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September 25, 2012

VIA ELECTRONIC FILING & ABC/LMI

David Danner
Executive Director and Secretary

Washington Utilities and Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
P. O. Box 47250
Olympia, WA 98504-7250

RE: Rulemaking to Consider Modifications to, or Elimination of, The Requirement Related to
Distribution of Telephone Books in WAC 480-120-251
Docket UT-120451

Public Counsel's Comments In Response to Notice of Opportunity to File Response

Dear Mr. Danner:

Enclosed please find an original copy of the Comments of Public Counsel for filing in the above-entitled docket. For confirmation of receipt, I have enclosed a copy to be date-stamped and sent back to us with the ABC Legal Messenger. A copy was also sent via e-mail on September 25, 2012 .

Thank you for your consideration.

Sincerely,

LISA W. GAFKEN
Assistant Attorney General
Public Counsel Division
(206) 464-6595

LWG:cjw
Enclosure

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RE: RULEMAKING TO CONSIDER
MODIFICATIONS TO, OR ELIMINATION
OF, THE REQUIREMENT RELATED TO
DISTRIBUTION OF TELEPHONE BOOKS
IN WAC 480-120-251

DOCKET NO. UT-120451

**COMMENTS OF PUBLIC COUNSEL
IN RESPONSE
TO NOTICE OF OPPORTUNITY TO FILE RESPONSE**

SEPTEMBER 25, 2012

I. INTRODUCTION

1. Public Counsel continues to appreciate the opportunity to participate in the Commission's rulemaking regarding the distribution of telephone book directories. In response to the Commission's Notice of Opportunity to File Response dated September 14, 2012, Public Counsel offers the following comments. Our comments do not address the second question presented by the Commission as this is a question best addressed by the party which made the proposal referenced by the Commission.¹

¹ Comments of Dex One Corporation on Proposed Rule, ¶¶ 10 – 15 and Appendix A, August 20, 2012.

II. COMMENTS

1. **What has been the experience in other states that have adopted either an opt-in or opt-out program for the distribution of directories?**
 - a. **How was the transition implemented (e.g. by flash cut or phased in, and if phased in, over what period of time)?**
 - b. **How were/are consumers notified of their option, and what is the number and nature of complaints that have been received about the programs?**

2. Public Counsel is aware of a number of states that have approved proposals for modification of white pages distribution. The majority of the states have addressed the issues on a company-by-company basis through waiver proceedings, rather than in a rulemaking proceeding. Importantly, many of these states have also imposed a number of conditions on such requests, including requiring numerous forms of customer notice and outreach efforts and tracking the impact of the changes to white pages distribution on customers.

3. Information related to the experience of customers associated with changes made in these states is limited due to the fact that many of these changes are fairly recent and because data associated with the impact on customers of changes to distribution of white pages directories is largely confidential. However, one incident from Ohio received news coverage and provides an example of customer response to changes in distribution of white pages directories. The Public Utilities Commission of Ohio granted AT&T's request to stop automatically delivering residential white pages directories in February 2009. Customers were notified of the change when they received their yellow pages directories. The call center responsible for taking

requests for residential white pages was overloaded by calls from customers requesting white pages directories, causing customers to wait on hold for an hour or more.²

4. The attached Table 1 Summary of Other Jurisdictions summarizes the information Public Counsel collected regarding the changes to white pages distribution adopted by other states and includes methods of customer notice, tracking requirements associated with impacts on customers, how the transition was implemented, and any other important consumer protections implemented, to the extent known. The table is not exhaustive.

III. CONCLUSION

5. Public Counsel continues to support strong consumer protections and notification requirements to ensure that those who need or want residential white pages will be able to receive them. Public Counsel will be in attendance at the October 18, 2012, proposed rule adoption hearing and looks forward to participating further in this proceeding.

² Phone Book Callers Overwhelm AT&T Call Center, Samavati, Shaheen, The Plain Dealer, July 8, 2009. http://www.cleveland.com/business/index.ssf/2009/07/phone_book_callers_overwhelm_a.html.

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

| State | Docket information | Methods of customer notice | Tracking Requirements Implemented | Other Consumer Protections Implemented | How transition was implemented |
|------------|---|---|--|--|--|
| Alabama | February 7, 2012; <i>See, AT&T's White Pages to go optional in Alabama after PSC decision, http://blog.al.com/businessnews/2012/02/atts_alabama_white_pages_to_go.html</i> | Unknown. | Unknown. | Unknown. | One-year gradual roll-out across state, done market-by-market. This decision was made after a 2-year pilot program in Mobile, AL. |
| California | Advice Letter from Company detailing plan to cease automatic delivery. Resolution T-17302, approving Verizon California Inc. Advice Letter No. 12535; dated June 9, 2011. | All notices should originate from the telephone company, not the printer of the directories. Customer Product Guide will be updated to reflect discontinuation of white pages delivery methods to request free copy. This update should occur no later than one month before discontinuing automatic | Two-year reporting period to track the number of directory assistance calls. In addition, company is to provide the same information for the year preceding the change for comparison purposes. One-year reporting period to track the number of households requesting a white pages directory. | Customers must receive a copy of the directory within 21 calendar days of the request. Customers must receive the directory annually unless the customer changes the request or discontinues service. Company must provide consumer rights information and all other notices and information | Immediate. |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

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|-----------------|---|--|---|-------------------|
| | <p>delivery.</p> <p>Permanent notice on the company's national website.</p> <p>Advance notice to customers via press release at least 30 days prior to discontinuing automatic delivery.</p> <p>Notice by separate sheet with all directories that are delivered to customers during the first cycle when white pages will not be automatically delivered.</p> <p>Monthly bill message in the first year directories are not delivered.</p> <p>Notices on all white pages delivered or accompanying all CD-ROMs delivered to customers requesting delivery.</p> <p>Bill inserts.</p> <p>Conspicuous notice on</p> | <p>Each tracking requirement is to be reported on a quarterly basis.</p> | <p>required by law in the yellow pages or other directories automatically delivered to customers.</p> | |
| <p>Delaware</p> | <p>Waiver of rule application.</p> | <p>None.</p> | <p>None.</p> | <p>Immediate.</p> |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

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|----------------|---|---|--|--------------|--|
| | <p>In the matter of the Petition of Verizon Delaware LLC for Waiver of Delaware Administrative Code §4003.5.1 Pertaining to the Distribution of Residential Telephone Directories, PSC Docket No. 10-002, Order No. 7844 (September 21, 2010)</p> | <p>the cover of its yellow page directory. Conspicuous notice on two separate pages within the yellow pages directory. Notice published in local news papers.</p> | | | |
| <p>Florida</p> | <p>Waiver of rule application. In re: Petition by BellSouth Telecom., Inc. d/b/a/ AT&T Florida d/b/a AT&T Southeast for waiver of Rule 25-4.040(2), Florida Administrative Code, Docket No. 090082-TL; Order No. PSC-09-0492-PAA-TL, dated</p> | <p>Notice on the cover of the yellow pages, in the customer call guide, and on a stiff tab insert. Billing messages to appear the month preceding and the month a yellow pages director is issued.</p> | <p>Further information gathering will be conducted by the Commission to determine impact on customers. Both the Commission and the Company is to engage in public outreach designed to engage customers and receive input regarding change.</p> | <p>None.</p> | <p>Company requested a permanent waiver. The Public Service Commission granted a two year waiver. During the two year waiver period, the Commission intends to gather information</p> |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

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|---------|---|---|----------|---|--|
| Georgia | July 8, 2009. | In re: Notice of Proposed Rulemaking to Amend Commission Rule 515-12-1-10(3) Directories; Order Adopting Rule, Docket No. 30569; Order dated April 20, 2010 | None. | Notices that the directories will not be delivered except upon request and providing information about how to request a copy. Notices to appear in a bill insert or bill message. Notices to appear on the company's website. | from customers. This has been done by mail and via an online Survey Monkey survey. Immediate. |
| Indiana | Unknown, but listed in articles as a state that has allowed companies to cease distribution. See, e.g., http://www.msnbc.msn.com/id/40129197/ns/business-us_business/t/companies-yank-cord- | Unknown. | Unknown. | Applies to communities with 50,000 people or more; companies serving communities with less than 50,000 people may petition for waiver. | Unknown. |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

