

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of:

VCI COMPANY

Petition for Permanent Exemption

of WAC 480-120-162

Docket No. UT- 042045

PETITION FOR PERMANENT EXEMPTION

I. PETITIONING PARTY

1. VCI Company ("VCI") is the petitioning party. Please direct all questions and correspondence regarding this Petition to:

Stacey A. Klinzman
VCI Company
3875 Steilacoom Blvd., S.W., Suite A
Lakewood, Washington 98499
Phone: (253) 830-0056
Fax: (253) 475-6328

and to:

Stan Efferding
VCI Company
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Lakewood, Washington 98499
Phone: (206) 830-0051
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II. RULES AND STATUTES AT ISSUE

2. This Petition concerns WAC 480-120-162, which is the "cash and urgent payments" rule ("Rule"), WAC 480-120-015, which states that the Commission may waive its rules consistent with the standards set forth in WAC 480-07-110, and WAC 480-07-110, which states that the Commission may modify the application of rules in individual cases if consistent with the public interest, the purposes underlying the regulation, and applicable statutes.

III. SUMMARY OF REQUEST

3. In this Petition, VCI moves the Commission for a permanent exemption from the portion of WAC 480-120-162 (“the Rule”) that limits payment agencies from charging VCI’s customers more than \$1.00 for processing their bills. WAC 480-120-162(2). Specifically, VCI requests that the Commission permit VCI to continue to contract with Moneygram as a payment agency, along with ACE and Choice Pay, even though Moneygram charges VCI’s customers transaction costs of \$5.00 - \$5.95 per use. VCI will continue to absorb transaction costs above \$1.00 charged to its customers at ACE and Choice Pay. As is discussed below, the Commission should grant VCI a permanent exemption from the Rule because such exemption is in the public interest and consistent with the purposes underlying the regulation.

IV. BACKGROUND

4. VCI is a telecommunications company registered to provide local service in Washington and regulated as a competitive carrier. Order, Docket UT-021524 (Dec. 12, 2002). This proceeding arises out of Commission staff’s audit of VCI’s business practices on or about November, 2004, in which it was found that VCI permits its customers to make payments through Moneygram payment locations.

5. Because Moneygram charges VCI’s customers between \$5.00 and \$5.95 per transaction, Charlene Hughes informed VCI, by e-mail on November 10, 2004, that VCI’s use of Moneygram as a payment agent violates the Commission’s “cash and urgent payments” rule. See WAC 480-120-162(2). Attempts by the parties to reach an agreement regarding compliance with WAC 480-120-162 were unsuccessful. Thus, on November 18, 2004, VCI filed a Petition for Exemption of the portion of WAC 480-120-162 that limits payment agencies to charging VCI’s customers \$1.00 for payment transactions.

6. At a January 26, 2005 Open Meeting, the Commission requested that staff and VCI meet to explore alternative options to Moneygram that cost less and offer convenient locations. The Commission also requested that VCI consider sharing a portion of transaction fee costs over \$1.00. See Staff Memo dated February 23, 2005.

7. VCI and staff met several times and held several telephone conversations regarding the payment agent cost issue, resulting in staff recommending that the Commission grant VCI a temporary, ten (10) month exemption of WAC 480-120-162(2) with conditions. In considering VCI's request for exemption and in making its recommendations, staff indicated that it considered 1) the convenience to the customer; 2) the costs to the customer; 3) the costs to the company; and 4) the fair and equal treatment of all telecommunications companies and customers. See Staff Memo dated February 23, 2005.

8. Staff's conditions were that VCI would 1) be permitted to continue to utilize Moneygram locations; 2) add new payment locations¹, including ACE and 7-11 Choice Pay and absorb the transaction costs above \$1.00 for the additional locations; 3) develop jointly with staff language for a one-time customer notification regarding the new payment agents, locations, and transaction costs; 4) develop jointly with staff ongoing bill language regarding all payment agents, locations and transaction costs; 5) develop jointly with staff a VCI customer survey on customer preference for payment agency, information to be provided to staff on or before November 15, 2005; and 6) provide data from April 2005 – September 30, 2005 on late payments, late payment locations and other customer data, to staff on or before November 15, 2005. See Staff memo dated February 23, 2005.

