

Equal treatment of all carriers in meeting service requirements such as providing access to emergency services via Enhanced 911 meets the objective of assuring a competitive market. Establishing the Selective Router as the demarcation point establishes a standard for all carriers equal to that established by the Federal Communications Commission for wireless carriers and at a location in the network that affords the carriers the opportunity to optimally manage the transport as a network component.

The Enhanced 911 Program again appreciates the opportunity to comment on this issue and looks forward to further discussions.

Sincerely,

Robert G. Oenning