

DRAFT WAC 480-120-052 & 480-120-058

WAC 480-120-052 Prepaid calling services. (1) Prepaid calling services - Defined.

(a) Prepaid calling services (PPCS) means any transaction in which a consumer pays for service prior to use and the prepaid account is depleted as a consumer uses the service. Prepaid calling services do not include flat-rated basic local service that is billed in advance of use. It applies only to those services where the number of minutes a consumer can use for telephone calls decreases as the consumer uses the service. Prepaid calling services may require the use of an access number or authorization code. The transaction often includes an object the size of a credit card which displays relevant information about the service. These objects are defined as prepaid calling cards.

(b) This section excludes credit cards and cash equivalent cards. Services provided at pay telephones using these cards are regulated under the provisions of WAC 480-120-138.

(i) Credit cards: Cards that can be used to make consumer purchases utilizing preapproved bank credit (e.g., Visa, MasterCard). Consumers utilizing such cards to complete pay telephone calls are charged the applicable tariffed coin operator rates on file with the commission for pay phone provider service at that location.

(ii) Cash equivalent cards: Are cards that may either be purchased for exclusive use at card reader pay telephones or may be used both for consumer purchases and use at card reader pay telephones. Cash equivalent cards are not purchased for the exclusive use through an individual telecommunications provider. Consumers utilizing such cards to complete pay telephone calls are charged the applicable tariffed coin operator rates on file with the commission for pay phone provider service at that location.

(2) Business office requirements for providers of prepaid calling services. A company offering prepaid calling services must provide consumers a without charges telephone number staffed by live personnel during regular business hours. The personnel must be sufficient to respond to all service related inquires and must be capable of answering general account related questions. ~~The without charge number business office~~ This telephone number may be the same as the technical assistance number required in subsection (3) of this section.

(3) Technical assistance requirements when providing prepaid calling services. A company offering prepaid calling services must provide consumers a without charge telephone number staffed by live personnel twenty-four hours a day, seven days a week. The personnel must be sufficient to respond to all inquires and must be capable of assisting consumers with

technical problems or questions related to their service. ~~The without charge~~ This telephone number for technical assistance may be the same as that the business office number required in subsection (2) of this section as long as the number is staffed twenty-four hours a day.

(4) Billing requirements for prepaid calling services.

(a) Billing increments must be defined in the company's price list, or tariff and presale document. If a company uses an increment based on a time measurement, the increments must not exceed one minute. If the company bills usage in "unit" measurements, units must clearly be defined using both equivalent dollar amounts and time measurement. Unit billing increments can not exceed the equivalent one minute rate.

(b) Service may be rated only for the actual time a circuit is open that allows for conversation. Conversation time of less than a full billing increment shall not be rounded up beyond that full increment.

(c) Companies may not reduce the value of a PPCS account by more than the charges specified on the prepaid calling card; prepaid calling card packaging; visible display at the point of sale; rates specified in the presale document; or the rate authorized by the commission at the time of purchase. The PPCS may, however, be recharged by the consumer at a rate different from that specified in the initial presale agreement or the last recharge information so long as the rate and surcharges conform with the company's tariff or price list at the time of purchase. The consumer must be informed of the new rates at the time of recharge.

~~(d) Companies providing prepaid calling services must be capable of providing consumers, upon request, call detail reports at no charge.~~

~~—— (i) Companies may establish verification procedures to confirm the person requesting the call detail was the actual user of the service.~~

~~—— (ii) Call detail reports may be provided orally to a consumer. The company will only be required to provide a written call detail report at no charge if the user requests the information in writing.~~

(ed) Companies providing prepaid calling services must maintain call data for a minimum of ~~thirty~~ twenty-four months. The data must include the following:

(i) Dialing and signaling information that identifies the inbound access number called or the access identifier;

(ii) The number of the originating phone when the information is passed to the prepaid calling provider;

(iii) The date and time the call was originated;

(iv) The duration or termination time of the call;

(v) The called number; and

(vi) The personal identification number (PIN) and/or account number.

(5) Written disclosure requirements for prepaid calling services - Prepaid calling cards.

(a) *Information required on prepaid calling cards.* At a minimum the cards must contain the following information:

(i) The company's name as registered with the commission. A "doing business as" name may only be used if officially filed with the commission. The language must clearly indicate that the company is providing the prepaid telecommunication services;

(ii) The ~~toll-free or~~ without charge telephone number used to reach the company's business office;

(iii) The ~~toll-free or~~ without charge telephone number to reach the company's technical assistance office, if different than the business office number;

(iv) The ~~company's toll-free or~~ without charge telephone number used to access the company's service, if applicable;

(v) Authorization code, if required to access the service or if applicable the ~~toll-free~~ without charge telephone number used ~~is required to call~~ to establish access capability; and

(vi) Expiration date, if applicable. If a card expires after a set period of time from activation, (e.g., ninety days after first use) the company must place a general statement on the card outlining this expiration policy. If an expiration date or expiration policy is not disclosed on the card it will be considered live indefinitely; ~~And~~

(b) If the regulated telecommunications company is not the entity that packages the services for sale to the public, it must require, within a written agreement with any company to whom it sells its services for resale to the public (the "selling company"), that the selling company include the information listed in (5) (a) (i) - (vi) of this rule

~~(vii)c~~ Cards must be voided or otherwise physically marked if they were produced as a "nonlive" card so that it is clear to the user that the card is only a sample and is not active. If the card is not disclosed as a nonoperative card, the card is considered live and the issuing company must honor it.

