BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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| 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**

July 12, 2002

Public Counsel files these comments in response to the Commission's May 30, 2002 Notice of Opportunity to File Reply Comments on Proposed Rules. Public Counsel previously filed comments in this docket on numerous occasions, most recently on June 27, 2002, and wishes to incorporate all previous comments by reference. These Reply Comments address particular concerns Public Counsel holds regarding this rulemaking. Our comments today focus primarily on our significant concerns with the proposed rules. Public Counsel urges the Commission not to adopt certain of the proposed rules in their present form, as they are detrimental to the interests of customers. We also discuss the proposed rule regarding cash and urgent payments, which we encourage the Commission to adopt.

Public Counsel urges the Commission not to adopt the following proposed rules:

**480-120-122 Establishing Credit – Residential Services**
**480-120-104 Information to Consumers**
**480-120-061 Refusing Service**
**480-120-172 Discontinuation of Services – Company Initiated**


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In addition, for the reasons set forth in our comments filed June 27, 2002, Public Counsel continues to have concerns with the proposed rule 480-120-105, Company standards for installation of access lines.

**480-120-122 Establishing Credit – Residential Services**

Public Counsel wishes to respond to comments from carriers supporting the use of a customer's credit bureau information for establishing credit for ancillary and interexchange services. AT&T has endorsed the use of credit bureau information for ancillary and interexchange services and stated that credit bureau information should be expanded to cover new applicants for local service.[1] Qwest has requested that the rule regulating credit checks for residential customers be deleted.[2] Public Counsel is joined by LITE, the Seattle Telecom Consortium, and the Welfare Rights Organizing Coalition in opposing credit checks for residential telephone service.[3]

- **Credit reports are notoriously inaccurate and difficult to correct.**

In our comments filed previously in this docket, one of the concerns we raised related to this proposed rule is that credit reports are notoriously inaccurate. Further, it can be exceedingly difficult for consumers to correct errors on their credit reports. Issues surrounding credit reports are a major source of complaints to the Consumer Protection Division of the Washington Attorney General's Office. In addition, according to J. Howard Beales III, Director of the Consumer Protection Bureau at the Federal Trade Commission (FTC), complaints regarding

[1] Comments filed by AT&T in this docket on June 27, 2002, page 6.

[2] Comments filed by Qwest in this docket on November 5, 2001, page 17.

[3] Comments filed by Low Income Telecommunications Project in this docket on June 27, 2002, page, 2-3; comments filed by Seattle Telecom Consortium in this docket on June 27, 2002, page 5; comments filed by the Welfare Rights Organizing Coalition in this docket on June 27, 2002, page 3.


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alleged inaccuracies in credit reports are the most common consumer complaints filed with the FTC related to the Fair Credit Reporting Act.

In a recent speech, Mr. Beales stated: "Complaints about alleged inaccurate credit reports are by far the most common FCRA-related complaints we receive *and are near the top in numbers of all consumer complaints we get at the Commission*."[4] (emphasis added)

In the same speech, Mr. Beales also indicated that consumers continue to have a difficult time correcting inaccuracies in credit reports, based on consumer complaints filed with the FTC.

Some of the common themes we [the FTC] see in the complaints include:

- failing to correct inaccuracies acknowledged by the furnisher or otherwise demonstrated by the consumer;
- failing to forward critical information to the furnisher, resulting in an improper verification of the debt;
- improper reinsertion of inaccurate information in the consumer's file, a particular concern for identity theft victims; and
- failing to address disputes within the statutorily-mandated deadline.

We [the FTC] understand that, in some of these situations, third parties may share responsibility for the difficulties experienced by consumers. Where appropriate, we intend to hold those other players accountable. We also understand that no system that processes the volume of data that the consumer reporting industry processes every day will be error-free. Still, the volume of complaints we are receiving suggests that improvements are possible.[5]

[4] Remarks of J. Howard Beales III before the Consumer Data Industry Association, January 17, 2002, Scottsdale, Arizona. http://www.ftc.gov/speeches/other/bealescdia.htm (last accessed July 11, 2002). (Attachment A).

[5] *Id*.

- **The record contains no evidence justifying credit checks for residential customers.**

No evidence has been placed in the record during this rulemaking process that justifies such a major policy change regarding customer deposits collected by local exchange companies (LECs). LECs have failed to demonstrate on the record that they have a significant problem with uncollectibles. Moreover, gas, electric, water, and waste companies in Washington are not permitted to require credit checks for residential customers. Telecommunications customers should have access to services in a similar fashion, without the risk of an erroneous credit report causing an unnecessary deposit request. Public Counsel is not suggesting that carriers should have no means for evaluating customer credit, but submits that the existing standards provide for an objective and transparent credit evaluation process from the customer's standpoint. The alternative proposed by this rule -- consumer credit reports -- is notoriously inaccurate, and difficult for the customer to correct. In addition, credit reports are a poor indicator of a customer's ability and willingness to pay their phone bills.

