

AMENDATORY SECTION (Amending Docket No. A-030832, General Order No. R-509, filed 10/29/03, effective 11/29/03)

WAC 480-120-147 Changes in local exchange and intrastate toll services. For the purpose of this section "subscriber" is any one of the following: The party identified in the account records of a common carrier as responsible for payment of the telephone bill; any adult person authorized by such party to change telecommunications services or to charge services to the account; or any person contractually or otherwise lawfully authorized to represent such party.

(1) **Verification of orders.** A local exchange or intrastate toll ((~~carrier~~)) company that requests on behalf of a ((~~customer~~)) subscriber that the ((~~customer's—carrier~~)) subscriber's company be changed, and that seeks to provide retail services to the ((~~customer~~)) subscriber (submitting ((~~carrier~~)) company), may not submit a change-order for local exchange or intrastate toll service until the order is confirmed in accordance with one of the procedures in (a) through (c) of this subsection:

(a) The company has obtained the ((~~customer's~~)) subscriber's written or electronic authorization to submit the order (letter of agency). The letter of agency must be a separate electronic form, located on a separate screen or web page, or a separate written document (or easily separable document) containing only the authorizing language described in (a)(i) through (vi) of this subsection, having the sole purpose of authorizing a telecommunications ((~~carrier~~)) company to initiate a preferred ((~~carrier~~)) company change. The letter of agency, whether written or electronic, must be signed and dated by the ((~~customer~~)) subscriber of the telephone line(s) requesting the preferred ((~~carrier~~)) company change. The letter of agency ((~~shall~~)) must not be combined on the same document or on the same screen or web page with inducements of any kind; however, it may be combined with checks that contain only the required letter of agency language as prescribed in (a)(i) through (vi) of this subsection, and the necessary information to make the check a negotiable instrument. The check may not contain any promotional language or material. It must contain, in easily readable, boldface type on the front of the check, a notice that the ((~~customer~~)) subscriber is authorizing a preferred ((~~carrier~~)) company change by signing the check. Letter-of-agency language must be placed near the signature line on the back of the check. Any ((~~carrier~~)) company designated in

a letter of agency as a preferred ~~((carrier))~~ company must be the ~~((carrier))~~ company directly setting the rates for the ~~((customer))~~ subscriber. If any portion of a letter of agency is translated into another language, then all portions must be translated into that language, as well as any promotional materials, oral descriptions or instructions provided with the letter of agency. The letter of agency must confirm the following information from the ~~((customer))~~ subscriber:

(i) The ~~((customer))~~ subscriber billing name, billing telephone number and billing address and each telephone number to be covered by the change order;

(ii) The decision to change;

(iii) The ~~((customer's))~~ subscriber's understanding of the change fee;

(iv) That the ~~((customer))~~ subscriber designates (name of ~~((carrier))~~ company) to act as the ~~((customer's))~~ subscriber's agent for the preferred ~~((carrier))~~ company change;

(v) That the ~~((customer))~~ subscriber understands that only one telecommunications ~~((carrier))~~ company may be designated as the ~~((customer's))~~ subscriber's intraLATA preferred ~~((carrier))~~ company; that only one telecommunications ~~((carrier))~~ company may be designated as the ~~((customer's))~~ subscriber's interLATA preferred ~~((carrier))~~ company; and that only one telecommunications ~~((carrier))~~ company may be designated as the ~~((customer's))~~ subscriber's local exchange provider, for any one telephone number. The letter of agency must contain a separate statement regarding the ~~((customer's))~~ subscriber's choice for each preferred ~~((carrier))~~ company, although a separate letter of agency for each choice is not necessary; and

(vi) Letters of agency may not suggest or require that a ~~((customer))~~ subscriber take some action in order to retain the current preferred ~~((carrier))~~ company.

(b) The submitting ~~((carrier))~~ company has obtained the ~~((customer's))~~ subscriber's authorization, as described in (a) of this subsection, electronically, by use of an automated, electronic telephone menu system. This authorization must be placed from the telephone number(s) for which the preferred ~~((carrier))~~ company is to be changed and must confirm the information required in (a)(i) through (vi) of this subsection.

Telecommunications companies electing to confirm the preferred ~~((carrier))~~ company change electronically must establish one or more toll free telephone numbers exclusively for that purpose.

Calls to the number(s) must connect a ~~((customer))~~ subscriber to a voice response unit, or similar device, that records the required information regarding the change, including recording the originating automatic number identification (ANI).

