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March 6, 1991

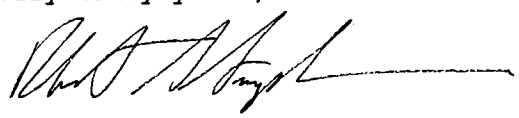
Mr. Paul Curl, Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, Washington 98504-8002

Dear Mr. Curl:

Re: WUTC Docket No. UT-900726
Alternate Operator Services, et al.

On behalf of Whidbey Telephone Company ("Whidbey"), enclosed herewith for filing are nineteen copies of Whidbey's initial written comments in the above-referenced rule making docket.

Very truly yours,



Robert S. Snyder

Enclosures

cc: Whidbey Telephone Company

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Adoption and/or Amendment of WAC 480-120-021, -106, -138 and -141 Relating to Glossary, Form of Bills, Pay Telephones and Alternate Operator Services.	)	DOCKET NO. U-900726 INITIAL COMMENTS ON BEHALF OF WHIDBEY TELEPHONE COMPANY

By Supplemental Notice of Proposed Rule Making ("Supplemental Notice"), bearing service date of January 29, 1991, the Washington Utilities and Transportation Commission ("the Commission") has proposed certain modifications to its rules addressing the provision of pay telephones and alternate operator services. These comments are respectfully submitted on behalf of Whidbey Telephone Company ("Whidbey") in response to the Supplemental Notice.

Whidbey is a local exchange telecommunications company operating in the State of Washington pursuant to tariffs on file with the Commission. It provides local exchange service and exchange access service, and participates in the provision of message toll services within the State of Washington pursuant to either its own tariffs or tariffs in which it concurs. For many years, including prior to the Bell System divestiture, Whidbey has been a provider of operator services as part of its regulated operations and as an important part of the provision of local and toll services to customers within the exchange areas its serves.

These comments will first address some of the problems that the proposed rules, as amended, would cause for Whidbey and other local exchange companies ("LECs"). They will then suggest some minor technical improvements to the rules that Whidbey recommends.

Proposed Amendment of
WAC 480-120-021

This proposed amendment would revise the definition of "Alternate operator services company" to read as follows:

> "Alternate operator services company - any corporation, company, partnership, or person providing a connection to intrastate or interstate long-distance or to local services from locations of call aggregators."

In turn, the following new definition of a "call aggregator" is proposed to be added to the rules:

> "Call aggregator - a person who, in the ordinary course of its operations, makes telephones available for intrastate service to the public or to users of its premises, including but not limited to hotels, motels, hospitals, campuses, and pay telephones."

When construed literally, each of these provisions would appear to include all LECs, both those that have their own operators and those that rely upon operator services furnished by others.[1] For reasons discussed more fully below, Whidbey strongly opposes such inclusion, and respectfully urges the Commission to modify these provisions to read as follows:

> "Alternate operator services company - any corporation, company, partnership, or person, other than a local exchange company, providing a connection to intrastate or interstate long-distance or to local services from locations of call aggregators."

> "Call aggregator - a person, other than a local exchange company, who, in the ordinary course of its operations, makes telephones available for intrastate service to the public or to users of its

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[1] With respect to the definition of "alternate operator services company," the key phrase appears to be "providing a connection to intrastate or interstate long-distance." This phrase would appear to include all switched access, and thus would include every LEC that is a provider of access service. While the definition is limited to such connections "from locations of call aggregators," since LECs make pay telephones available to the public, it would appear that LECs would be included in the definition of "call aggregators" and their pay telephones would be "locations of call aggregators." Thus, if the proposed rule is read literally, most, if not all, LECs would be both "alternate operator services companies" and "call aggregators."

premises, including but not limited to hotels, motels, hospitals, campuses, and pay telephones." (Modifications emphasized.)

Insofar as Whidbey is aware, the problems that the public has encountered with operator services and call aggregator locations have not involved either LEC operator services or pay telephones provided by LECs. Since LECs have not been the source of the problem, unless there is a compelling reason to include them within the reach of the rule, they should be excluded, especially since if they are to be included, substantial changes to the rule will be necessary. These other changes are discussed below.

