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STATE OF WASH.
UTIL. & TRANSP.
COMMISSION

March 27, 1991

VIA TELECOPIER

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

RE: Docket No. UT-900726

Dear Mr. Curl:

On behalf of Intellicall, Inc. ("Intellicall"), we submit via telecopy the Reply Comments of Intellicall for filing in the referenced proceeding. Pursuant to the Commission's rules, the original and 19 copies of Intellicall's Reply will be delivered via overnight mail. An additional copy, for date-stamping and return to us will also be enclosed.

Thank you for your assistance.

Respectfully submitted,

REED SMITH SHAW & McCLAY

By:


Donald M. Itzkoff

Attorneys for Intellicall, Inc.

DMI:gt
Enclosures

01434

CERTIFICATE OF SERVICE

I, Richard Manuel, a secretary with the law firm of Reed Smith Shaw & McClay, do hereby certify that on this 27th day of March, 1991, I will cause a copy of the foregoing "Reply Comments of Intellicall, Inc." dated March 27, 1991 to be mailed first class, postage prepaid, to the following:

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Richard E. Manuel

BEFORE THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In re:)	
)	
Amendment of WAC 480-120-021,)	Docket No.
-106, -138, and 141 Relating to)	
Telecommunications Companies --)	UT-900726
Glossary, Alternate Operator)	
Services, Pay Telephones, and)	
Form of Bills.)	

REPLY COMMENTS OF INTELICALL, INC.

Intellicall, Inc. ("Intellicall"), by its attorneys, hereby replies to the comments received in response to the Commission's Supplemental Notice of Proposed Rulemaking in this proceeding. Many of the commenters filing on March 6, 1991, including Intellicall, commended the staff's effort to promulgate fair and equitable rules governing the pay telephone and alternate operator service ("AOS") industries. The comments submitted, however, also diverged considerably on the appropriate scope and applicability of the proposed regulations before the Commission.

As the largest provider of equipment and services to the non local exchange company ("LEC") owned pay telephone industry and an acknowledged leader in the manufacture of store and forward "intelligent" pay telephones (its Intelli*Star product line), Intellicall and providers utilizing Intellicall equipment in Washington State are uniquely affected both by the pay telephone and AOS rules proposed by the staff. Intellicall is concerned

that some of the rules proposed in the Supplemental Notice do not adequately take into consideration the provision of non-sent paid billing services by pay telephone providers, or recognize technical differences between centralized and distributed operator services technology, including store and forward pay telephones. Intellicall addressed these issues in detail in its comments and proposed a number of solutions for the Commission's consideration. Intellicall emphasized in particular its hope that the Commission adopt rules intended to safeguard consumer interests without imposing specific mechanisms for compliance which may be redundant or costly to implement.

By its reply herein, Intellicall responds to the positions advanced by other parties in this proceeding and urges the Commission to adopt regulatory requirements which fairly serve both consumers and telecommunications services providers in Washington State.

I. WAC 480-120-121 Glossary

Intellicall finds disappointing the collective attempt of the LECs to avoid compliance with the staff's proposed pro-consumer operator services regulations. United Telephone Company of the Northwest ("United") (at 1-2); GTE Northwest Incorporated ("GTE") (at 1-2); and U S West Communications, Inc. (U S West) (at 2-3) all object to potentially having to upgrade their own operator services in order to meet the staff's proposal that any entity providing operator services -- including the LECs -- be classified

01436

as an alternate operator services provider under the proposed rules.

The LECs' comments demonstrate their evident disinclination to match the consumer notice and information requirements contemplated for all other operator service providers. United, in fact, offered a blanket endorsement of the staff's proposed rules so long as they do not apply to United. United comments at 1. It is not enough to contend, as does U S West (at 2-3) and United (at 1), that the Commission's tariff process adequately protects consumer interests; the Commission's proposed rules go beyond what notice and posting information the LECs are currently required to provide under their present tariffs and represent a welcome initiative for consumers everywhere in Washington State.

Moreover, U S West, GTE and United conveniently fail to acknowledge that in proposing these rules, the staff seeks primarily to protect consumer interests. Adoption of consistent and uniform branding and notice requirements will minimize consumer confusion and at the same time promote public awareness of existing options and choices.

As Telesphere Limited, Inc. ("Telesphere") underscored in its comments (at 5), pursuant to the recently enacted Telephone Operator Consumer Services Improvement Act of 1990, 47 U.S.C. § 226, all interexchange carriers ("IXCs") and LECs which offer interstate operator services are "providers of operator services" subject to the Act's safeguards. 47 U.S.C. § 226(a)(9). The Commission should similarly ensure that all entities providing

01437

operator services within Washington State adhere to the same branding, consumer notification and other requirements alike.

Intellicall suggests that any unintended consequences of even-handed application of the proposed rules, e.g., the list publication requirement proposed in WAC 480-120-141(1) and cited by GTE (at 2), can be addressed by the participants and the staff at the Commission's workshops scheduled for April 8-9, 1991. Intellicall believes that all operator services providers should be treated equally and fairly, and urges the Commission to adopt the staff's proposed definition of "alternate operator services provider" which accomplishes that end.

