

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET NO. UT-030964
)	
QWEST CORPORATION)	GENERAL ORDER NO. R-513
)	
To Amend WAC 480-120-146,)	
Changing service providers from)	ORDER AMENDING RULE
one local exchange company to)	PERMANENTLY
another.)	
.....)	

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action under Notice WSR #04-03-117, filed with the Code Reviser on January 21, 2004. The Commission brings this proceeding pursuant to RCW 80.01.040, RCW 80.04.160, and RCW 34.05.330.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 **DATE OF ADOPTION:** The Commission adopts this rule on the date that this Order is entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325 requires that the Commission prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must include the identification of the reasons for adopting the rule, a summary of the comments received regarding the proposed rule, and responses reflecting the Commission's consideration of the comments.

5 The Commission often includes a discussion of those matters in its rule adoption order. In addition, most rulemaking proceedings involve extensive work by Commission Staff that includes summaries in memoranda of stakeholder comments, Commission decisions, and Staff recommendations in each of those areas.

6 In this docket, to avoid unnecessary duplication, the Commission designates the discussion in this order as its concise explanatory statement, supplemented, where not inconsistent, by the Staff memoranda presented at the adoption hearing and at the open meetings where the Commission considered whether to begin a rulemaking and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

7 **REFERENCE TO AFFECTED RULES:** This rule amends the following section of the Washington Administrative Code:

WAC 480-120-146 Changing service providers from one local exchange company to another.

- *Adopts by reference the Federal Communications Commission (FCC) rule governing local number portability (LNP), 47 CFR §52.26, which in turn adopts the North American Numbering Council (NANC) recommendations on LNP, "Working Group Report," dated April 25, 1997, with certain qualifications and additions, for when a customer migrates from one local exchange to another and LNP is requested. Amendments also address situations where LNP is not invoked.*
- *Adds cross-reference to WAC 480-120-999 (Adoption by Reference) for the effective date of 47 CFR §52.26.*

8 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

THEREUNDER: No preproposal statement of inquiry was filed because this proposal is exempt from the requirement to issue a Preproposal Statement of Inquiry (CR-101) pursuant to RCW 34.05.330(1)(b) as this proceeding began as a petition for rulemaking. However, Commission Staff worked with Qwest to develop the proposed rule language amending WAC 480-120-146 that is included in the Qwest petition. AT&T, Time Warner, and XO also participated in the discussions.

9 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on August 1, 2003, at WSR #03-16-063. The Commission scheduled this matter for oral comment and adoption under Notice WSR #03-16-063 at 9:30 a.m., Wednesday, October 22, 2003, in the Commission's

Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice advised interested persons of the proposed revisions to WAC 480-120-146 initiated by the Qwest petition for rulemaking. The Commission informed persons of the rule proposal by providing notice of the proposal and the CR-102 to all persons on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all registered telecommunications companies and the Commission's list of telecommunications attorneys. The Notice provided interested persons the opportunity to submit written comments to the Commission, and set a date for a stakeholder discussion.

- 10 **COMMENTS (WRITTEN AND ORAL COMMENTS):** Sprint, AT&T, Verizon and Eschelon submitted written comments on the rule proposal. Qwest, Sprint, AT&T, and MCI participated in the Stakeholder Discussion held on October 2, 2003. The stakeholders agreed that the original CR-102 proposal should be rewritten to reflect national standards as adopted by the FCC in order to permit flexibility to carriers by offering several different methods to achieve Local Exchange Company (LEC) migration via LNP.
- 11 On October 22, 2003, the Commission continued the rulemaking hearing to December 10, 2003, to allow the stakeholder group and Staff to draft a new rule proposal that would reflect national standards. On December 10, 2003, the Commission continued the rulemaking hearing to January 14, 2004, to allow the stakeholders and Staff the opportunity to complete their collaborative rule drafting process. On January 14, 2004, the Commission directed the filing of a Supplemental CR-102 as provided in RCW 34.05.340 to accommodate the new collaborative rule proposal, which differed substantially from the Qwest proposal, but which Qwest and all other participants supported.
- 12 **NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING:** The Commission filed a Supplemental Notice of Proposed Rulemaking (Supplemental CR-102) on January 21, 2004, at WSR #04-03-117. The Commission scheduled this matter for oral comment and adoption under Notice WSR #04-03-117 at 9:30 a.m., Wednesday, March 24, 2004, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice invited comment on the new rule proposal.

13 Qwest and AT&T filed written comments supporting the rule revisions submitted with the Supplemental CR-102.

14 **RULEMAKING HEARING:** The rule proposal was considered for adoption, pursuant to the notice, at a rulemaking hearing scheduled during the Commission's regularly scheduled open public meeting on March 24, 2004, before Commissioner Richard Hemstad and Commissioner Patrick J. Oshie. The Commission heard oral comments from Tom Wilson, representing Commission Staff. No other interested person made oral comments.

15 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission adopted the rule amendments as noticed at WSR #04-03-117 with the changes described below.

16 **CHANGES FROM PROPOSAL:** The Commission adopted the proposal with the following changes from the text noticed at WSR #04-03-117.

- The Commission added language to clarify that 47 CFR §52.26 adopts the North American Numbering Council (NANC) recommendations on local number portability administration, "Working Group Report," dated April 25, 1997, with certain qualifications and additions.
- The Commission added a cross reference to the Commission's Adoption by Reference rule for telephone companies, WAC 480-120-999, for the effective date for 47 CFR §52.26. The Commission annually reviews its Adoption by Reference rules for each industry to update references to materials cited in rules

17 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** In reviewing the entire record, the Commission determines that WAC 480-120-146 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

ORDER

18 **THE COMMISSION ORDERS:**

19 WAC 480-120-146 is amended to read as set forth in Appendix A, as a rule of the
Washington Utilities and Transportation Commission, to take effect on the thirty-
first day after filing with the Code Reviser pursuant to RCW 34.05.380(2).

20 This Order and the rule set out below, after being recorded in the register of the
Washington Utilities and Transportation Commission, shall be forwarded to the
Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter
1-21 WAC.

DATED at Olympia, Washington, this 19th day of April 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 1, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.