Proposed Amendment of
WAC 480-120-106

The Supplemental Notice proposes to amend the second and fourth paragraphs of WAC 480-120-106. If LECs are included in the definition of alternate operator services companies, the second paragraph is of particular concern to Whidbey. As proposed in the Supplemental Notice, it would read in relevant part:

> "The portion of a bill rendered by the local exchange company on behalf of itself and other companies shall clearly specify the alternate operator service company's billing agent and, where feasible, within ninety days after the effective date of this rule, the provider of alternate operator service, and a toll free telephone number the consumer can call to question that portion of the bill and, if appropriate, receive credit. A number may be used on this portion of the bill only if it connects the subscriber with a firm which has full authority to investigate and, if appropriate, to adjust disputed calls <u>including a means to verify that the rates charged are correct</u>. . . ." (Emphasis added.)

For many years both prior and subsequent to the Bell System divestiture, LECs have included on their bills the calls of other LECs, as well as other dominant interstate and international carriers. For example, an intrastate call within the State of New York carried by New York Telephone Company ("New York

Telephone") may be forwarded to Whidbey for billing because it has been billed to the telephone number of a Whidbey subscriber. When that message record is received by Whidbey, it already contains the charges for the call, as rated by New York Telephone, including applicable New York taxes, if any. Unless LECs are excluded from the definition of alternate operator services companies, it would appear that New York Telephone Company - as a provider of access - is an alternate operator services company. However, Whidbey does not have the means readily to verify that the rates (or taxes) applied by New York Telephone are correct. A similar problem would exist with respect to calls carried by all other LECs - both intrastate and, where LATAs extend over a state boundary, interstate. The ultimate effect of the proposed rule would appear to be to require that every LEC that engages in the billing of other LEC messages to have the tariffs (and tax tables) of such other LECs available to it, regardless of the state within which such other LECs may operate. Obviously, this would be impractical. Consequently, if LECs are included in the definition of alternate operator services companies, it would appear that the proposed rule, if adopted, would require that the long-established system by which LEC messages are exchanged and billed be dismantled. Clearly, this is not the intent of the proposed rule, and the simplest cure would be to exclude LECs from the definition of alternate operator services companies.

Proposed Amendment of
WAC 480-120-141

A further illustration of why it is impractical to include LECs within the definition of alternate operator services companies is provided by the proposed amendments to WAC 480-120-141. For example, subsection (1) of that rule provides:

> "Each alternate operator services company shall file with the commission at least every six months a current list of customers which it serves and the locations and telephone numbers to which service is provided to each customer."

If LECs are to be included in the definition of alternate operator services companies, then by virtue of this provision, all LECs will need to furnish the required customer list to the Commission every six months. Not only would such a requirement essentially require that the LECs prepare their telephone directories twice each year, but it would flood the Commission with information for which it has no apparent use. Moreover, it would raise a number of privacy issues, since to include all telephone numbers would necessitate the filing of "unpublished" numbers and the corresponding customer identity detail.

An additional problem with WAC 480-120-141, if it is to be applied to LECs, is created by the labelling requirements contained in subsection (4). Even in those exchanges that are not converted to equal access, customers using LEC pay telephones can reach interexchange carriers by dialing a 1-800 number, a 950- number, or a seven-digit number associated with a carrier's Feature Group A access line. Thus, even for LECs whose rates for toll calls originated from pay telephones are normally the same as those of AT&T Communications or U S WEST Communications, the LEC cannot be sure that "all" service from the instrument will be supplied at such rates, since the customer may choose an alternate carrier with higher rates. Consequently, Whidbey and other LECs could not qualify to use the legend set forth in subsection (a)(ii), since that legend is authorized only where "all" service from the instrument will be provided at rates

that do not exceed the "prevailing rates."[2] Thus, if this subsection were to apply to LECs, it would require that all LEC pay telephones be labelled with the legend set forth in subsection (a)(i). Whidbey respectfully submits that such widespread use of that warning label would render it largely meaningless, since it would not provide a means of distinguishing LEC pay telephones from those that generally have rates higher than prevailing rates. Again, the solution is to exclude LECs from the definition of alternate operator services companies and call aggregators.

Yet another problem, at least for Whidbey, would be created by application of subsection (5)(a)(ii) to LECs. That subsection reads:

> "Specifically, the following message shall be used at the beginning of the call: "You are using (name of 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)"."