- **The consumer credit rating system lacks transparency**.

Consumer credit bureaus control the information in consumer credit reports. Many customers do not know how their credit ratings are created and established, nor do they know what steps to take to improve a credit rating. For customers that prefer not to use credit cards and make payments in cash, consumer credit ratings are particularly detrimental and may bear no reflection on the customer's ability and willingness to pay a bill. Based upon this complex and inaccurate consumer credit rating system, consumers face differing deposit requirements. Credit reporting and rating systems also lack uniformity. They vary depending upon the factors that credit bureaus review and the methods they use to calculate the score assigned to customers.


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- **The proposed rule is ambiguous as to what might be considered "reasonable means" of establishing credit.**

Public Counsel strongly objects to this proposed rule permitting carriers to utilize information from consumer credit bureaus, and perhaps other sources of consumer information, in order to screen potential customers for deposits. However, should the Commission decide to adopt this rule, it should note that the vague language of the proposed rule does not adequately protect consumers. The proposed rule articulates no standards or guidelines regarding what constitutes a "reasonable means" for establishing customer credit. For example, the proposed rule contains no language requiring that carriers determine the creditworthiness of customers in an equitable and nondiscriminatory manner. There is nothing in the proposed rule that expressly prohibits carriers from considering such factors as race, sex, national origin or marital status of the customer, or the economic character or collective credit reputation of the area where the customer resides. In absence of the Commission modifying the proposed rule to provide adequate standards that govern the type of information that may be considered in determining the credit of residential customers, the rule remains open to potential abuse by LECs evaluating customer credit.

- **Implementing this proposed rule will likely create customer confusion.**

Our understanding of the Commission's intent of the proposed rule is that a customer's basic local service would not be contingent upon the demonstration of credit-worthiness for ancillary services. However, as we discussed in comments filed previously in this rulemaking, we have significant concerns as to how this two-tiered system will be implemented by local exchange companies (LEC) and whether customers will be adequately informed of their rights under this proposed rule.


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**480-120-104 Information to Consumers**

As outlined in our comments filed June 27, 2002, Public Counsel strongly believes that the consumer information guide should appear in the welcome letter *and* in the directory. We continue to encourage the Commission to modify this rule so that the guide appears in both places. Should the Commission decide not to modify this rule to require that this information be provided to the customer in the welcome letter, the welcome letter should include specific references to the pages and sections of the directory where the information may be found and instructions on how to obtain a directory.

*Welcome Letter Contact Information*

Qwest has stated that this proposed rule should be modified in order to require less information in the welcome letter.[6] Qwest relies upon the fact that information required in the welcome letter is already contained in the directory, and posits that it is "highly unlikely" that the customer would save the welcome letter.[7] A review of the relevant section of the multi-volume Seattle metro directory reveals that the quantity of information presented to consumers in the thirty page "phone service" section of the directory clearly illustrates the necessity of providing this contact information to consumers in a concise welcome letter. Currently, nineteen companies have service numbers and information listed in the "phone service" section of the Qwest Dex telephone directory for the Seattle metro area, each with multiple phone numbers provided for service and billing questions. Indeed, the information required by the proposed rule in the initial welcome letter is precisely the kind of information that a customer will save for

[6] Comments filed by Qwest in this docket on June 27, 2002, pages 10-11.

[7] *Id*. at page 11.


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reference because everything is contained in one letter. It is only welcome letters lacking necessary content, or specific contact and rate information which customers will be inclined to discard.

*TTY Access Numbers*

Sprint and Qwest have also both objected to the requirement in subsection (1) (a) that TTY access numbers be included in the initial welcome letter and in subsequent changed service letters.[8] Public Counsel objects to the comments urging the Commission to refrain from requiring TTY access numbers in letters providing relevant account information. There is no valid reason why TTY numbers should be targeted for exclusion from these letters, and customers who need TTY should be given the same information necessary to access their account information as other customers.

