

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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

DOCKET NO. UT-990146

**Comments of  
Public Counsel  
Attorney General of Washington**

February 4, 2000

Public Counsel files these comments in response to the Commission's December 23, 1999 Notice of Opportunity to File Written Comments. We look forward to working with Commission Staff and all stakeholders during the entirety of this process and at the March 9, 2000 workshop.

Public Counsel's comments first address the existing rules and then the proposed new rules. Public Counsel's comments are predicated on the legislative draft of the rules made available on the Commission's website. In addition to the following comments, Public Counsel incorporates by reference its previous comments filed with the Secretary of the Commission on September 24, 1999.

Public Counsel does not oppose the moving or re-codifying rules from Chapter 480-120 to other chapters in the Commission's rules and vice versa. Public Counsel does oppose doing so

where the protections currently offered to consumers are lessened or eliminated at the time the rule is moved from one chapter to another.

Underlying Public Counsel's comments is a recognition that, while competition may at some point develop for local telephone service for residential and small business customers, most consumers still have only one provider to choose from, the monopoly incumbent. There is, therefore, no marketplace to provide protections in place of those now provided in the Commission's rules. In addition, as the 21<sup>st</sup> century begins, it is more apparent than ever that telecommunications services are as essential as natural gas or electrical utility service, and customer protections should recognize that fact.

**WAC 480-120-011 Application of rules.**

Public Counsel supports the retention of the right to appeal the erroneous or doubtful interpretation of these rules by affected customers. If this right is not preserved elsewhere in the revisions to this chapter of the rules Public Counsel requests that those portions of the existing rule be retained.

**WAC 480-120-022 Classification proceedings.**

Public Counsel recommends that the Commission consider including in the elements it will consider in determining competitiveness under proposed subsection (7) the issue of whether competition is sufficient to constrain price.

Suggested language

“(e) whether competition is sufficient to constrain price.”

**WAC 480-120-023 Content of petition for classification of competitive telecommunications services and companies.**

Public Counsel recommends that competitive classifications be based upon empirical evidence.

Suggested Language

(5) A statement as to whether the service or company is subject to price-constraining competition, and a verifiable study supporting the contention.

**WAC 480-120-026 Tariffs.**

It is unclear why the current language is not retained in the draft or whether a substantive change is intended. Public Counsel supports retention of the existing filing requirements for tariffs, rate schedules, rules, regulations, price lists, and contracts.

Suggested language

Insert after “Tariffs” the following phrase, “Rate Schedules, Rules, Regulations.”

**WAC 480-120-027 Price lists.**

Chapter 480-80 WAC of the rules does not appear to currently address price lists, only Tariffs. If the Commission intends for chapter 480-80 WAC to also address Price Lists, that chapter should be appropriately amended.

Public Counsel supports retention of the current requirements in the price listing rule if the rule is moved.

**WAC 480-120-031 Noncompetitive companies – Accounting.**

Public Counsel supports the retention by the Commission of the “Part 32” accounting requirements currently found at Title 47, Code of Federal Regulation, Part 32, in the event that action at the federal level results in the partial or entire rescission of Part 32.

**WAC 480-120-032 Political information and political education activities.**

Public Counsel supports retention of the current examples of “political information and political education activities” in the existing rule. Public Counsel would also urge that the separate accounting requirement be retained.

**WAC 480-120-033 Reporting requirements for competitive telecommunications companies**

Public Counsel suggests adding to the requirements of this rule additional information on the areas served by the company, the services offered by the company in each area.

Suggested language

(e) provide information detailing the areas served by the company and what services are offered in each area.

**WAC 480-120-041 Availability of information.**

Public Counsel supports regulatory requirements which provide better information to customers in Washington regarding the services provided to them by telecommunication

companies and regarding all remedies available for inadequate service. A number of these requirements are in different portions of this chapter and perhaps could benefit from being centralized in one section.

Public Counsel recommends that in addition to the language of subsection (1)(a), the rule should require notice to customers of the location of the company's business offices and payment stations. In addition to the language of subsection (1)(b)(ii) the rule should require notice to customers that basic service may not be terminated for non-payment of other services. Additionally, subsection (1)(b) should inform customers of the remedies available to them through the Commission, notification of the existence of Washington Telephone Assistance Program (WTAP), as well as information on how repairs and service interruptions will be handled by the company. This information should include the remedies available to a customer for untimely service. Companies should also inform customers of how to contact the different offices which offer the programs mentioned above.

Subsection (4) could be interpreted as only requiring detailed billing information upon the request of the customer. The level of detail currently provided should not be decreased. Public Counsel supports detailed accounting for all charges relating to services which are not billed at a flat rate.

Suggested language

(1)(b)(vi) that a customer's basic service may not be terminated for non-payment of other services provided by the company.

(1)(b)(vii) that if the customer is unsatisfied by the company's proposed resolution of the disagreement the customer must be informed that they have recourse to the WUTC Consumer

Affairs complaint process including contact information.

(1)(b)(viii) of the existence of the Washington Telephone Assistance Program including contact information.

(1)(b)(ix) information on how the company will handle repair requests and service interruptions including the remedies available to the customer for untimely service by the company.

(4)(b) In all cases the company shall provide detailed billing information for all charges relating to services which are not billed at a flat rate.

**WAC 480-120-042 Directory service.**

Public Counsel recommends clarification that the provision of informational listings in subsection (4) is mandatory.

Public Counsel suggests that subsection (6) should require that a customer given an erroneous telephone number by a directory assistance operator should not be charged for that service.

Suggested language

Replace “may, request” [sic] in subsection (4) with “must be provided” and delete “placed.”

Add to subsection (6) “... In the event a customer is provided an erroneous telephone number by a directory assistance operator the customer shall not be charged for the directory assistance service if the customer subsequently informs the company of the error.”

**WAC 480-120-051 Availability of service--Application for and installation of service.**

As stated in our earlier comments, effective local competition for residential customers does not yet exist and incumbent LECs continue to benefit from their previously established market position. The Commission is well aware of the service quality issues relating to “held orders” and has been addressing them by order of the Commission, with varying degrees of effectiveness.

Public Counsel asserts that the better informed the customers in Washington are about their obligations, rights, and remedies, the better service they are likely to receive. All telecommunication companies should be required to provide written confirmation of a service agreement’s key contractual terms. At the customer’s election that information could be supplied electronically. Customers should be permitted to cancel service without charge if the service delivered do not match what was promised. This will foster increased competition as additional telecommunications companies begin to compete in Washington to provide local service.

Public Counsel supports the uniform establishment of specific scheduling obligations with customer compensation for failure by a company to meet its commitments (whether they be scheduled appointments, level of service, or a lack of any service at all). When a company is unable to provide a timely hook-up, temporary cellular service should be provided free of charge or the customer should receive a significant account credit. This is similar to the remedies the Commission has ordered in previous cases before it (UT-950200 and UT 970766 for example) and which are currently proposed at WAC 480-120-X08. Public Counsel recognizes the

possibility that overly costly service quality guarantees could have a negative competitive impact on the decisions of companies considering entering a local market as a CLEC.

Public Counsel supports the retention of the third paragraph of subsection (3)(e) which protects from dissemination the information gathered by the company for purposes of determining credit worthiness.

Public Counsel supports adding a subsection to the proposed subsection (3) which would require a company seeking a deposit to inform the customer of the WTAP program including contact information. This provision of information would not only foster the public policy goals of promoting universal service but it would promote access to the WTAP program which appears to be underutilized while minimizing the company's financial risk. *See* Public Counsel's initial comments to WAC 480-120-056 regarding WTAP deposit and rate relief.

Public Counsel supports the proposed subsection (5)(c).

**WAC 480-120-056 Establishment of credit.**

Public Counsel objects to the proposed language of subsection (2)(b) and supports the retention of the language in the existing subsection at (3)(c). Requiring full-time, consecutive employment for the prior twelve months to establish credit worthiness inordinately burdens customers who have a job-share or part-time position or who may be self-employed

Public Counsel objects to the proposed subsection (3)(a). This subsection is contrary to the public policy goals of providing universal service and undermines the ILEC's obligation to serve those customers within its exchange. Requiring a deposit of a customer based upon that customer's co-habitation with a former customer who allegedly owes a past due bill to the



company arguably infringes the applicant’s right to contract and to equal protection under the law. Absent objective evidence of fraud, there is no rational basis for the company (or the commission) to assume fraud based solely upon co-habitation. The company has all the rights and remedies available to any creditor under the laws of Washington to pursue any debt owed by a debtor. The remedy proposed in subsection (3)(a) is opposed by Public Counsel for these reasons.

Suggested language

Strike subsection (3)(a) or add to the end of the sentence “... where there is evidence of fraud.”

**WAC 480-120-061 Refusal of service.**

Telecommunication services are essential services that should be refused only under the most extreme circumstance. Public Counsel recommends that subsection (4) be clarified to indicate that it only applies when the unpaid, prior obligation is for basic service and not for long distance or other services offered by the company.

Public Counsel has the same objection to subsection (5) as stated above to the proposed WAC 480-120-056(3)(a), relating to former customer co-habitants.

Public Counsel recommends the addition of a subsection which would require that a company refusing service under this section must give written notice to the customer of both the reason for the refusal and notice of the customer’s rights to contest the company’s action similar to the proposed WAC 480-120-041(2)(d).

Suggested language

In subsection (4) insert after “obligation” the phrase “for basic service is ...”

Strike subsection (5) or insert after “reside” the phrase “, where there is evidence of fraud, and the former customer ...”

(11) A company must give written notice to a customer to whom it is refusing service of both the reason for the refusal and notice of the customer’s rights to contest the company’s actions. This notice shall include information of the process the company has for resolving such disputes as well as the remedies available through the Commission.

**WAC 480-120-081 Discontinuance of service.**

Public Counsel supports retaining the notice provisions currently at subsection (5)(b) prior to any disconnection of service.

In the proposed subsection (6)(b) Public Counsel supports retaining the existing six month time period as opposed to the proposed sixty days. This minimizes the burden on the customer as well as the transactional costs to the company.

Public Counsel recommends adding to subsection (7)(a) notice of the WTAP program as well as the WUTC’s consumer affairs section and its “1-800” complaint line. Public Counsel also recommends that subsection (7) require that disconnection notices not include overdue amounts for non-regulated services. *See* Public Counsel’s initial comments on this issue.

Public Counsel recommends the deletion of the last sentence of the proposed subsection (8). As drafted it could be interpreted as only requiring notice to customers of their remedies for those customers persistent enough to request referral to a company employee’s supervisor or the commission. This type of action should not be a prerequisite for customers to receive

notification of their rights and remedies.

Subsection (3) does a good job of making clear important limitations on disconnection, for example, that local may not be disconnected for non-payment of toll. In general, competitive companies should not be allowed to utilize disconnection of regulated service as a means to collect for non-regulated services.

Suggested language

(7)(a)(vi) Information regarding the Washington Telephone Assistance Program as well as information regarding the Commission’s Consumer Affairs section including relevant contact information.

Delete the last sentence of proposed subsection (8).

**WAC 480-120-087 Telephone solicitation.**

Public Counsel recommends that both forms of notice in subsection (1) be required. This provides for the maximum potential notice to customers. Further, the Commission may wish to require notice via the company’s webpage, including a “Consumer Information” link on its home page with the required Washington specific information no more than two links from the company’s home page, with each link clearly labeled.

Suggested language

In subsection (1) after the phrase “... mailed to residential customers” strike “~~or~~” and insert “and” prior to the phrase “conspicuous publication ...”

In subsection (1)(c) strike “Fair Practices” and replace with “Consumer Protection.”

**WAC 480-120-088 Automatic dialing-announcing devices.**

Public Counsel does not object to the reorganization of this rule so long as the existing protections are maintained in their entirety. Public Counsel does not support the unrestricted and unregulated use of ADADs by noncommercial entities.

**WAC 480-120-101 Complaints and disputes.**

Public Counsel supports a uniform requirement that customers be informed of their rights and remedies as soon as possible. The requirement found in the proposed subsection (2)(b) should replace the language of the proposed subsection (1)(f) and in both instances the company must explain the customer’s rights as soon as possible during the beginning of the conversation.

**WAC 480-120-106 Form of bills.**

Public Counsel recommends that the Commission establish a standardized “unit” method of billing long distance so that customers may more easily compare their bill to competing companies services and make a better informed decision regarding the long distance services they use. This could include a uniform per unit price disclosure including the cost per minute for day,

evening, and weekend rates; as well as a summary of monthly calling patterns.

Public Counsel suggests that the language of the proposed subsection (1)(a) be modified so that it is clear that the burden is on the company to provide the customer the same amount of time to pay the bill as the company delayed in sending it out. The burden should not be on the customer to request this when it was the company's error initially.

Public Counsel recommends that subsection (5) include a reference to the WUTC Consumer Affairs section and its 1-800 number.

Subsection (7) should be clarified to make it clear that companies are not absolved from the current level of itemization in their billing practices.