II. WAC 480-120-106

As indicated in its comments, Intellicall advocates consumer choice and full disclosure on the bill of the name of the carrier carrying consumers' calls as soon as the technology enabling the LECs to do so has been widely implemented. The staff's 90-day phase-in of dual bill identification "where feasible" represents a reasoned approach and should be adopted by the Commission as proposed.

III. WAC 480-120-138

In its March 6, 1991 filing, Intellicall specifically commented on a number of provisions of WAC 480-120-138, including its belief that a rate cap at AT&T and U S West rates may be reasonable if an opportunity for a hearing to justify a different rate is afforded. At the same time, Intellicall noted that the new proposed language in WAC 480-120-138(4) requiring that the

"charge for sent-paid access to local exchange, 1-800 and interexchange service shall not exceed twenty-five cents" may not necessarily be feasible. Intellicall urged the Commission to require all pay telephones, including LEC pay telephones, to accept nickels, dimes and quarters; and proposed new, result-oriented posting requirements for consumers' benefit.

In its comments Intellicall highlighted the dangers of permitting unrestricted 10XXX-0+ access. Fraud, of course, is the major concern. LEC restriction is not a viable solution, because this technology may not be available from all LECs, let alone in all end offices as would be necessary. In particular, unrestricted IXC access through 10XXX-0 dialing from pay telephones raises the significant prospect of fraud; the collection activities summarized as attachments to Intellicall's comments emphasize the economic liability to which pay phone providers may be exposed. In the absence of specific protections for the pay telephone providers, the threat of incurring these losses is sufficient to cause 10XXX-0 blocking or for providers to exit the market.

In its comments, AT&T Communications of the Pacific Northwest, Inc. ("AT&T") makes the unfounded assertion that "one of the major sources of consumer complaints . . . has been customers' inability to reach AT&T . . . via its . . . 10288 0+ dialing sequence." AT&T comments at 3. AT&T apparently ignores the fact that its heavily promoted access dialing sequence misleads consumers into believing that aggregators are "blocking" 10288 0+ access even though equal access is not uniformly

available. AT&T also fails to acknowledge that the potential for fraudulent billing to the originating number through 10XXX+0 access is a significant issue, pointing instead to "continuing public outrage over the anticonsumer conduct of some operator service providers . . . " AT&T comments at 7.

Intellicall suggests that the staff and the Commission would instead be better served by constructive criticism and proposed solutions. In its comments, Intellicall submitted that that LECs and IXCs must take responsibility for fraudulent billing when it occurs on aggregator lines "protected" by line screening. IXCs and LECs must accept the responsibility for verifying billing restrictions before permitting call placement through 10XXX-0+ access and incurring associated call charges which cannot be collected. The Commission should consider refining the course taken by the Texas Public Utility Commission, which has ruled that pay telephone providers should not have any responsibility beyond subscribing to call screening services and that such providers should be absolved from all liability for calls billed in violation of call screening. Alternatively, a simple solution in finalizing these rules would be to require all IXCs to permit access via 950 or 1-800 codes where the potential for fraud is minimal.

IV. WAC 480-120-141

Intellicall agreed in its comments with those parties (e.g., MCI Telecommunications Corporation ("MCI") comments at 5-6) which also believe it unreasonable for the Commission to require an AOS

company to ensure compliance of its customers with the proposed contract and tariff provisions of this subsection. Intellicall urged the Commission to reconsider the notice provisions contemplated by the staff in proposed WAC 480-120-141(4) and adopt instead posting requirements similar to those already proposed by the Federal Communications Commission pursuant to proposed 47 C.F.R. § 64.703(b). Consistency in state and federal rules will provide for greater uniformity and consumer confidence in operator services whether intra or interstate.

In its comments Intellicall also implored the Commission to consider the implication of requiring any description of rates which are "higher than normal." This terminology unfairly conveys the message that any rate at variance with AT&T or U S West charges is excessive, when in fact different IXCs and AOS companies will have different cost structures. Intellicall suggested that if a two-tier posting system must be imposed that the Commission modify the staff proposal to require posting only that rates "may vary from AT&T and U S West rates."

In short, Intellicall requested the Commission to impose result-oriented posting requirements to convey to consumers essential information without specifying specific language or typeface standards, and, in the same manner, recommended that double-branding be required without imposing specific branding terminology. The comments filed generally support conformity with the new federal requirements, and Intellicall urges the Commission to consider adopting regulations explicitly designed to be

compatible with them.

Conclusion

In its reply, Intellicall has emphasized a number of rule revisions proposed in its comments which take into account the cumulative effect of both the proposed pay telephone and alternative operator services rules on providers of "smart" store and forward pay telephone providers. Other commenters have offered similar suggestions, many of which focus on adopting streamlined rules which encourage competition and consumer safeguards without unnecessarily compounding regulatory disincentives for pay telephone and alternate operator services providers.

Intellicall looks forward to participating in the Commission's workshops in this proceeding scheduled for April 8-9, 1991, and to contributing further to the crafting of a balanced regulatory environment beneficial to consumers and telecommunications service providers alike in Washington State.

Respectfully submitted,

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