*Rate Information*

Carriers have also uniformly objected to providing rate information in the welcome letters, as required by subsection (1) (b). Qwest has characterized this information as "repetitive" and "unnecessary."[9] Sprint has stated that providing rate information is "burdensome."[10] Public Counsel strongly supports this provision of the rule requiring a concise overview of rate information in the initial welcome letter and in changed-service letters. In the absence of this requirement, customers receive account information in multiple disparate pieces, including the directory, direct-mail marketing, phone solicitation, and other sources. The

[8] Comments filed by Sprint in this docket on June 27, 2002, pages 2-3; comments filed by Qwest in this docket on June 27, 2002, pages 10-12.

[9] Comments filed by Qwest in this docket on June 27, 2002, page 11.

[10] Comments filed by Sprint in this docket on June 27, 2002, pages 2-3.


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proposed rule enables customers to experience less confusion regarding their telecommunications services, and easier access to their account information. As a result, customers will be able to make better-informed decisions regarding how they utilize their telecommunications services and manage their accounts if they receive all necessary information in one initial letter to save for future reference.

**480-120-061 Refusing Service**

*Denial of Service at Address Where Former Customer Incurred Obligation*

Public Counsel continues to express its objection to subsection (6) of this proposed rule whereby companies are authorized to deny service at an address where a former customer is known to reside with an overdue, unpaid prior obligation to the same company for the same class of service. Qwest has stated that it objects to the requirement that it collect evidence that the person requesting the service lived at the address while the former obligation was incurred.[11] Public Counsel believes that carriers must at a minimum, collect evidence showing that the person lived at the address during the time when the obligation was incurred. However, Public Counsel wishes to reiterate that the LEC should have burden of proving, with evidence, that the applicant has actually committed a fraudulent act. The proposed rules permit a deposit to be collected if the customer has previously received delinquent notices or if the customer has not been able to establish credit. Thus, the company already has an opportunity to secure customer funds prior to providing service.

*Disconnecting Service Without Notice*

[11] Comments filed by Qwest in this docket on June 27, 2002, page 8.


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Public Counsel objects to the provision in subsection (6) that a company may discontinue service or institute toll restriction without the notice usually required by 480-120-172 (7) of this proposed rule when a customer defaults on a payment agreement. Public Counsel believes that disconnection without notice is inappropriate and presents a public health and safety concern and that notice should be given to customers prior to disconnection of local phone service.

**480-120-172 Discontinuation of Services – Company Initiated**

*Disconnecting Service without Notice*

As noted above, Public Counsel regards disconnection of basic local service a serious matter which negatively impacts public health and safety. Further, Public Counsel understands that the provisions of (2)(a)(iii) represent a weakening of existing consumer protections. As such, Public Counsel objects to the provisions of (2)(a)(iii), permitting carriers to disconnect service without notice if a customer fails to make a timely payment under a payment agreement. The notice requirements in subsection (7) (Discontinuation Notice Requirements) should apply to persons who have entered into payment arrangements.

*Providing TTY Number on Discontinuation Notices*

The proposed rule requires that discontinuation notices state the company's name, address, toll-free number and TTY number for a customer to contact the company to avoid discontinuation of service. Qwest has stated that because it provides all notices in Braille to customers who request such notices, it is unnecessary to print the TTY number on the notice.[12] Public Counsel wishes to express its support for the requirement under subsection (7)(a)(vi) that the company provide the customer with the TTY number. In particular, Public Counsel wishes

[12] *Id.*



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to point out that providing notices in Braille to customers does not meet the needs of hearing impaired customers and that failure to provide such numbers to TTY customers who are facing disconnection improperly discriminates against TTY customers.

**480-120-162 Cash and Urgent Payments**

Public Counsel urges the Commission to adopt this proposed rule requiring that companies establish and maintain payment agencies for customers so that they may make payments in cash or in person without paying a fee. Qwest has requested that this rule be modified so that it can charge customers a fee for this service.[13] Verizon has voiced its opposition to providing in-person bill payment opportunities, as well as to not being able to charge a fee for these services.[14] Sprint has also stated that providing payment agencies is not warranted.[15]

Public Counsel believes that providing customers with the opportunity to make payments in cash without a surcharge is an absolute necessity. There are a number of customers who do not maintain checking accounts, as well as customers who, for circumstances beyond their control, are forced to make urgent payments to prevent disconnection. Providing an office where the customer can make the payment in person with cash does not pose an unreasonable burden to carriers. As a result, Public Counsel opposes any requirement that persons making payments in cash be required to pay a fee.

[13] Comments filed by Qwest in this docket on June 27, 2002, page 22.

[14] Comments filed by Verizon in this docket on June 27, 2002, page 12-15.

[15] Comments filed by Sprint in this docket on June 27, 2002, page 5.


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