

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	
)	
MOUNT ST. HELENS TOURS, INC.)	Docket No. UT-991930
)	
For Designation of a Telecommunications)	
Common Carrier to Serve an Unserved)	
Community, or Portion Thereof)	
.....)	
In the Matter of the Petition of)	
)	
BARBARA BRADY)	Docket No. UT-991931
)	
For an Exchange Area Boundary Change)	
.....)	
In the Matter of Designation of a)	
Telecommunications Common Carrier to)	
Serve WILDERNESS LAKE COMMUNITY)	
or Portion Thereof, on the Commission's)	Docket No. UT-993000
Own Motion)	

RESPONSE OF GTE

As directed by the Commission in its Order of Consolidation and Notice of Prehearing Conference ("Order"), GTE Northwest Incorporated ("GTE") submits these Comments in response to the two Petitions for Designation of a Carrier to Serve an Unserved Community, and to the Petition for an Exchange Area Boundary Change.-

INTRODUCTION

Based on the Order, GTE understands that the Commission will later establish a specific schedule for these consolidated matters and will make an in-depth opportunity available to all parties for detailed and in-depth presentations addressing both the factual and policy issues raised by these petitions. Therefore, these initial comments only respond briefly to the factual assertions contained in the petitions, summarize GTE's policy position¹ on how such petitions should be resolved in Washington, and present GTE's recommendation for how the Commission should proceed at this point.

PETITIONERS' RELATION TO GTE'S SERVICE AREA AND FACILITIES

None of the areas for which service is requested are contained within GTE's exchange boundaries that are on file with the Commission. GTE has not held itself out as offering service in any of these areas. Each area for which service is requested is currently unserved by any local exchange carrier.

GTE has no filed exchange map or facilities near the area covered by the Mount St. Helens Tours, Inc. petition (UT-991930).

GTE has limited facilities near the locations described in the Barbara Brady petition (UT-991931). However, the existing facilities are not sufficient to provide service to those locations and additional facilities would have to be constructed. GTE does not know what other companies' telecommunications facilities² are near those locations or reasonably

¹-While GTE makes reference to legal issues in these Comments, they are not intended to be a legal brief. GTE anticipates that the schedule adopted by the Commission will provide opportunities for formal legal argument.

²-In this context, "facilities" include traditional wireline telephone plant, cable television facilities, wireless telecommunications technologies, and any other facilities and technologies that may be able to provide telecommunications services.

could be extended to those locations. GTE believes this is a "high cost" area, in which Universal Service Fund support would be required in order to make basic service available at an affordable rate.

The Wilderness Lake Community is in an area between GTE's Newport Exchange and U S WEST's Elk Exchange. GTE does not have any facilities in this unfiled area. To serve the subject location, GTE would have to construct facilities both in its Newport Exchange and the unfiled area. GTE believes this is also a "high cost" area.

GTE'S POLICY POSITION ON DESIGNATING CARRIERS TO SERVE UNSERVED COMMUNITIES

Section 214(e)(3) of the Telecommunications Act of 1996 controls with regard to the involuntary designation of companies to provide basic telecommunications service to unserved areas. The major issues in any proceeding to apply that section include the following:

- Qualifying the area for which service is sought,
- Utilizing a competitively and technologically neutral carrier selection process,
- Making complete and accurate factual determinations with regard to the "ability to serve", and
- Assuring that the designated carrier's costs are fully covered by the rates it is allowed to charge for its services and Universal Service Fund support.

At this time the Commission cannot assure cost recovery because it does not have authority to implement a USF. The Legislature may or may not remedy the situation in its current session. The Commission's first decision, therefore, is whether to hold this proceeding in abeyance until the Legislature acts.

Section 214(e)(3) Applies

Mount St. Helens Tours, Inc. (“MSHT”) asks the Commission to review its need for service under Section 214(e)(3). The Wilderness Lake petition also refers to designating a carrier under 214(e)(3). The Brady petition appears to intend to cite RCW 80.36.230, which states that the Commission may “prescribe exchange area boundaries”. In any event, the Order refers to that petition as being “for an Exchange Area Boundary Change”, and it also cites RCW 80.36.230. The Order also mentions RCW 80.36.600 and -610. Those statutes do not, however, specifically address unserved areas and do not empower the Commission to enforce any Universal Service obligations on any company without further legislative authorization.

It is GTE's position that section 214(e)(3) controls over state law in this situation.

Section 214(e)(3) generally provides as follows:

If no common carrier will provide services that are supported by Federal Universal Service support mechanisms under section 254(c) to an unserved *community* or any portion thereof that requests such service;

The *FCC, as to interstate service, or*

the *state commission, as to intrastate services,*

shall determine which common *carrier or carriers are best able to provide such service*

and order such carrier or carriers to provide basic service.

The selected carrier must *meet the criteria* of section 214(e)(1) and be designated an Eligible Telecommunications Carrier (“ETC”).

Of course, as an ETC, the company will receive Universal Service Fund support if the area is “high cost”. This is crucial. No company should be compelled to incur any costs to serve a new area if the Commission does not provide full cost recovery.³ Cost recovery

³—GTE reserves the right to address the issue of whether a company may be lawfully compelled to provide

can take one or more forms, including "aid to construction" and monthly payments.

The FCC released a Further Notice of Proposed Rulemaking on September 3, 1999, in CC Docket No. 96-45, to investigate the promotion of the deployment of facilities to unserved and underserved areas and the methods by which subscribership in these areas could be increased. With respect to unserved areas, the Commission sought comment regarding the implementation of section 214(e)(3), including the possibility of adopting a competitive bidding mechanism to identify the carrier or carriers best able to serve an unserved area. GTE submitted its initial comments on December 17, 1999, advocating the use of an auction mechanism to identify carriers and establish support levels in unserved areas. This auction proposal has been previously provided to the WUTC in UT-970325. At this point, therefore, it is unclear whether the FCC needs to become involved in these requested designations to, for example, make certain that any interstate component of basic service is provided (i.e., interstate switched access) and to provide Federal Universal Service support to any carriers designated as ETCs in this proceeding.

The Prospective Service Areas Need to Be "Communities"

Under Section 214(e)(3) a prospective service area must be a "community" or a portion of a community. GTE expresses no opinion at this time on whether the three areas involved in this case meet that requirement.

The Commission Must Determine Criteria to Evaluate Which Carrier or Carriers Are "Best Able to Provide" Basic Service

The criteria should be broad, and not limited to the relative physical proximity of existing facilities. Full cost, quality and administrative ramifications must be considered ~~not just~~ in addition to the out-of-pocket costs of extending cables. ~~In addition~~ Also, the evaluation

service outside its voluntarily filed exchange boundaries even if cost recovery is provided.

must not be limited only to incumbent local exchange companies. The Commission must make the determination with respect to "common carriers".

-Under Section 214(e)(3), common carriers include not only incumbent local exchange companies but also other telecommunications providers, including wireless carriers. Therefore, the Commission must include all common carriers in its evaluation.

The Commission should also consider using a competitive bidding approach to carrier designation, as the FCC and the Joint Board recommended.

Designation Under 214(e)(3) is Premature, Because Appropriate Cost Support Is Not Available

Under the Telecommunications Act of 1996, the State has a duty to adopt specific, predictable, and sufficient cost support mechanisms for any regulations associated with preserving and advancing universal service, and these mechanisms must be funded by the all telecommunications companies on a competitively neutral and nondiscriminatory basis. At this juncture, Washington State does not have such a mechanism for unserved areas. Therefore, no carrier can be designated an ETC and compelled to provide service to unserved, unfilled areas.

GTE'S RECOMMENDATION

Even though the Commission may not proceed with the actual designation of ETCs at this point, due to the lack of a universal service funding mechanism, GTE recommends that the Commission proceed to consider some of the other issues. For example, it can determine whether the three areas are "communities". It can not only investigate the facts about the existing facilities of the carriers it has named in the Order, but can also determine whether other carriers and technologies could be used. It can also preliminarily consider the types of cost support that could be provided and the related administrative issues.