¹ Payment locations were to be added primarily in Seattle, Tacoma, Lakewood, Olympia, Vancouver, and Spokane.

9. According to Staff, the ten (10) month trial period was necessary to permit VCI to find additional payment agencies that charge a transaction fee of \$1.00 or less and to permit staff to collect additional information about whether consumers prefer payment agents that are convenient or low cost. See Staff memo dated February 23, 2005.

10. The Commission's order issued February 23, 2005² ("Order No. 1"), granted VCI a conditional ten (10) month exemption and ordered VCI to comply with staff's February 23, 2005 recommendations.

11. VCI has completed all the conditions of the temporary exemption set forth in Order No. 1 and now files this Petition for Permanent Exemption of WAC 480-120-162(2).

V. GRANTING A PERMANENT EXEMPTION OF THE PAYMENT AGENCY RULE WITH RESPECT TO MONEYGRAM IS IN THE PUBLIC INTEREST, PROMOTES THE PURPOSES OF THE RULE AND ELIMINATES HARDSHIPS TO VCI AND ITS CUSTOMERS

12. The Commission has the power to grant an exemption of any of its telecommunications rules where exemption is consistent with the rules' purpose and in the public interest:

The Commission may modify the application of these rules in individual cases if consistent with the public interest, the purposes underlying the regulation, and applicable statutes.

WAC 480-07- 110(1).

13. In Order No. 1, the Commission determined that the grant of a temporary exemption was in the public interest. The Commission should find that a permanent exemption also is in the public interest as set forth below. VCI believes that the Commission should grant it a permanent exemption because of the results of the survey and data collected over the ten (10) month exemption period, and for the many of the reasons set forth in the November 2004

² Order Granting Temporary Exemption from Rules, Order No. 01, Docket No. UT-042045, February 23, 2005.

Petition.

14. A Permanent Exemption of WAC 480-120-162 With Respect to Moneygram is in the Public Interest Because the Convenience to VCI's Customers Outweighs the Costs to VCI's Customers and Because the Cost to VCI and Customers without an Exemption Would be Prohibitive

15. VCI should be granted a permanent exemption of WAC 480-120-162(2) because VCI's customers need to use payment agents for financial transactions and want to use Moneygram as a payment agent, despite knowledge of the transactions costs and of alternative payment agents. VCI has been and is willing to continue to absorb transaction costs of between \$0.50 and \$2.00 for customer transactions completed at ACE and Choice Pay, but cannot absorb the \$4.00 - \$5.00 fee for Moneygram transactions. Although VCI could pass through the Moneygram transaction costs to its customers, such a solution is costly and impractical.

16. Without an exemption from the Rule, VCI will be forced to eliminate Moneygram as a payment choice. VCI expects that if Moneygram is eliminated as a payment option, more low-income customers will be disconnected each month.

17. By granting VCI the requested exemption, the Commission would continue to permit VCI's customers to make payments at the payment agent of their choice and prevent additional low-income consumers from being disconnected

a. Many of VCI's Customers Require Payment Agents to Complete Monetary Transactions

18. VCI's customers are primarily low-income customers. VCI's customer survey supports VCI's previous contention that many of its customers that use payment agencies do so because they have no bank account and need cash payment locations to conduct financial transactions, such as the payment of telephone bills. Payment data collected by VCI during the period April, 2005 – November, 2005 indicates that approximately 3,000 of its customers per month make payments utilizing payment agents and approximately 2,000 customers per month make *late* payments through Moneygram, Choice Pay or ACE. [See Exhibit B].

b. VCI's Customers Use Moneygram Despite Knowledge of the Transaction Costs

19. Pursuant to Order No. 1, VCI and staff jointly developed language for a one-time notification to VCI's customers of payment agent options and transaction costs, and similar language to be included with VCI's monthly bills. The notification and ongoing bill language clearly indicate that the Moneygram transaction costs are \$5.00 - \$5.95³, while ACE Cash Express ("ACE") and Choice Pay costs are only \$1.00 per transaction [See Exhibit A]. Despite the disparity in transaction costs, data collected by VCI indicates that between 82.63% and 92.81% of VCI customers who made late payments during the period April through November, 2005 made these payments using Moneygram [See Exhibit B]. A matrix of Moneygram, ACE and Choice Pay locations in major metropolitan areas is attached hereto as Exhibit C and indicates that Moneygram has, by far, the most locations in the stated cities, 198. Furthermore, Moneygram has the most locations in Washington state, 552.

