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March 5, 1991

Mr. Paul Curl
Secretary
Washington Utilities and
Transportation Commission
1300 Evergreen Park Dr., SW
Olympia, Washington 98504-8002

Re: Docket Nos. UT-900726 and UT-900733

Dear Mr. Curl:

Enclosed for filing in the above-referenced matter are an original and twenty copies of the Initial Supplemental Comments of AT&T Communications of the Pacific Northwest, Inc. on the proposed Amendment of Rules. Please date-stamp one of the copies and return it to me for our files. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "William P. Eagles".

William P. Eagles

Enclosures
WPE/ll

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**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

| | | |
|--------------------------------------|---|-----------------------------|
| PROPOSED AMENDMENT OF RULES |) | |
| WAC 480-120-021, 480-120-106, |) | |
| 480-120-138, 480-120-140, |) | DOCKET NO. UT-900726 |
| 480-120-141, and 480-120-142 |) | DOCKET NO. UT-900733 |
| RELATING TO TELECOMMUNICATION |) | |
| COMPANIES. |) | |

INITIAL SUPPLEMENTAL COMMENTS OF AT&T

AT&T Communications of the Pacific Northwest, Inc. ("AT&T") hereby submits its initial supplemental comments to the Washington Utilities and Transportation Commission ("Commission") concerning the Commission's revised proposed amendments of the above-captioned rules of the Washington Administrative Code, pursuant to the reissued Proposed Rulemaking notice of January 23, 1991.¹

Introduction

AT&T acknowledges the Commission's efforts in addressing the numerous problems experienced by consumers as a result of the practices of certain providers of operator services. These practices, which have led to overcharges and customer confusion and frustration, create a substantial need for revised regulation

¹ The Commission issued its first proposed set of revised rules governing operator service providers on September 19, 1990. In response to these proposed rules, AT&T filed its Comments on October 18, 1990 and its Reply Comments on November 2, 1990. AT&T incorporates these previous filings herein by this reference.

to protect consumer interests. The Commission's recognition of the threat to consumers' welfare posed by these practices, and the proposal of revised rules to combat many of them, will ultimately go a long way towards eliminating problems that continue to plague the calling public. In particular, AT&T supports the proposed rules severely restricting call splashing [WAC 480-120-141(6)] and mandating access to all available interexchange carriers (i) at pay telephones, on pain of disconnection [480-120-138(10) and (18)] and (ii) at all call aggregator locations (including payphones), on pain of the withholding of commissions or other compensation normally payable [WAC 480-120-141(4)(d) and (2)].

Although the rules proposed in the draft of January 23, 1991 will help to rectify many of the abuses that exist today, they will in at least one respect be much more expensive and burdensome to implement than is surmised by Staff because one of them dictates the exact language to be used for initial branding messages. The Commission can and should remedy this unnecessary burden by allowing operator service providers some flexibility in the branding language they use, so as to accommodate existing branding messages that consumers nationwide have already come to know, understand, and expect. This change, coupled with a minor revision to the provision mandating unblocking at call aggregator locations, will produce rules that serve as effective consumer safeguards against the abusive practices of some operator service providers.

Discussion: WAC 480-120-141 Alternate Operator Services

Section (4)(d)

As revised, this section obligates operator service providers to require their customers, by contract and tariff, to "provide access to 1-800 services and interexchange carriers." However, because one of the major sources of consumer complaints in the State of Washington has been customers' inability to reach AT&T--as their preferred carrier--via its nationally established 10288 0+ dialing sequence, any ambiguity as to the requirement to permit such consumer access to AT&T should be removed. This can be most easily accomplished by modifying this section as follows:

(4) An alternate operator services company shall require as a part of any contract with its customer and as a term and condition of its service stated in its tariff, that the customer:

. . . .

(d) Provide access to 1-800 services and **all available** interexchange carriers **via their preferred access method(s)**; (new language in bold)

It may be claimed by some parties that the addition of the above-recommended clarifying language is superfluous because section (4)(b)(iii) already mandates access to a consumer's preferred carrier. However, this is not necessarily the case. By its strict terms, section (4)(b)(iii) only requires that operator service providers **post and maintain dialing directions** in legible condition on or near the telephone to allow consumers to reach

their preferred carrier and to make it clear that consumers have access to other providers. It **does not** affirmatively mandate that **telephone access to all other providers be unblocked and provided to those consumers** by operator service providers and their call aggregator clients absent a waiver from the Commission. The recommended additional language is therefore necessary if section (4)(d) is truly to guarantee consumers the access to AT&T and other carriers that they desire.

Section (5)(a)(ii)

In pertinent part, this section of the rule requires all operator service providers to identify themselves to consumers at the beginning of every call with the specific message: "You are using (name of AOS company as registered with the commission)". Since July 1989, however, AT&T has used an audible and distinct "AT&T" superimposed over a musical tone to initially brand all of its automated interstate and intrastate operator-assisted calls. This "audible logo" is readily identifiable and has been accepted nationwide by AT&T's customers;² consonantly, it has **not** been a source of concern or contention with regulatory commissions in other states or with the FCC. Given the requirement for a follow-up brand of "Thank you for using [AOS company's name]" before each call is connected and billing begins, the addition of the words "You are using" to each carrier's initial brand will not add

² Indeed, since midyear 1989, AT&T has continuously conducted a nationwide radio and television advertising campaign to aid customers in recognizing when they had reached its network.

measurably to ensuring consumers' awareness of which operator service provider they are using.³ AT&T consequently believes that the proposed rule can be safely modified, without any sacrifice of consumer protection, to permit operator service providers some flexibility in the wording of their initial branding message. In this vein, the language of this section could be changed to read:

(ii) Specifically, a message shall be used at the beginning of the call **audibly and distinctly stating the name of the AOS company as registered with the commission; the message prior to connection of the call shall say, "Thank you for using (name of AOS company as registered with the commission)".**⁴ [new language in bold]

As AT&T has noted in its earlier-filed comments and in discussions with Commission staff members, imposition of a state-specific branding message that is different from the well-known existing AT&T brand would be unduly burdensome and expensive to implement. The AT&T operator service center in Seattle that serves Washington State also serves all of Oregon and portions of California, Idaho, and Montana. Because AT&T's operator traffic

3 The requirement of Section (4)(b)(i) that the name, address, and toll-free number of the operator service provider be posted on or near every call aggregator telephone further renders the addition of the words "You are using" to the initial brand superfluous.

4 The suggested phrasing derives from the branding requirement embodied in the recently enacted **Telephone Operator Consumer Services Improvement Act of 1990**, Pub.Law 101-435, Oct.17, 1990, for interstate operator-assisted calls. Under this act, each operator service provider is required to "identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call". [47 U.S.C. 226(b)(1)(A)]

system is technically unable for branding purposes to screen and sort calls by individual state (or even between the intrastate and interstate jurisdictions), a requirement by one or more of these states for a unique brand or notification phrase would necessitate significant new software development at considerable time and expense.

Finally, mandating a branding message peculiar to Washington would actually be counterproductive to achieving the Commission's goal of enhancing consumers' knowledge of which operator service provider they have reached. **Confusion, not clarity**, would be fostered if Washington residents were to hear a new AT&T brand indistinguishable from the brand of other carriers. Moreover, out-of-state customers travelling to Washington would be perplexed if they failed to encounter the standard AT&T brand with which they have gained familiarity in every other state in the Union.

Section (5)(c)

In the event that call reorigination capability is unavailable, this section mandates that the operator service provider "give dialing instructions for the consumer's preferred carrier". Requiring each operator service provider to maintain a current list of active competitors in their area and the specific access methods by which consumers might reach them would be unduly onerous and potentially ineffective. As the Commission knows, the number of operator service providers operating in Washington is not constant, and all such entities do not operate ubiquitously

nationwide or even throughout the State. Also, the access methods (apart from 10XXX codes) by which competing providers may be reached can and do change, and new entrants to the market will establish their own unique dialing sequences (e.g., new 10XXX access codes and perhaps an 800 or 950-XXXX number). For this reason, AT&T recommends that, whenever a consumer who has reached a presubscribed service provider's operator desires to use another carrier, the optimal solution is for the operator to instruct the consumer to hang up and redial his/her preferred carrier directly using the dialing sequence or sequences chosen by that carrier (i.e., 10XXX 0+, 800, or 950-XXXX).⁵ AT&T therefore suggests that the following modification be made to the second sentence of this section:

If reorigination is not available, the carrier shall **instruct the consumer to hang up and redial his/her preferred carrier directly using the dialing sequence(s) chosen by that carrier.**
[new language in bold]

Conclusion

AT&T applauds the Commission's efforts to respond to the continuing public outrage over the anticonsumer conduct of some operator service providers ("OSPs") by proposing standards of conduct that will effectively safeguard consumer interests. AT&T believes that the likelihood of success of these standards must be

⁵ All operator service providers and interexchange carriers should be responsible for informing their customers of the dialing sequence(s) to be used in accessing their networks when those customers are away from home or business.

strengthened by providing consumers with unambiguous assurance that they will have access to the carrier of their choice by the dialing method selected by that carrier. To this end, AT&T has proposed additional language which it commends to the Commission for adoption.

AT&T submits further that the public interest in facilitating consumer awareness of the identity of the presubscribed operator service provider at call aggregator locations does not require that all initial brands use identical wording, as now required by the proposed rules. Far from harming or impeding consumer awareness, allowing operator service providers some flexibility in adopting branding messages will actually help consumers differentiate the carriers available to them. Such flexibility will also aid operator service providers, who can select the branding messages that are most efficiently adapted to their particular call processing software and equipment.

Requiring operator service providers to provide specific dialing instructions to consumers desiring to be connected to another, competing carrier is problematical because of the difficulties in maintaining an up-to-date record of the available alternative carriers and their current access methods and codes. For this reason, as well as the risk inherent in relying on competitors to provide accurate information, AT&T recommends that operator service providers continue to bear the responsibility of educating their customers on the most-current method(s) of access to be used to reach them when those customers are calling from transient locations.

Respectfully submitted this 5th day of March, 1991.

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