Whidbey's operator services utilize state of the art technology - namely, the OSPS manufactured by AT&T Network Systems. Whidbey provides both mechanized and manual handling of operator-assisted calls. Currently, Whidbey "brands" all operator-handled calls twice - once prior to the receipt of the caller's instructions, and again after those instructions have been received. For example, with respect to mechanized "0+" calls, Whidbey identifies itself with the phrase, "Whidbey Telephone Company" immediately following the "bong tone" prompt to enter billing data, and then after such data have been entered, gives a second identification message. The second message varies depending upon

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[2] The first sentence of WAC 480-120-141(4)(a)(ii) reads:

> "If ALL service from the instrument will be provided at charges, including any surcharges or fees, which are equal to or below the prevailing rates for service as identified in subsection (i), above, either the foregoing message or the following message shall appear."

whether the call is intraLATA or interLATA. On intraLATA calls, the second message is, "Thank you for using Whidbey Telephone Company;" on interLATA calls, it is, "Thank you for using Whidbey Telephone Company and AT&T." In each instance, the message is designed to disclose both the identity of the operator services provider and the identity of the carrier whose tariffed rates apply.

The OSPS system generates these messages electronically. Those messages, or their constituent words, must be supplied by the switch manufacturer. The two messages required by the proposed rule give rise to two different sets of concerns for Whidbey. As to the first message required by the rule, the requisite words are simply not available in the OSPS system at this time. Whidbey has contacted AT&T Network Systems and been advised that AT&T Network Systems has no current plans to supply the necessary additional words, and that were AT&T Network Systems to undertake to supply them, the delivery interval could be substantial. With respect to the second required announcement, Whidbey does not anticipate that it would have any mechanical difficulty producing it, but it would require that Whidbey cease identifying that AT&T rates apply with respect to interLATA calls. Whidbey supports the public disclosure value implicit in the rule's proposed announcements, but respectfully urges that the rule be rewritten to specify that the announcements include the name of the alternate operator services company, but not specify the exact words that are to be used.

The proposed rule's provisions relating to announcements give rise to two other issues. One problem with the text of the proposed rule is that it refers to "name of AOS company as registered with the Commission." LECs generally are not "registered" with the Commission, but rather have "grandfathered" status. Second, assuming that the term "registered" is meant to

include names under which LECs file with the Commission, some of the announcements could become lengthy. Consider, for example, the names of St. John Cooperative Telephone & Telegraph Company and Western Wahkiakum County Telephone Company. Such announcements may try public patience. Shortened forms of names should be permitted, provided they do not lead to confusion. Perhaps the Commission should require that where an alternate operator services company elects to use a shortened name, it must so notify the Commission in writing. The Commission could then maintain a cross-reference list of such names and the registered telecommunications company names to which they correspond.

Other Issues

The foregoing discussion has been addressed primarily to portions of the proposed rules that raise particular problems if applied to LECs. The discussion has not been intended to be exhaustive, but rather to be illustrative of why LECs should be excluded from the definitions of "alternate operator services companies" and "call aggregators". There are other portions of the proposed rules that Whidbey believes could be improved by generally minor changes in wording:

(1) Whidbey suggests that the last sentence of proposed WAC 480-120-138(4) be modified to read as follows:

> "The charge to the consumer for sent-paid access to local exchange 1-800 and interexchange carrier service shall not exceed twenty-five cents." (Modification emphasized.)

This modification would conform the sentence to the first sentence of subsection (4). The change is needed because LEC access charges to the interexchange carrier for the calls to which the sentence refers may exceed $.25 under their filed access tariffs.

(2) A similar modification to proposed WAC 480-120-141(4)(f) would appear to be appropriate for the same reason. Accordingly Whidbey recommends that that subsection be revised to read as follows:

> "shall not charge the consumer more than twenty-five cents for consumer access to local exchange, 1-800 or interexchange carrier service." (Modification emphasized.)

(3) In Whidbey's view, the last sentence in the introductory paragraph of proposed WAC 480-120-141 should be modified to read as follows:

> "Alternate operator service provided to inmates of state or local penal or correctional facilities or jails ~~are~~ is exempt from compliance with ~~the~~ any provisions of ~~any~~ this rule that are inconsistent with RCW 9.73.095 or an equivalent ordinance, so long as the charges for service are no higher than the prevailing charge for operator services." (Modifications shown by redlining.)

As currently proposed, the exemption created by this sentence seems to be overbroad, since it would appear to excuse compliance with all portions of any rule, any provision of which was inconsistent with the referenced statute or ordinances. The exemption should apply only to the specific provision that is inconsistent with RCW 9.73.095 (or an equivalent ordinance), not to the rule as a whole.

(4) The proposed rule varies in the way it refers to "call aggregators." The term defined in the Glossary is "Call aggregator." However, in a few places in the rule, the term "aggregator" is used, without the preceding word "call".

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See, e.g., proposed WAC 480-120-141(2). Whidbey suggests that all such references be conformed to whatever term is ultimately defined in the Glossary.

DATED this 6th day of March, 1991.

Respectfully submitted,

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