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February 17, 2005

VIA E-MAIL & FIRST CLASS MAIL

Carole Washburn, Secretary

WUTC

1300 S. Evergreen Pk. Dr. S.W.

PO Box 47250

Olympia, WA 98504-7250

**RE: VCI Company Petition for Waiver of WAC 480-120-162
Docket No. UT-042045**

Dear Ms. Washburn:

The Public Counsel Section of the Washington Office of the Attorney General requests the Commission deny VCI's petition for a waiver from WAC 480-120-162. We believe VCI has failed to show that granting an exception to the rule or the granting of the waiver period proposed by staff meets the public interest standard.

Specifically Public Counsel opposes granting a waiver or trail waiver period for the following reasons:

1. Carving out exceptions to WAC 480-120-162 harms customers by exposing them to higher fees and removing the incentive for companies to provide a minimum level of service.
2. The waiver period proposal before the commission does not set out as its goal the eventual compliance with the rule or set out the necessary elements to assure the commission that VCI would strive for compliance.
3. There is insufficient cost sharing in this agreement to economically motivate VCI to seek out paying agent arrangements that comply with the rule.

1. Carving out exceptions

The purpose of WAC 480-120-162 is to ensure that consumers retain an opportunity to pay their utility bills in person while shielding customers from company-created paying agent contracts that charge customers high fees. By its own admission VCI has been in violation of the rule for more than a year and has made no progress on its own to comply with the rule.

It is in the public interest for the Commission to press for compliance rather than simply carve out an exception. VCI has not demonstrated that it cannot comply with the rule. Since the commission held over the petition, VCI with assistance from commission staff have found and agreed to have paying agent arrangements (with 65 paying locations) that charge the customers only \$1.00. This demonstrates progress toward full compliance is still possible and must be pursued in furtherance of the public interest.

2. Staff's proposed agreement lacks a compliance goal and mechanisms to achieve compliance

To Public Counsel's knowledge, the trial waiver period proposed by staff does not expressly state that the waiver period should be used by the company to come into compliance with the rule. It does not require a minimum number of new \$1.00 paying agent arrangements or locations. It does not require the company to even list all the paying agents it has contacted and to give an explanation of the cost sharing burden that would rule out the use of a particular paying agent. It does not set a cost sharing maximum under which the company must adopt the paying agent arrangement and agree to share the cost up to that set maximum. It is not in the public interest to allow a trial waiver period that does not have the mechanisms to have VCI work towards compliance.

3. Insufficient cost sharing

The staff proposal does not contain sufficient cost sharing of the Moneygram to provide an incentive to VCI to find lower cost paying agent arrangements for the customer. If the cost sharing VCI is required to do with Moneygram is less than the cost sharing in other paying agent opportunities VCI will not be economically motivated to arrange other payment options. A proper incentive would motivate VCI off of paying agent arrangements, such as Moneygram, that charge more than a dollar to the customer. VCI has not demonstrated that it is out of options for achieving this goal.

VCI elected to establish its business model and establish its paying agent arrangements out of compliance with the rule. It has not met its burden to prove it can not comply with the rule and that a waiver from the rule is in the public interest. Public Counsel requests the Commission deny VCI's Petition.

Sincerely,

Steve Johnson
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