~~(b)d~~ *Prepaid calling card - Presale or point of sale documents.* The following information must be legibly printed on the card, packaging, or display visible in a prominent area at the point of sale of the prepaid calling card in such a manner that the consumer may make an informed decision prior to purchase. ~~If the information below is to be provided on a visible display at the point of sale the company must ensure by contract with its retailers or distributors that the information is provided to the consumer.~~

(i) Maximum charge per billing increment for prepaid calling card service. If a company charges varying rates for intrastate and interstate calls all applicable rates must be provided. The rates displayed must be no more than those approved in the tariff or price list of the company at the time of retail purchase;

(ii) Approved charges for all services, and surcharges, fees, and taxes, if applicable and the method of application;

(iii) Expiration policy, if applicable. If an expiration date is not disclosed the service will be considered live until the prepaid balance is depleted; and

(iv) Recharge policy, if applicable. If an expiration date is not disclosed at the time service is recharged the service will be considered live indefinitely; and

(6) Any company offering prepaid calling service, even if it does not issue an actual card, must disclose in a written presale document, the same information required in 5 (a) (i) – (vi) and 5 (c) (i) – (iv) of this rule. If the regulated telecommunications company is not the entity that packages the services for sale to the public, it must require, within a written agreement with any company to whom it sells its services for resale to the public (the "selling company"), that the selling company include the same information required in 5 (a) (i) - (vi) and 5 (c) (i) - (iv).

~~Written disclosure requirement for prepaid calling service—Other than prepaid calling cards. Presale agreement. The following information shall be provided in a presale document to an applicant prior to consumer prepayment and initiation of service:~~

~~—— (i) The company's name as registered with the commission. A "doing business as" name may only be used if officially filed with the commission. The language must clearly indicate that the company is providing the prepaid telecommunication services.~~

~~—— (ii) The toll free or without charge number to reach the company's business office;~~

~~—— (iii) The toll free or without charge number to reach the company's technical assistance office, if different than the business office number;~~

~~—— (iv) The company's toll free or without charge number used to access the company's network, if applicable;~~

~~—— (v) Authorization code, if required to access the service;~~

~~(vi) Maximum charge per billing increment for prepaid calling service. If a company charges varying rates for intrastate and interstate calls all applicable rates must be provided. The rates displayed shall be no more than those approved in the tariff or price list of the company at the time of retail purchase;~~

~~(vii) Approved charges for all services, and surcharges, fees, and taxes if applicable, and the method of application;~~

~~—— (viii) Expiration date, if applicable;~~

~~—— (ix) Recharge policy, if applicable.~~

(7) Verbal disclosure requirements for prepaid calling services.

(a) Companies offering prepaid calling service must:

(i) Provide an announcement at the beginning of each call indicating the time remaining on the prepaid account or prepaid calling card;

(ii) Provide an announcement when the prepaid account or prepaid calling card balance is about to be depleted. This announcement must be made at least one minute prior to depletion; and

~~(iii) When requested by a Washington state consumer, the company's business office and technical assistance office must provide the consumer the number for the Washington utilities and transportation commission consumer services line; and~~

~~(iviii) Company supervisory personnel must provide dissatisfied applicants or subscribers the commission's toll-free number and address in conformance with WAC 480-120-101.~~

(8) Requirements for refund of unused balances.

(a) When a company has failed to provide service at rates provided in presale documentation or quoted at the time an account is recharged, or ~~that~~ the company has failed to meet technical standards, ~~companies offering prepaid calling services~~ it must provide refunds for any unused service or provide equivalent credit in services offered when requested by a customer. Refunds must equal the value remaining on the prepaid calling account or prepaid card. The customer is allowed to choose either the refund or equivalent service option.

(b) Refund requests received from consumers for reasons other than improper rates or failure to meet technical standards may be made at the sole discretion of and in a form prescribed by the company.

(9) Performance standards for prepaid calling services. Each company shall ensure that:

(a) A minimum of ninety-eight percent of all call attempts are completed to the called party's number. ~~Station-busies~~ Calls that receive a busy signal and unanswered calls will be considered completed calls.

(b) A minimum of ninety-eight percent of all call attempts are completed to a company's business office number. ~~Station-busies~~ Calls that receive a busy signal and unanswered calls will not be counted as completed calls.

(c) A minimum of ninety-eight percent of all call attempts are completed to the company's technical assistance number. ~~Station-busies~~ Calls that receive a busy signal and unanswered calls will not be counted as completed calls.

~~————(10) Requirements when a company ceases operations in the state of Washington. When a company ceases operations in the state, the company must:~~

~~(a) Provide the commission with thirty days advance notice in writing.~~

~~(b) At least twenty one days before termination, provide written notice to customers at the address on file with the company, if applicable, indicating that service will be ending, and explain how customers may receive a refund on any unused service.~~

~~—— (c) Beginning at least fifteen days before termination, provide oral notice of termination at the beginning of each call originated in Washington, including the date of termination and a number to call for more information.~~

~~—— (d) Provide information to consumers via its customer service number outlining the procedure for obtaining refunds and continue to provide this information for sixty days from the date company ceases operations.~~

~~(e) Within twenty four hours after ceasing operations, provide the commission and the company's bonding agent a list of all account numbers with unused balances. The list must include the following:~~

~~—— (i) The identification number used by the company on each account for billing/debit purposes;~~

~~—— (ii) The unused portion of any prepaid monthly fee on each account;~~

~~—— (iii) The unused time, stated in units or minutes as applicable on each account and the equivalent dollar amount.~~

Note: Subsection (10) (a) - (d) is moving to WAC 480-120-083

~~(11) Compliance requirements for prepaid calling services.~~

~~—— (a) Printed materials including prepaid calling cards, presale documents, and point of sale documents.~~

~~—— (i) All materials printed ninety days after the effective date of the rule must comply with provisions of this rule;~~

~~—— (ii) All printed materials in circulation must comply with this rule within nine months of the effective date of this rule.~~

~~(b) Rules requirements—excluding printed material. Companies providing prepaid calling services within the state of Washington must be in compliance with this rule within ninety days of the effective date of this rule.~~

~~(12) Other regulatory requirements. Companies providing prepaid calling services must comply with all other laws and commission rules relating to provision of telecommunications services unless the company has filed for and received waiver from the commission.~~

~~(13) Penalties for provision of service by an unregistered telecommunications company. When a penalty is imposed upon finding that an unregistered company has provided prepaid calling services within the state of Washington, the commission may assess penalties of up to one hundred dollars per day per violation under RCW 80.04.405 and/or up to one thousand dollars per day per violation under RCW 80.04.380.~~

WAC 480-120-058 Protection of customer prepayments.—(1) A company that intends to collect customer prepayments must first demonstrate to the commission that it meets (a), (b), or (c) of this subsection.

—— (a) The company has a corporate debt rating, according to Standard & Poor's of BBB or higher, or according to Moody's of BAA or higher, with respect to outstanding debt obligation; or

—— (b) The company has a performance bond satisfactory to the commission sufficient to cover any customer prepayments; or

—— (c) The company has made provision for deposit of customer prepayments in a federally insured interest bearing trust account maintained by applicant solely for customer advances. The prepayments must be deposited in a bank, savings and loan association, mutual savings bank, or licensed escrow agent with access to such funds only for the purpose of refunding prepayments to customers. The funds must be maintained in an account within the state of Washington. In any order granting certification, the commission may require either bond or trust account or escrow as a condition.

—— (2) Reporting requirements for every bond or trust account.

—— (a) Each company collecting customer prepayments must submit to the commission a report within fifteen days after the end of each calendar quarter. The report must contain the following information specific to state of Washington operations:

—— (i) Total outstanding balance of customer prepayments at the beginning of the reporting period;

—— (ii) Dollar amount of prepaid services sold during the reporting period;

—— (iii) Depleted usage of prepaid services during the reporting period; and

—— (iv) Total outstanding prepaid service balances at the end of the reporting period.

—— (b) Nothing in this rule precludes commission staff from requesting current company financial or operating information at any time.

—— (c) A company may petition the commission for a reduction in reporting requirements. The commission may grant or deny the request by letter from the commission secretary.

—— (3) Calculation of trust or bond levels.

—— (a) The initial level of the bond or trust must comply with the provisions of subsection (1)(b) or (c) of this section.

—— (b) The company must adjust the subsequent level of the bond or trust based upon quarterly reports data and the company must notify the commission of that adjustment.

—— (4) A company may petition for and the commission may grant waiver of the bond/trust requirement either at the time of registration or at such later time as the company can

~~demonstrate to the commission's satisfaction that it meets standards for waiver of the bond/trust requirement. The petitioning company must provide documentation to the commission in support of the petition. The commission may grant or deny the request by letter from the commission secretary. The commission will evaluate the following to determine whether a waiver of the bond/trust requirement will be granted:~~

~~—— (a) Certified financial statements establishing adequate financial resources sufficient to provide service to consumers of prepaid telecommunications service;~~

~~—— (b) Confirmation that the company has received approval for and has been providing comparable services satisfactorily in one or more other state jurisdictions. The documentation must consist of information from the regulatory agency in the other state and must demonstrate that the company has complied with that states' rules and regulations and has provided adequate levels of service for twelve consecutive months;~~

~~—— (c) Compliance, following registration with the commission, with Washington rules and provision of adequate levels of service for at least twelve consecutive months;~~

~~—— (d) Documentation that the company has established a bond rating as provided for in subsection (1)(a) of this section;~~

~~—— (e) Other evidence demonstrating that consumer interests will be adequately protected.~~

The Commission may require as a precondition to registration the procurement of a performance bond sufficient to cover any prepayments the telecommunications company may collect from its customers, or order that such prepayments be held in escrow or trust, as stated in RCW 80.36.350.