(c) An appropriately qualified and independent third party operating in a location physically separate from the

telemarketing representative has obtained the ~~((customer's))~~ subscriber's oral authorization to submit the change order that confirms and includes appropriate verification data (e.g., the ~~((customer's))~~ subscriber's date of birth). A company or a company's sales representative initiating a three-way conference call or a call through an automated verification system must drop off the call once the three-way connection with the third-party verifier has been established. The independent third party must not be owned, managed, controlled or directed by the ~~((carrier))~~ company or the ~~((carrier's))~~ company's marketing agent; and must not have any financial incentive to confirm preferred ~~((carrier))~~ company change orders for the ~~((carrier))~~ company or the ~~((carrier's))~~ company's marketing agent. The content of the verification must include clear and unambiguous confirmation that the ~~((customer))~~ subscriber has authorized a preferred ~~((carrier))~~ company change.

(2) Where a telecommunications ~~((carrier))~~ company is selling more than one type of telecommunications service (e.g., local exchange, intraLATA toll, and interLATA toll) that ~~((carrier))~~ company must obtain separate authorization, and separate verification, from the ~~((customer))~~ subscriber for each service sold, although the authorizations may be made within the same solicitation.

(3) The documentation regarding a ~~((customer's))~~ subscriber's authorization for a preferred ~~((carrier))~~ company change must be retained by the submitting ~~((carrier))~~ company, at a minimum, for two years to serve as verification of the ~~((customer's))~~ subscriber's authorization to change his or her telecommunications company. The documentation must be made available to the ~~((customer))~~ subscriber and to the commission upon request and at no charge. Documentation includes, but is not limited to, entire third-party-verification conversations and, for written verifications, the entire verification document.

(4) **Implementing order changes.** An executing ~~((carrier))~~ company may not verify directly with the ~~((customer))~~ subscriber the submission of a change in a ~~((customer's))~~ subscriber's selection of a provider received from a submitting ~~((carrier))~~ company. The executing ~~((carrier))~~ company must comply promptly, without any unreasonable delay, with a requested change that is complete and received from a submitting ~~((carrier))~~ company. An executing ~~((carrier))~~ company is any telecommunications ~~((carrier))~~ company that affects a request that a ~~((customer's-carrier))~~ subscriber's company be changed. Except as provided by contract, a telecommunications company must submit a preferred company change order on behalf of a subscriber within no more than sixty days of obtaining authorization.

This section does not prohibit any company from

investigating and responding to any ~~((customer-initiated))~~ subscriber-initiated inquiry or complaint.

(5) **Preferred carrier freezes.** A preferred carrier freeze prevents a change in a ~~((customer's))~~ subscriber's preferred ~~((carrier))~~ company selection unless the ~~((customer))~~ subscriber gives the ~~((carrier))~~ company from whom the freeze was requested express consent. Express consent means direct, written, electronic, or oral direction by the ~~((customer))~~ subscriber. All local exchange companies (LECs) must offer preferred carrier freezes. Such freezes must be offered on a nondiscriminatory basis to all ~~((customers))~~ subscribers. Offers or solicitations for such freezes must clearly distinguish among telecommunications services subject to a freeze (e.g., local exchange, intraLATA toll, and interLATA toll). The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested. Separate authorizations may be contained within a single document.

(a) All LECs must notify all ~~((customers))~~ subscribers of the availability of a preferred carrier freeze, no later than the ~~((customer's))~~ subscriber's first telephone bill, and once per year must notify all local exchange service ~~((customers))~~ subscribers of such availability on an individual ~~((customer))~~ subscriber basis (e.g., bill insert, bill message, or direct mailing).

(b) All ~~((carrier-provided))~~ company-provided solicitation and other materials regarding freezes must include an explanation, in clear and neutral language, of what a preferred carrier freeze is, and what services may be subject to a freeze; a description of the specific procedures to lift a preferred carrier freeze; an explanation that the ~~((customer))~~ subscriber will be unable to make a change in ~~((carrier))~~ company selection unless he or she lifts the freeze; and an explanation of any charges incurred for implementing or lifting a preferred carrier freeze.

(c) No local exchange ~~((carrier))~~ company may implement a preferred carrier freeze unless the ~~((customer's))~~ subscriber's request to impose a freeze has first been confirmed in accordance with the procedures outlined for confirming a change in preferred ~~((carrier))~~ company, as described in subsections (1) and (2) of this section.

(d) All LECs must offer ~~((customers))~~ subscribers, at a minimum, the following procedures for lifting a preferred carrier freeze:

(i) A ~~((customer's))~~ subscriber's written or electronic authorization stating the ~~((customer's))~~ subscriber's intent to lift the freeze;

(ii) A ~~((customer's))~~ subscriber's oral authorization to lift the freeze. This option must include a mechanism that

allows a submitting ~~((carrier))~~ company to conduct a three-way conference call with the executing ~~((carrier))~~ company and the ~~((customer))~~ subscriber in order to lift the freeze. When engaged in oral authorization to lift a freeze, the executing ~~((carrier))~~ company must confirm appropriate verification data (e.g., the ~~((customer's))~~ subscriber's date of birth), and the ~~((customer's))~~ subscriber's intent to lift the freeze.

(iii) The LEC must lift the freeze within three business days of the subscriber request.

(e) A LEC may not change a ~~((customer's))~~ subscriber's preferred ~~((carrier))~~ company if the ~~((customer))~~ subscriber has a freeze in place, unless the ~~((customer))~~ subscriber has lifted the freeze in accordance with this subsection.

(6) **Remedies.** In addition to any other penalties provided by law, a submitting ~~((carrier))~~ company that requests a change in a ~~((customer's carrier))~~ subscriber's company without proper verification as described in this rule ~~((shall))~~ must receive no payment for service provided as a result of the unauthorized change and ~~((shall))~~ must promptly refund any amounts collected as a result of the unauthorized change. The ~~((customer))~~ subscriber may be charged, after receipt of the refund, for such service at a rate no greater than what would have been charged by its authorized telecommunications company, and any such payment ~~((shall))~~ must be remitted to the ~~((customer's))~~ subscriber's authorized telecommunications company.

(7) **Exceptions.** Companies transferring ~~((customers))~~ subscribers as a result of a merger, purchase of the company, or purchase of a specific ~~((customer))~~ subscriber base are exempt from subsections (1) through (6) of this section if the companies comply with the following conditions and procedures:

(a) The acquiring company must provide a notice to each affected ~~((customer))~~ subscriber at least thirty days before the date of transfer. Such notice must include the following information:

(i) The date on which the acquiring company will become the ~~((customer's))~~ subscriber's new provider;

(ii) The rates, terms, and conditions of the service(s) to be provided upon transfer, and the means by which the acquiring company will notify the ~~((customer))~~ subscriber of any change(s) to those rates, terms, and conditions;

(iii) That the acquiring company will be responsible for any ~~((carrier))~~ company change charges associated with the transfer;

(iv) The ~~((customer's))~~ subscriber's right to select a different company to provide the service(s);

(v) That the ~~((customer))~~ subscriber will be transferred even if the ~~((customer))~~ subscriber has selected a "freeze" on his/her ~~((carrier))~~ company choices, unless the ~~((customer))~~ subscriber chooses another ~~((carrier))~~ company before the

transfer date;

(vi) That, if the ((~~customer~~)) subscriber has a "freeze" on ((~~carrier~~)) company choices, the freeze will be lifted at the time of transfer and the ((~~customer~~)) subscriber must "refreeze" ((~~carrier~~)) company choices;

(vii) How the ((~~customer~~)) subscriber may make a complaint prior to or during the transfer; and

(viii) The toll-free customer service telephone number of the acquiring ((~~carrier~~)) company.

(b) The acquiring company must provide a notice to the commission at least thirty days before the date of the transfer. Such notice must include the following information:

(i) The names of the parties to the transaction;

(ii) The types of services affected;

(iii) The date of the transfer; and

(iv) That the company has provided advance notice to affected ((~~customers~~)) subscribers, including a copy of such notice.

(c) If after filing notice with the commission any material changes develop, the acquiring company must file written notice of those changes with the commission no more than ten days after the transfer date announced in the prior notice. The commission may, at that time, require the company to provide additional notice to affected ((~~customers~~)) subscribers regarding such changes.

NEW SECTION

WAC 480-120-349 Retaining and preserving records and reports. (1) Companies must keep all records and reports required by these rules or commission order for three years unless otherwise specified in subsection (2) of this section. No records may be destroyed before the expiration of three years or the time specified in subsection (2) of this section, whichever is applicable.

(2) Companies must adhere to the retention requirements of Title 47, Code of Federal Regulations, Part 42, Preservation of Records of Communication Common Carriers published by the Federal Communications Commission. The effective date is stated in WAC 480-120-999.

REPEALER

The following section of the Washington Administrative Code
is repealed:

WAC 480-120-322

Retaining and preserving records
and reports.