³ VCI does not make any commission, revenue or profit of any kind on the Moneygram transaction fee.

c. Denial of An Exemption Would Inconvenience VCI's Customers and Possibly Lead to Additional Disconnections

1. VCI Cannot Absorb the Additional Costs of Moneygram Transactions, Negotiate Lower Transaction Costs or Pass Through the Costs to its Customers. Thus, VCI Would Eliminate Moneygram as a Payment Option without an Exemption

20. Pursuant to Order No. 1, VCI has absorbed transaction costs above \$1.00 for payments made by its customers through ACE and Choice Pay. Should VCI be required to subsidize Moneygram transactions, it could expect the cost to be prohibitive. For example, VCI's data suggest that it would have absorbed approximately \$85,912.00 in Moneygram transaction fees during the period April – November 2005.⁴

21. Furthermore, unlike Qwest, VCI is unable to negotiate lower transaction fees from payment agencies. VCI believes that Qwest Communications has been able to negotiate lower transaction fees with its payment agents, including a \$1.00 transaction fee with Moneygram, because of the size of its customer base. VCI does not have the volume of customers necessary for payment agencies to profit from lower transaction fees.

22. Without the requested exemption, VCI will be forced to eliminate Moneygram as a payment choice, clearly inconveniencing its customers who have indicated, by their payment patterns and responses to customer surveys, that they want Moneygram to remain a viable payment option. Furthermore, so many of VCI's customers pay through Moneygram, and Moneygram has so many more locations compared to ACE and Choice Pay, it is unclear whether VCI's customers who currently make late payments through Moneygram will find convenient ACE and Choice Pay locations for timely future late

payments.⁵ Agency payments are received by VCI within 20 minutes of the transaction and can be made on the disconnection date if received before 5:00 p.m. VCI believes that one result of eliminating Moneygram as a payment agent would be that it will receive fewer customer payments prior to the disconnect date, resulting in more low-income customer disconnections.

23. Rather than eliminate Moneygram as a payment option, VCI could pass the transactional cost on to its customer base. In doing so, VCI would increase the cost of basic local service to its entire low-income customer base and force all its customers to bear the brunt of these costs, even though not all its customers use Moneygram. Both increasing basic service costs to low-income consumers and burdening all customers with these costs are impractical solutions from a business point of view.

- d. In Granting a Permanent Exemption, the Commission Would be Preserving the Status Quo and VCI's Customers' Current Payment Options as Well as Supporting the Results of VCI's Survey and Data Collection Indicating Customers are Not Harmed

24. In Order No. 1, the Commission determined that a temporary exemption from WAC 480-120-162(2) was in the public interest, and in doing so permitted VCI to continue to operate as it had pending the collection of additional data. The result of the temporary exemption was that VCI's customers continued to have Moneygram as a payment option and were offered two additional payment agents with over 65 locations in Washington. VCI has no knowledge of any customer complaints about the use of Moneygram during the exemption period. Furthermore, the results of VCI's customer survey, the payment data and additional customer notification regarding transaction fees indicate that customers continue to find Moneygram a convenient and preferred payment agent.

⁴ See Exhibit B – 21,478 transactions @ \$4.00 per transaction = \$85,912.00.

⁵ VCI's customer base is statewide. Moneygram has 552 locations statewide, while ACE and Choice Pay have 77.

25. In granting a permanent exemption from the Rule, the Commission merely would be preserving the status quo, which is not causing harm to VCI's customers.

- e. The Grant of A Permanent Exemption Would Acknowledge that VCI Has Shown Good Faith in Complying with Order No. 1, Surpassed the Requirements of the Rule, Put Itself at a Competitive Disadvantage and Is willing to Continue to Do So

26. The Commission should take note that in contracting with Moneygram, VCI surpassed the Rule's requirements for payment locations. VCI's customer base is state-wide and not numerous enough in any one exchange such that (1)(a) or (1)(b) of WAC 480-120-162 would apply. Thus, VCI should be obligated to provide its customers with only one (1) payment location in the state, pursuant to WAC 480-120-162(c). In complying with Order No. 1, VCI added over 65 payment agent locations in addition to Moneygram. Furthermore, VCI has absorbed the costs of transactions over \$1.00 at these new locations, which has increased its costs of business and put it at a competitive disadvantage to Qwest. As indicated above, Qwest is not obligated to absorb such costs because of its significant market power. VCI is willing to continue to absorb the costs of ACE and Choice Pay transactions for the convenience of its customers. The grant of a permanent exemption would acknowledge VCI's good faith and efforts in this regard.

- 27. VCI Should be Granted a Permanent Exemption of the Rule Because a Permanent Exemption is Consistent with the Purposes of the Rule and Denial of An Exemption Would Penalize the Intended Beneficiaries

28. The Rule on payment agencies has two primary purposes. First, the Commission intended to assist the "segment of the population that cannot afford the services of a bank or chooses to pay in cash for some other reason" by maximizing the number of

payment locations. Order Amending, Adopting and Repealing Rules Permanently, 2002 Wash. UTC LEXUS 514 at *41. Second, the Commission intended to minimize transactional costs on customers by placing a limit on transaction fees charged by payment agencies.

29. Data collected by VCI indicates that the use of Moneygram is consistent with the purposes of maximizing payment locations because VCI's customers who use payment agents overwhelmingly choose Moneygram, which has over 500 locations in Washington. VCI believes its customers utilize Moneygram because of its convenient and plentiful locations in comparison with locations occupied by ACE and Choice Pay.

30. With respect to transaction costs, VCI's data also indicates that VCI's customers choose to pay Moneygram's transaction fee, although the customer monthly is informed of the nature of the fee and of two alternatives. In this case, an exemption from the Rule is consistent with minimizing transaction costs because Moneygram is a lower cost alternative to other payment agencies, such as Western Union. Furthermore, VCI assesses its customers no additional charge for Moneygram transactions beyond the Moneygram fee. Given the popularity of Moneygram as a payment option for VCI's customers, in enforcing the Rule, the Commission would be penalizing VCI's customers, who are the intended beneficiaries.

VI. RELIEF REQUESTED AND CONCLUSION

31. For all of the reasons set forth above, VCI's request meets the Commission's standard for an exemption. Accordingly, VCI requests the Commission to grant a permanent exemption of the requirement that VCI "may permit those additional [payment] agents to charge customers not more than \$1.00 for processing a transaction." WAC 480-120-162(2).

Dated this 6th Day of January, 2006

VCI Company

Stacey A. Klinzman
Regulatory Attorney
WSBA No. 24098

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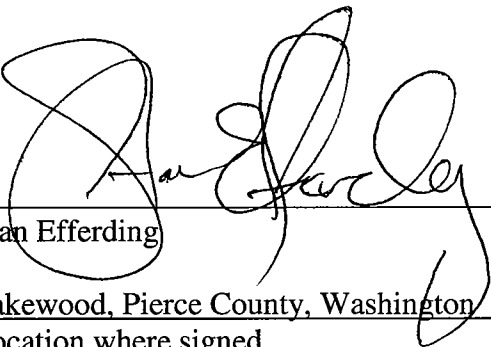
DECLARATION OF STAN EFFERDING

I, Stan Efferding, declare under penalty of perjury under the laws of the state of Washington that the following is true and correct:

I am over 21 years of age, and I make this declaration on the basis of my personal knowledge. If called upon to testify in this matter I could and would competently do so.

I am Secretary/Treasurer of VCI Company. I reviewed the Petition for Permanent Exemption of WAC 480-120-I62 prepared on behalf of VCI Company ("Petition"). The facts stated in the Petition are true to the best of my knowledge.

Dated this 6th day of January, 2006.



