

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET NO. UT-041945
)	
FSH COMMUNICATIONS, LLC,)	ORDER NO. 01
)	
Petitioner,)	
)	
Seeking Exemption from certain)	ORDER GRANTING
Provisions of WAC 480-120-263)	EXEMPTION FROM CERTAIN
Relating to Calls from Inmate)	PROVISIONS OF
Phones in Corrections Facilities)	WAC 480-120-263
.....)	

BACKGROUND

- 1 On November 23, 2004, FSH Communications, LLC, (FSH or the Company) filed a petition for an exemption from certain provisions of WAC 480-120-263.

- 2 FSH Communications, LLC, is registered to provide pay phone service in Washington. On August 23, 2004, FSH purchased substantially all of the pay phone assets of Qwest Corporation (Qwest). These assets include, but are not limited to, the pay phones located at prisons, correctional facilities, and other penal institutions in the state of Washington.

- 3 Prior to the sale of the pay phone assets to FSH, Qwest sought and received two waivers from the Commission for its limited access inmate pay phones.¹ The Commission found that it was appropriate to grant the waivers due to the restricted and specialized nature of pay phone services provided to prisons, correctional facilities, and other penal institutions.

¹ Docket No. UT-910193, dated and effective 6/5/91
Docket No. UT-000046, dated and effective 2/9/00

- 4 Inmate pay phone services provided by FSH are provided pursuant to specific requirements of the various state, county, or city correctional facilities. At the request of correctional facility administration, providers of inmate calling systems are required to provide several restrictions that allow inmates telephone access, while at the same time ensuring the public's health, safety, and welfare.
- 5 The Revised Code of Washington, Title 9 Crimes and Punishments, has established statutes that support the unique requirements for inmate calling services for facilities that are "under the control and authority of the department of corrections, and used for the incarceration, treatment, or rehabilitation of convicted felons".
- 6 In consideration of the concerns for public safety and security, and for fraud that can take place when an inmate has unlimited access to a pay phone, FSH is requesting an exemption of WAC 480-120-263 (3)(b), (c), (e), and (f) for its limited access inmate phones. This exemption will allow for the blocking of all calls to 911, operators, toll-free services, and interexchange carriers.
- 7 FSH is also requesting an exemption of the disclosure requirements in WAC 480-120-263(4) (a-j). The posting of instruction cards or notices at the inmate pay phone is not appropriate as the inmates are limited to collect calling or debit calling only .
- 8 FSH further requests an exemption of parts of WAC 480-120-263(5) to provide specialized functions such as call blocking, call timing, automatic rate quoting, call monitoring/recording, 3-way call detect, debit accounting, etc. WAC 480 120 263(5)(c) and (d) relates to 911 calls. Inmate phones in correctional facilities block access to 911. WAC 480 120 263(5)(f) relates to restricting the number of digits or letters that can be dialed. Inmate phones provided in correctional facilities often utilize a "maximum digit" feature to prevent fraud. WAC 480 120 263(5) relates

to providing two-way service from pay phones. For safety and security and to prevent fraud, incoming calls are blocked at the request of correctional facility administration.

9 FSH also requests an exemption of WAC 480-120-263(6). The posting of notices explaining the specific restriction and providing the governing jurisdiction's contact number as required in (6) is not appropriate in a correctional facility environment for public safety and security reasons.

10 FSH requests an exemption of WAC 480-120-263(7) relating to directories. Directory placement is not appropriate in correctional facilities. Most facilities restrict the inmate's calls to a select list of approved numbers, and to assist in the prevention of fraud.

11 By this petition, FSH requests a permanent exemption of WAC 480-120-263 (3)(b)(c)(e)(f), (4)(a-j), (5)(c)(d)(f)(h), (6), and (7) for its limited access inmate pay phones located at prisons, correctional facilities, and other penal institutions.

12 WAC 480-120-015 provides that the Commission may grant an exemption from the provisions of a rule in Chapter WAC 480-120 if such is "consistent with the public interest, the purposes underlying regulation, and applicable statutes." FSH submits that, pursuant to RCW 9.73.095(2)(a) and due to the restricted and specialized nature of providing pay phone service to prisons, correctional facilities, and penal institutions, the exemption requested is in the public interest and consistent with all the applicable regulations and statutes.

FINDINGS AND CONCLUSIONS

13 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate

rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including telecommunications companies. *RCW 80.01.040; Chapter 80.04 RCW and Chapter 80.36 RCW.*

- 14 (2) FSH is engaged in the business of providing telecommunications services within the state of Washington and is a public service company subject to the jurisdiction of the Commission under the provisions of Chapter 80.36 RCW.
- 15 (3) FSH is subject to the provisions of WAC 480-120-263.
- 16 (4) WAC 480-120-015 provides that the Commission may grant an exemption from the provisions of any rule in Chapter 480-120 WAC, if consistent with the public interest, the purposes underlying regulation and applicable statutes.
- 17 (5) This matter was brought before the Commission at its regularly scheduled meeting on December 29, 2004.
- 18 (16) After review of the petition filed in Docket UT-041945 by FSH on November 23, 2004, and giving due consideration, the Commission finds that the waiver is reasonable and should be granted.

ORDER

- 19 (1) After the effective date of this Order, FSH Communications, LLC, is granted an exemption from WAC 480-120-263(3)(b)(c)(e)(f), (4)(a-j), (5)(c)(d)(f)(h), (6), and (7).

- 20 (2) The Commission retains jurisdiction over the subject matter and FSH Communications, LLC, to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective this 29th day of December, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary