

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Rulemaking)
To Consider Possible Corrections)
And Changes in Rules in)
Chapter 480-120 WAC)
Chapter 480-80 WAC and)
Chapter 480-122 WAC)
_____)

DOCKET NO. UT-040015

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

September 14, 2004

Public Counsel files these comments in response to the Washington Utilities and Transportation Commission's (Commission) August 19, 2004, Notice of Opportunity to File Written Comments, and subsequent e-mail notification on September 1, 2004, extending the comment period. These comments address Customer Proprietary Network Information (CPNI) issues.

Public Counsel continues to believe that an all-inclusive opt-in approach provides the best protection for a customer's private account information and is most consistent with the customer's inherent right to control his or her own private information. We adopt our previous comments in this docket by reference.

Public Counsel recognizes that the Commission has proposed to incorporate the FCC's CPNI rules by reference into the Washington Administrative Code, and to adopt the version of the FCC rules in effect on October 1, 2002 (WAC 480-120-999(5)(a)).¹ We continue to have the concern we expressed at the Commission's CR-102 hearing on July 28, 2003, that it will be difficult for Washington consumers to obtain clear and accurate information about their privacy

¹ It appears that the reference to "WAC 480-120-207" contained in WAC 480-120-999(5)(b) should instead refer to WAC 480-120-202.

rights under federal and state law. Consumers want to know what their privacy rights are in a transparent fashion – they don't want to have to sort through a maze of federal rules, trying to figure out which version of the federal rules applies in Washington. To the extent practicable, we encourage the Commission to undertake consumer education efforts to help inform Washington consumers of their privacy rights under federal and state law, and whenever possible, to partner with consumer advocacy groups in such efforts.

We hope that adopting rules consistent with current FCC rules at least provides a minimum baseline for enforcement in Washington of existing limited federal-style protections. In addition, we support the requirement contained in subsection (2) of WAC 480-120-202, requiring wireline carriers to provide the Commission with the notice that carriers are required to provide to the FCC. Public Counsel recommends, however, that in the event the Commission adopts these rules, the Commission monitor consumer experience and continue to consider improvements, clarifications and refinements to the CPNI rules, consistent with the FCC rules and Commission authority, to provide for potentially broader use of opt-in methods and to address such issues as proper form, content, and timing of opt-out notices.