Stan Efferding

Lakewood, Pierce County, Washington
Location where signed

EXHIBIT A

**VCI BILL BACK
(ATTACHED)**

PAYMENT METHODS:

- Check/Money Order in the mail to:**
VCI Company Inc.
PO Box 98907
Lakewood, WA. 98498
- Credit Card over the phone** (Speedpay \$1.50)
Call Customer Service at 1-800-923-8375
(Mon-Fri 9am to 5pm PST). TTY, 711
- MoneyGram** (\$5 - \$5.95 fee applied at store).
 - Go to Wal-Mart, Albertsons, Long's Drugs
 - Go to Customer service and ask for a BLUE Express payment form.
 - Receive Code = 3278
Account Number = Your 10 digit phone number including area code.
- ACE cash Express** (Washington Only, \$1.00 Fee)
Account number = 10 digit phone number
M-Sat 9am-7pm
- ChoicePay** (Washington Only, \$1.00 Fee)
At Select 7-11 Locations
- Cash Payments**
3875 Stellacoom Blvd
Lakewood, WA. 98499

RETURNED CHECKS - A returned check charge of up to \$25 will apply for each check returned for any reason. In addition, late fees may be added.

LATE FEE - Accounts that are not paid by the due date will be assessed a \$10 late fee. Payments received after the due date must include this fee.

TOLL BLOCKING:

A Toll block has been placed on your line in lieu of a deposit to prevent unwanted charges from appearing on your bill such as collect calls, operator assistance and long distance. VCI Company Inc. will lift toll blocking, at no charge, if you establish a direct relationship with an interexchange carrier. The interexchange carrier may require a service deposit, depending upon your credit history.

With a \$75 deposit, VCI Company Inc. will lift toll blocking and not charge you the \$20 change order fee to perform this service, even if you do not identify a prescribed interexchange carrier. Under this option you will not be able to place 1+ dialed toll calls.

With a \$75 deposit, VCI Company Inc. will lift toll blocking to operator services and not charge you the \$20 change order fee to perform this service.

NEW CUSTOMER INFORMATION:

Please carefully review the services and charges on your bill to be sure your order is accurate. The services you ordered are detailed on the front of the bill. Additional information pertaining to local exchange service may be found in the consumer information guide of the local telephone directory. You may request a preferred carrier freeze to be added to your account to prevent your telephone service from being switched to another carrier without your written or oral permission. Call VCI to remove the freeze at any time.

PREFERRED PAYMENT DATE:

(Washington Customers only)
Having trouble paying your bill on time? You may qualify for a preferred payment date option that better matches your source of income to the due date. You will need to pay the current bill in full and show proof of all monthly income received. If you think you qualify, call customer service at 800-923-8375.

DISCONNECTION / NON-PAYMENT:

Basic Service, Connection fees, Taxes and surcharges that are unpaid by the bill due date can result in disconnection of service. Payment for these services in addition to a late fee and reconnection charge must be received in our office prior to reconnection of service.

TAXES:

City Occupation/Sales Tax/Special District Sales- The State Legislature allows the state to impose a sales tax on monthly charges for telecommunications services and related items.

Federal Access Charge- This is a charged proposed and authorized by the Federal Communications Commission, for providing access to and maintenance of the local network.

Federal Excise- This tax is imposed directly on the customer by the Federal Government to tax services that allow the customer the ability to communicate with virtually all subscribers of the telecommunications network.

State 911/Local 911- This surcharge, funds the cost of providing emergency services communications systems in your community.

Res Service Protection Fund- This tax consists of s Telephone Assistance Fund and a Telecommunications Relay Services Fund. Each surcharge is based on exchange access lines, and is flat rated, and billed as a combined charge on the bill.

Telephone Assistance Program- The surcharges fund programs used to provide telecommunication services to low-income, elderly or disabled customers at reduced monthly rate.
TRS Excise Funds Federal ADA- This surcharge funds a statewide program to provide telecommunication services to residents who have communications disabilities, i.e., hearing or speech.

FEATURES:

VCI Company offers free features as a courtesy to those customers in select areas; paying for monthly connection fees and using their phones for normal residential usage (not intended for prolonged connection to the internet or usage in excess of 5,000 minutes per month). These features are subject to removal without notice at the discretion of VCI Company. All features are determined by VCI Company Inc. and can include some or all of the following:

Caller ID- Let's you know who is calling before you answer the phone. Caller ID requires a display unit which VCI does not provide. "Private" or "Anonymous" are from callers who have chosen to block their name and number.