| | | | | | |
|-----------|--|--|--|--|---|
| | <p><u>residential-phone-books/#.TzQvxFxSSeY.</u></p> | | | | |
| Louisiana | <p>Request by company to cease delivery; Order dated May 23, 2012</p> | <p>Unknown.</p> | <p>Unknown.</p> | <p>Unknown.</p> | <p>Market-by-market phase in.</p> |
| Maine | <p>Rulemaking; 2012.</p> | <p>Notice on the cover of the last white pages directory delivered that customers will not receive another directory unless requested and that they may call to request future delivery.</p> | <p>None.</p> | <p>None.</p> | <p>Companies must provide at least one more directory from the date the new rules went into effect.</p> |
| Missouri | <p>Waiver of rule application. In the matter of Southwestern Bell Telephone Co., d/b/a AT&T Missouri's Application for Waiver of the General Distribution Requirement of White Page Directories Under 4 CSR 240-</p> | <p>Information sheet delivered along with yellow pages informing the customer that they will receive the residential white pages by request only and containing information regarding how to make the request. Notice prominently displayed in the yellow pages directory.</p> | <p>None. However, the Commission stated: "The Commission will only partially waive its regulation requiring distribution of the residential white page directory so that AT&T Missouri and Charter Fiberlink – Missouri can implement a new means for delivering that directory to the customers who want to receive that directory.</p> | <p>Applies to Kansas City and St. Louis only, but could be extended to Springfield without seeking new waiver. Yellow pages will include business white pages, government listings, customer guide, and other information required by law.</p> | <p>Effective August 1, 2009.</p> |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

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|-------------------|--|--|---|--|-------------------|
| <p>New Jersey</p> | <p>32.050(4)(B), File No. IE-2009-0357; Order Approving Unanimous Stipulation and Agreement, dated July 24, 2009.</p> <p>See also:</p> <p>Partial waiver of rule application. Staff instructed to review rule and make recommendations regarding new rules or amendments.</p> <p>In the Matter of Application of tw telecom of Kansas City LLC for Partial Waiver of Commission Rule, File No. CE-2010-0077; Order dated October 17, 2009</p> <p>Waiver of rule application.</p> <p>In the matter of</p> | <p>Outreach program to include the following:</p> <p>Publication of messages</p> | <p>One-year reporting period to track the number of directory assistance calls.</p> | <p>Business white pages, government listings, and customer guide will be published and delivered</p> | <p>Immediate.</p> |
| | | | <p>The Commission will retain authority to deal with any customer complaints about how those companies implement those new distribution plans. If AT&T Missouri and Charter Fiberlink -- Missouri fail to live up to their obligations, the Commission will not hesitate to revise or revoke the waivers it is granting in this order.”</p> | | |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

| | | | | | |
|-----------------|--|---|---|--|-------------------|
| | <p>Verizon New Jersey's Petition for Waiver of New Jersey Administrative Code Regulations Pertaining to the Publishing and Distribution of Telephone Directories, Docket No. TO10040255 (September 22, 2010)</p> | <p>in three publications with high senior citizen readership.</p> <p>Distribution of white pages to key senior organizations for the first year of the waiver.</p> <p>Notices to customers as follows:</p> <p>Press release.</p> <p>Bill inserts.</p> <p>Message on the bag containing the directory.</p> <p>Message on the directory cover.</p> <p>Message on the 911 page of the directory.</p> <p>Blown-in card.</p> <p>Letter from the company president.</p> | <p>One-year reporting period to track the number of households requesting a directory.</p> <p>Information is to be reported on a quarterly basis.</p> | <p>to customers.</p> | |
| <p>New York</p> | <p>Waiver of rule application.</p> <p>Petition of Verizon</p> | <p>Notices on yellow pages directories; company is to work with Commission Staff.</p> | <p>One year reporting period to track the number of complaints regarding the</p> | <p>Notification must reach all customers affected, including those who are CLEC customers.</p> | <p>Immediate.</p> |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

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|-----------------------|--|--|--|--|
| <p>North Carolina</p> | <p>New York, Inc., for Waiver of New York Code of Rules and Regulations Pertaining to Distribution of Telephone Directories, Case No. 10-C-0215; Order Granting Waiver with Conditions, dated October 14, 2010.</p> | <p>Press release. Bill messages. Message on the protective bag in which the directory is received. Separate notification card arriving with the yellow pages. Notice on Company's website.</p> | <p>distribution change. One-year reporting period to track the number of directory assistance calls. Information is to be reported on a quarterly basis.</p> | <p>Customers will receive an annual copy of the directory unless the customer changes the request.</p> |
| <p>Ohio</p> | <p>Unknown, but listed in articles as a state that has allowed companies to cease distribution. <i>See, e.g.,</i> http://www.msnbc.msn.com/id/40129197/ns/business-us_business/t/companies-yank-cord-residential-phone-books/#.TzQvxFXSSeY.</p> | <p>Unknown.</p> | <p>Unknown.</p> | <p>Unknown.</p> |
| <p>Ohio</p> | <p>Waiver of rule application.</p> | <p>Bill inserts and billing messages promoting online directory.</p> | <p>None.</p> | <p>Customer Guide, including a verbatim recitation of the</p> |
| | | | | <p>Immediate</p> |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

| | | | | | |
|----------|--|---|----------|--|----------|
| | <p>In the matter of Application of AT&T Ohio for Waiver of Certain Minimum Telephone Service Standards. Case No. 09-42-TP-WVR; Finding and Order dated February 11, 2009.</p> <p>See also In the matter of the Application of Cincinnati Bell Telephone Company LLC for Waiver of Certain Minimum Telephone Service Standards, Case No. 08-1197-TP-WVR; Finding and Order dated January 9, 2009.</p> <p>Unknown, but listed in articles as a state that has allowed companies to cease distribution. <i>See, e.g.,</i></p> | <p>Full-page informational notice on the front section of the yellow pages, describing alternative ways to obtain white pages and how to obtain a free copy.</p> <p>Ride-along card or letter to the front of yellow pages during first cycle during which white pages will not be delivered to all customers.</p> <p>New customers must be provided the same information appearing in the annual notice at the time they initially enroll for service.</p> | | <p>customer rights and responsibilities, and business white pages must be published and distributed along with the yellow pages.</p> | |
| Oklahoma | | Unknown. | Unknown. | Unknown. | Unknown. |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

| | | | | | | |
|---------------------|--|---|--|-----------------|---|-------------------|
| <p>Pennsylvania</p> | <p>http://www.msnbc.msn.com/id/40129197/ns/business-us_business/t/companies-yank-cord-residential-phone-books/#.TzQvxFxSSeY</p> | <p>Presented as a notice of intention; ruled that the rule did not require paper copy of directory.</p> <p>In re: Proposal of Verizon Pennsylvania, Inc., and Verizon North Retain Co. to Modify Residential White Pages Directory Distribution Process, Docket No. P-2010-2198820; Order dated November 4, 2010.</p> | <p>Company is to work with Commission Staff regarding specific language and placement of notices.</p> <p>Generally, the company has committed to the following:</p> <p>Press releases.</p> <p>Bill messages and inserts.</p> <p>Messages printed on the yellow pages cover.</p> <p>Letter.</p> | <p>None.</p> | <p>Information required by law to be distributed to customers must be included in all versions of the residential white pages. This information must also be included in the business white pages directory, which will continue to be automatically delivered.</p> <p>Government listings and Consumer Guide Pages must be delivered along with the yellow pages.</p> <p>Customers will receive an annual copy of the directory unless the customer changes the request.</p> | <p>Immediate.</p> |
| <p>Texas</p> | <p>Unknown, but</p> | <p>Unknown.</p> | <p>Unknown.</p> | <p>Unknown.</p> | <p>Unknown.</p> | <p>Unknown.</p> |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

| | | | | | |
|------------------|--|---|-----------------|-----------------|-----------------|
| <p>Virginia</p> | <p>listed in articles as a state that has allowed companies to cease distribution. <i>See, e.g.,</i> http://www.msnbc.msn.com/id/40129197/ns/business-us_business/t/companies-yank-cord-residential-phone-books/#.TzQvxFxSSeY</p> | <p>Unknown, but listed in articles as a state that has allowed companies to cease distribution. <i>See, e.g.,</i> http://www.msnbc.msn.com/id/40129197/ns/business-us_business/t/companies-yank-cord-residential-phone-books/#.TzQvxFxSSeY</p> | <p>Unknown.</p> | <p>Unknown.</p> | <p>Unknown.</p> |
| <p>Wisconsin</p> | <p>Unknown, but listed in articles as a state that has allowed companies</p> | <p>Unknown.</p> | <p>Unknown.</p> | <p>Unknown.</p> | <p>Unknown.</p> |

TABLE 1 – SUMMARY OF OTHER JURISDICTIONS

| | | | | | |
|-----------------------------|--|---|--------------|--|-------------------|
| <p>District of Columbia</p> | <p>to cease distribution. See, e.g., http://www.msnbc.msn.com/id/40129197/ns/business-us_business/t/companies-yank-cord-residential-phone-books/#.TzQvxFxSSeY</p> <p>Request from company to change provisioning of white pages to customers.</p> <p>Formal Case No. 1084, In the Matter of Verizon Washington, DC Inc.'s Proposal to Change the Provisioning of Residential White Page Directories, Order No. 16375; dated May 26, 2011.</p> | <p>Unspecified; notes that the company has developed an “extensive consumer education program to alert them of the change and inform them on the ways to obtain the printed directories.”</p> | <p>None.</p> | <p>Customers will receive an annual copy of the directory unless the customer changes the request.</p> | <p>Immediate.</p> |
|-----------------------------|--|---|--------------|--|-------------------|