

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In the Matter of the Rule-Making  
Related to Telecommunications  
Companies – Chapter 480-120  
WAC

DOCKET NO. UT-990146  
Customer Privacy Rules

**Comments of  
Low Income Telecommunications  
Project**

May 22, 2002

**Opt-in assures protection of customer privacy.**

The Low Income Telecommunications Program (LITE) thanks the Commission for this opportunity to comment on Washington's telecom customer privacy rules. We congratulate the Commission for supporting the enactment of strong rules and for helping to protect the privacy of Washington's consumers. We strongly believe in a citizen's right to control their private information and its distribution.

We are concerned with the commissions loosening of earlier draft privacy rules that originally required "opt-in" procedures for marketing new categories of service to customers and the sharing of information among a corporation's affiliates. We believe the earlier draft rules better reflected the will of the vast

majority of Washington's telecom consumers. "Opt-in" is the best way to ensure that consumers maintain control over their private information. If there were true competition in the residential Washington telephone market, and not the monopolistic conditions that exist throughout most of the state, we think that consumers would choose a phone company that used "opt-in" procedures only.

At one of the workshops the commission held on these issues the argument was put forward by Qwest that access to private information would allow Qwest to save their customer's money by offering them features and service tailored to their calling habits. This position runs counter to what we have found through our experiences in the LITE program.

When we attempt to sign our low-income clients up for the Washington Telephone Assistance program, the Qwest sales representatives try to sell our indigent clients expensive phone features they do not want, they cannot afford, and that they have not asked for. In our experience Qwest wants its customers to spend more money, not less. Therefore, we find the notion that Qwest wants to save its customers money by offering new features laughable and counter-intuitive. Qwest wants to increase profits and income.

Another concern we have is that if any procedure other than "opt in" is allowed, then there is the potential for inadvertent, negligent, or intentional release of information that can threaten the health and safety of crime victims and potential crime victims. If this private information reaches the wrong hands, customers could be put in serious jeopardy.

We think the potential for inadvertent or negligent release of information is significant. We have encountered many Qwest customer service representatives who demonstrate a surprising lack of knowledge about the Washington Telephone Assistance Program and other Washington rules and procedures, despite repeated assurances from Qwest managers that their staff has been trained in these rules, procedures and programs.

Qwest personnel seem to get easily confused about which laws and procedures apply to which state. The problem appears to be that each Qwest representative can be called on to handle service requests for any of fourteen states. There are so many laws and procedures to keep track of, for so many states, that they just can't do it. Based on our experiences we don't think they will be able to protect customer private information, even if trained on these issues, and it should, therefore, remain out of their hands unless expressly given "opt-in" permission.

**Washington has always been a leader on privacy issues.**

Washington has long been a national leader on individual privacy issues, starting with the adoption of its constitution in 1889. The Washington constitution, unlike the federal constitution and the constitutions of the others in states in force at that time, has specific provisions protecting individual liberties and the right to privacy.

The delegates to the 1889 Constitutional Convention faced two major challenges stemming from the territory's rapid transformation. First,

Washington Territory experienced government corruption. Second, private corporate power grew tremendously over the latter half of the nineteenth century, bringing both progress and problems to Washington. The delegates addressed the turbulent changes wrought by these forces by protecting individual rights with a broadly phrased Declaration of Rights, and through specific constitutional restrictions on both government and private power. *Brian Snure, Individual Rights, Free Government, and the Washington State Constitution. WA Law Rev., Vol. 77, p. 669 (1992).*

Many of the delegates to the constitutional convention came from organizations such as the Grange, Farmer's Alliance, and the Knights of Labor, and feared corporate power and believed it a threat to individual freedoms. These fears were largely a result of the overbearing power of the railroad and resource extraction corporations. The railroad monopolies controlled the flow of agricultural products and charged excessive freight fees. Mine laborers faced dangerous conditions and were the victims of corporate hired armed guards who would violently deal with worker gatherings. *Id. at 672.* The delegates therefore enacted a Declaration of Rights that protected citizens from both state and corporate power. *Id. at 682.*

Thus, under Washington's Declaration of Rights, the right to privacy may not be violated without the "authority of law." *Wash. Const. Art I Sec. 7.* This broad prohibition applies to both government and corporations. *Snure at 683.*

We therefore find it wholly in keeping with Washington's noble and progressive constitutional tradition of protecting citizen privacy from overreaching corporations that Washington's telecom privacy rules not only be strong, but be the strongest such in the nation. Except for activities absolutely necessary to

provide service, we ask that use of private customer information be by “opt-in” in all circumstances.

Respectfully submitted, this 22<sup>nd</sup> day of May 2002.

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