Call Waiting- A tone signals that another person is trying to call you when you are on the phone. You are then able to answer the second call. **How to use:** When you hear the tone press and release the receiver button on your phone. This will take you to your second call, press receiver button to get back to your original call.

Call Waiting ID- Has all the benefits of Caller ID and it also lets you identify your Call Waiting calls before you answer. (Requires a Special Display Unit)

3-Way Calling- Allows you to add a third person to your call. **How to use:** Put your first call on hold by pushing and releasing the receiver button on your phone. Wait for three brief tones and a dial tone. Make your second call. When that person answers press and release the receiver button to connect all three of you.

Call Forwarding- Lets you temporarily forward calls to another number you select. **How to use:** Lift up receiver press *72 and follow recorded instructions. To cancel call forwarding, lift receiver, press *73 and follow instructions.

Last Call Return- This allows you to get the number of the last person who called unless the number is blocked. **How to use:** Lift up receiver and press *69, listen to recording for the number.

Anonymous Call Rejection- You are able to block unwanted calls. **How to use:** To block unwanted calls press *77 and follow recorded instructions. To cancel Call Rejection press *87.

Continuous Redial- This allows your phone to redial a busy number while you make and receive other calls. **How to use:** If you get a busy tone hang up then lift receiver, press *66. Your phone will call for up to 30 minutes and will notify you by a distinctive ring when the call is connected, to cancel press *86.

EXHIBIT B

**VCI CUSTOMER PAYMENT DATA
(ATTACHED)**

	April	May	June	July	August	September	October	November
Total Customer Base	18675	18666	22869	22941	23030	23649	23704	23723

Total # Of Payments By Type

Total # of Choice Pay Payments	0	2	2	4	9	14	26	29
Total # of Money Gram Payments	2359	2383	2234	2467	2740	2889	3238	3168
Total # of ACE Payments	140	312	400	415	550	654	780	812
Total # of Other (Checks, Money Order, etc) Payments	13226	12819	17008	16880	16952	17560	16147	15883

Total # of Late Fees Billed 7985 7751 7548 8308 8181 8564 12221 10936

Total # of Paid Late Fees (Choice Pay)	0	2	1	1	4	11	13	11
Total Paid # of Late Fees(Money Gram)	1510	1578	1546	1677	1916	2107	2319	2074
Total # of Paid Late Fees (ACE)	117	194	233	244	312	378	444	425
Total Paid # of Late Fees(Other)	3408	2827	2543	3211	3170	3536	5932	4595
Total # of Paid Late Fees (VCI)	5035	4601	4323	5133	5402	6032	8708	7105

Total # of Consumers Disconnected 2950 3150 3225 3175 2779 2532 3513 3831

Total # customers paying late using payment agency 1627 1774 1780 1922 2232 2496 2776 2510

Total % of Customers Paid late @ Choice Pay	0.00%	0.11%	0.06%	0.05%	0.18%	0.44%	0.47%	0.44%
Total % of Customers Paid late @ Money Gram	92.81%	88.95%	86.85%	87.25%	85.84%	84.42%	83.54%	82.63%
Total % of Customers Paid late @ ACE	7.19%	10.94%	13.09%	12.70%	13.98%	15.14%	15.99%	16.93%

EXHIBIT C

MATRIX OF MONEYGRAM, ACE AND CHOICE PAY LOCATIONS
IN WASHINGTON CITIES

Agent	Seattle	Tacoma	Spokane	Vancouver	Olympia	Seatac	Lakewood	Auburn	Burien	Everett	Renton	Total
Moneygram	66	31	30	23	6	1	6	10	3	11	11	198
ACE ⁶	5	8	0	2	1	1	0	1	1	1	1	21
Choice Pay ⁷	20	9	5	8	0	3	1	0	0	1	0	47

Statistics obtained from web sites for Moneygram, ACE and 7-11.

⁶ These are the only Washington locations for ACE pursuant to the web site.

⁷ Data from Choice Pay indicates that the company has 56 total locations in Washington.