

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Application for
Registration as a Telecommunications
Company and Classification as a Competitive
Telecommunications Company of:

Adelphia Telecommunications,
Anthony James Asquith
d/b/a Asquith Enterprises,
BAK Communications, LLC,
Big Planet, Inc.,
Blackstone Communications Company, Inc.,
Cable & Wireless Global Card Services, Inc.,
CenturyTel Long Distance, Inc.,
Clariti Telecom Inc.,
Comcast Business Communications, Inc.
d/b/a Comcast Long Distance,
f/k/a Comcast Telecommunications, Inc.
d/b/a Comcast Long Distance,
Computers 5*, Inc. d/b/a LocalTel
f/k/a Computers 5*, Inc. d/b/a Computerland
Network & Telephone,
Creative Communications
d/b/a CCI Communications,
Dancris Telecom, LLC,
Encompass Communications, L.L.C.,
LD Exchange.com, Inc.,
LinQ Telecom, Inc.,
Natel, LLC,
NeTel, Inc.,
Network Enhanced Technologies, Inc.,
NetworkIP, LLC,
Phonetec, LP,
PT-1 Communications, Inc.
f/k/a PhoneTime, Inc.,
RDST, Inc.,
SMARTSTOP, INC.,
Telecents Communications, Inc.,
Teleglobe USA, Inc.,
TeleHub Network Services Corporation,
TON Services, Inc.,
Transcommunications, Inc.,
United States Advanced Network, Inc.,
Viva Telecom, LLC,
Voyage Telecom, Inc.,

ORDER RESCINDING REQUIREMENT
TO PROVIDE BOND SUFFICIENT TO
PROTECT CUSTOMER PREPAYMENTS
OR DEPOSIT CUSTOMER
PREPAYMENTS IN ESCROW OR TRUST
ACCOUNT

DOCKET NO. UT-990959
DOCKET NO. UT-011261

DOCKET NO. UT-020320
DOCKET NO. UT-980782
DOCKET NO. UT-990543
DOCKET NO. UT-980506
DOCKET NO. UT-981623
DOCKET NO. UT-001377
DOCKET NO. UT-980723

DOCKET NO. UT-991575

DOCKET NO. UT-001606

DOCKET NO. UT-002058
DOCKET NO. UT-002041
DOCKET NO. UT-000758
DOCKET NO. UT-010755
DOCKET NO. UT-000550
DOCKET NO. UT-951446
DOCKET NO. UT-960901
DOCKET NO. UT-991929
DOCKET NO. UT-000958
DOCKET NO. UT-970667

DOCKET NO. UT-990596
DOCKET NO. UT-971705
DOCKET NO. UT-000667
DOCKET NO. UT-971696
DOCKET NO. UT-970770
DOCKET NO. UT-991347
DOCKET NO. UT-960836
DOCKET NO. UT-990606
DOCKET NO. UT-010429
DOCKET NO. UT-001785

Western Integrated Networks of
Washington Operating, LLC,
Williams Communications, LLC
d/b/a Vyvx, LLC
f/k/a Williams Communications, Inc.

DOCKET NO. UT-000604

DOCKET NO. UT-990235

BACKGROUND

- 1 In its Order granting the petitions for registration of the above-named telecommunications companies, the Washington Utilities and Transportation Commission (“Commission”) required each company to post a performance bond sufficient to cover any customer prepayments or hold customer prepayments in escrow or trust. The Commission imposed that requirement pursuant to *former* WAC 480-120-058.
- 2 Blanket performance bond and trust agreement requirements have afforded minimal consumer protection. The blanket requirements and the Commission’s corresponding review for compliance have been costly and burdensome for the registered companies and the Commission.
- 3 Effective June 17, 2002, the Commission repealed WAC 480-120-058, and enacted WAC 480-120-127, which removes the mandatory customer prepayment protections. Given the change in the Commission’s regulations, the Commission finds that it is consistent with the public interest to rescind its prior orders that required the above-named companies to provide a bond sufficient to cover customer prepayments or hold such prepayments in escrow or trust. The Commission retains the jurisdiction to require any of the above-named companies to protect customer prepayments if the Commission finds such requirement to be in the public interest.

DISCUSSION

- 4 Each of the above-named telecommunications companies petitioned for registration as a telecommunications company in the state of Washington pursuant to RCW 80.36.350. Each company proposed to offer prepaid telecommunications services pursuant to *former* WAC 480-120-052.
- 5 Under *former* WAC 480-120-058, all telecommunications companies collecting customer prepayments were required to show that they met one of the following criteria:
- (a) The company has a corporate debt rating, according to Standard and Poor’s of BBB or higher, or according to Moody’s of BAA or higher, with respect to outstanding debt obligation; or
 - (b) The company has a performance bond satisfactory to the commission sufficient to cover any customer prepayments; or

- (c) The company has made provision for deposit of customer prepayments in a federally insured interest bearing trust account maintained by applicant solely for customer advances. . . .