#### **WAC 480-120-121 Responsibility for delinquent accounts.**

Public Counsel objects to subsection (a) for the same reasons previously stated regarding WAC 480-120-056(3)(a) regarding co-habitant pre-existing debt.

##### Suggested language

Strike subsection (a) or insert after "premises" the phrase "and there is evidence of fraud"

#### **WAC 480-120-144 Use of privacy listings for telephone solicitation.**

Public Counsel supports requiring that the company obtain the affirmative, written acceptance from the customer that such solicitations are acceptable.

#### **WAC 480-120-500 Service quality--General requirements.**

Public Counsel objects to removing the language of existing subsection (2). Companies should be required to continue to engage in prudent management and engineering practices and not merely engage in forecasting activities. It is axiomatic that if forecasting were sufficient to obviate service quality problems, such issues would not now exist in Washington.

Suggested language

Retain the redacted language of subsection (2).

**WAC 480-120-510 Business offices.**

Public Counsel strongly supports the new provisions of subsection (2) setting benchmarks for telephone answering performance, given the reliance of providers on the telephone as the primary means of customer contact. Public Counsel believes that Washington customers' needs for assistance, including telephone inquiries, are best met by company personnel in Washington. Subsection (2) does not indicate whether the calls to a company's business office should be answered by Washington located service personnel or at a national service office.

It appears that subsections (3)(a) and (b) create a risk that customers who are served by exchanges with between 25,000 and 75,000 access lines would have proportionally fewer payment agencies in their service area than customers served by exchanges with more than 75,000 access lines. Public Counsel is concerned that this could place rural or semi-rural customers in a further disadvantaged position.

Suggested language

Insert in subsection (1) after the word "centers" the phrase "located in Washington and..."

Strike the last sentence of subsection (3) and its subsections (a) through (d) and replace it with the following: “Every exchange must have at least one payment agency located within the exchange. Every exchange with more than 25,000 access lines shall have an additional payment agency located within the exchange for every additional 25,000 access lines or a fraction thereof (example – 25,000 lines = 1 agency, 55,000 lines = 3 agencies, 75,000 lines = 3 agencies, etc.). Payment agencies must be geographically distributed proportionally across the service area of the exchange.

#### **WAC 480-120-520 Major outages and service interruptions**

Public Counsel is concerned with the impact of deleting existing subsection (8) which requires restoration of all reported interruptions within 48 hours. Unless the intent, under the new language in subsection (4) (b), is to shorten the restoration period for all interruptions, not just major outages, to 12 hours, Public Counsel strongly opposes removal of subsection (8).

#### **WAC 480-120-535 Service quality performance reports**

Public Counsel suggests adding a new subparagraph (g) to require large LECs to report telephone answering performance under proposed 480-120-510(2).

### **Proposed New Rules**

#### **Chapter 480-120 WAC**

Public Counsel has no objection to the proposed new rules except as noted below. Public Counsel also has no objection to moving certain rules from one chapter to another, given that the level of protection afforded to customers, or the requirements imposed by the rules, are not

lessened.

**WAC 480-120-X03 Access to premises.**

Public Counsel recommends that the Commission require companies to provide customer's with 48 hour notice of their intent to enter the customer's premises as well as a four hour window on the day they intend to enter when they will arrive. This protects both the customer's privacy and the safety of company service personnel in the field. It is also consistent with the commission's other rules and Washington Landlord Tenant law at RCW 59.18.150

Suggested Language

The company must provide the customer with no less than 48 hours notice of its intent to enter the customer's premises. The company must provide a four hour window within which it intends to enter the customer's premises.

**WAC 480-120-X06 Unserved Areas.**

Public Counsel requests clarification on the use of the term "portion" in subsection (2). It is unclear whether, for example, a request from a single customer would be sufficient to trigger the rule.

**WAC 480-120-X08 Service Quality Guarantees.**

Public Counsel supports the inclusion of service quality guarantees in the rules. Under current rules, widespread substandard service does not in general result in specific remedies or compensation to individual customers for problems (unless pursuant to Commission order). This



approach both provides such a remedy and provides an additional incentive to the company to adhere to requirements.

**WAC 480-120-X15 Customer notice - competitively classified telecommunications.**

Public Counsel strongly supports this proposed rule.

**CONCLUSION**

In general, Public Counsel supports the revisions proposed by Staff. The draft rules contain a number of worthwhile new provisions and at the same time, preserve valuable customer protections which have proven necessary and effective over time.