- 6 In addition, *former* WAC 480-120-058 required telecommunications companies collecting customer prepayments to file a report with the Commission within 15 days of the end of each calendar quarter detailing, with respect to Washington operations (1) the total outstanding balance of customer prepayments; (2) the dollar amount of prepayments sold during the reporting period; (3) the depleted usage of prepaid services during the reporting period; and the total outstanding prepaid balances at the end of the reporting period.
- 7 On May 14, 2002, in Docket No. UT-991922, the Commission entered an order amending, repealing, and adopting rules permanently. In that order, the Commission repealed WAC 480-120-058.
- 8 Also on May 14, 2002, in Docket No. UT-991922, the Commission adopted WAC 480-120-127, which provides that the Commission, as a precondition to registration, may require a telecommunications company to file a performance bond sufficient to cover any prepayments the company collects from its customers or order that such prepayments be held in escrow or trust, as stated in RCW 80.36.350.
- 9 Because WAC 480-120-058 is repealed, and there is no longer a rule that mandates such protection of customer prepayments, the Commission finds that it is consistent with the public interest to remove the requirement that each of the above-named companies provide a performance bond sufficient to cover customer prepayments or deposit such prepayments in escrow or trust.
- 10 For the same reasons, the Commission finds that it is consistent with the public interest to remove the reporting requirements of each of the above-named companies regarding customer prepayments.
- 11 The Commission retains the jurisdiction under RCW 80.01.040 to require any of the above-named telecommunications companies to provide a performance bond sufficient to cover any customer prepayments or require any of the above-named companies to deposit such prepayments in escrow or trust if the Commission determines that such requirement would be in the public interest.
- 12 This matter was brought before the Commission at its regularly scheduled open meeting on August 14, 2002. The Commissioners, having determined this filing to be consistent with the public interest, directed the Secretary to enter this order.

FINDINGS OF FACT

- 13 Having considered the prior orders relating to each named telecommunications company and based on the foregoing discussion of our general findings and conclusions, the Commission now makes the following summary findings of fact. Those portions of the above discussion that include findings pertaining to the ultimate decisions of the Commission are incorporated by reference.
- 14 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate telecommunications companies.
- 15 (2) The above-named telecommunications companies are registered to provide telecommunications services for hire to the public in the state of Washington.
- 16 (3) Rescinding the requirement that each of the above-named companies provide a performance bond sufficient to cover any customer prepayments or deposit such prepayments in escrow or trust is consistent with the public interest.
- 17 (4) Rescinding the customer prepayment reporting requirements imposed on each of the above-named companies is consistent with the public interest.
- 18 (5) By removing the requirements regarding protection of customer prepayments required by *former* WAC 480-120-058, the Commission in no way endorses the financial viability of the above-named companies nor the investment quality of any securities they may issue.

CONCLUSIONS OF LAW

- 19 Having discussed above in detail all matters material to our decision, and having stated general findings and conclusions, the Commission now makes the following summary conclusions of law. Those portions of the preceding detailed discussion that state conclusions pertaining to the ultimate decisions of the Commission are incorporated by this reference.
- 20 (1) The Washington Utilities and Transportation Commission has jurisdiction over the parties and subject matter of this proceeding. RCW 80.01, RCW 80.04, RCW 80.36., WAC 480-120, and WAC 480-121.
- 21 (2) Pursuant to RCW 80.04.210, the Commission's prior orders regarding each of the above-named telecommunications companies should be changed to rescind the requirement that each company either provide a performance bond sufficient to cover any customer prepayments or deposit such prepayments in escrow or trust.
- 22 (3) Pursuant to RCW 80.04.210, the Commission's prior orders regarding each of the above-named telecommunications companies should be changed to rescind the reporting requirements regarding customer prepayments.

- 23 (4) The Commission retains jurisdiction to require any of the above-named telecommunications companies to provide a performance bond sufficient to cover any customer prepayments or require any of the above-named companies to deposit such prepayments in escrow or trust if the Commission determines that such requirement would be in the public interest.

ORDER

THE COMMISSION ORDERS:

- 24 (1) The Commission's prior orders regarding each of the above-named telecommunications companies are changed to rescind the requirement that each company either provide a bond sufficient to cover any customer prepayments or deposit such prepayments in escrow or trust.
- 25 (2) The Commission's prior orders regarding each of the above-named telecommunications companies are changed to rescind the reporting requirements regarding customer prepayments.

DATED at Olympia, Washington, and effective this 14th day of August, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary