



Rob McKenna  
**ATTORNEY GENERAL OF WASHINGTON**

800 Fifth Avenue #2000 • Seattle WA 98104-3188

May 21, 2012

**VIA ELECTRONIC FILING & ABC/LMI**

David Danner  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Pk. Dr. S.W.  
P. O. Box 47250  
Olympia, WA 98504-7250

Re: Rulemaking to Consider Modifications to, or Eliminations of, the Requirement Related to  
Distribution of Telephone Books in WAC 480-120-251  
Docket No. U-120451

Dear Mr. Danner:

Enclosed please find an original copy of the Comments of Public Counsel in Response to The  
Statement of Inquiry for filing in the above-entitled docket. For confirmation of receipt, I have  
enclosed a copy to be date-stamped and sent back to us with the ABC Legal Messenger. A copy  
was also sent via e-mail on May 21, 2012.

Sincerely,

LISA A. GAFKEN  
Assistant Attorney General  
Public Counsel Division  
(206) 464-6595

LAG:cjw  
Enclosure

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

RE: RULEMAKING TO CONSIDER  
MODIFICATIONS TO, OR ELIMINATION  
OF, THE REQUIREMENT RELATED TO  
DISTRIBUTION OF TELEPHONE BOOKS  
IN WAC 480-120-251

DOCKET NO. UT-120451

**COMMENTS OF PUBLIC COUNSEL IN RESPONSE**

**TO THE STATEMENT OF INQUIRY**

**MAY 21, 2012**

**I. INTRODUCTION**

1. Pursuant to the Commission's Notice of Opportunity to File Written Comments (April 18, 2012), Public Counsel files these Comments on the Statement of Inquiry to consider modifications to, or elimination of, the requirement that local exchange companies provide each customer a copy of a telephone directory for the customer's exchange area, pursuant to WAC 480-120-251.
2. The primary question raised in the Commission's Notice is whether the Commission should eliminate or modify the current requirement that telecommunications companies provide printed directories. The answer to this inquiry depends in large part on the type of directory in question (i.e. Yellow Pages, or White Pages). These comments will focus on residential White Pages directories and the merits of modification or elimination of the rule governing their distribution.

3. A printed copy of the White Pages directory remains a fundamental component of basic telephone service and is an important source of information for many consumers. White Pages directories contain, along with residential listings, emergency numbers, government listings, local maps and evacuation routes, and consumer guides, among other vital information. Electronic access to White Pages directories may not be adequate for customers who do not own a computer or have access to the internet. The lack of a printed White Pages directory may jeopardize public safety if a consumer does not have easy access to emergency numbers or government listings included in this directory. While Public Counsel acknowledges the environmental impacts of printed directories, we are not convinced that any changes to the rule based solely on environmental concerns are truly warranted when weighed against the importance of the printed White Pages directory as a resource to consumers.

4. Finally, the Commission should consider whether changing the form of delivery to consumers of White Pages listings or public service information (i.e. changing to delivery via broadband) could potentially limit the Commission's regulatory authority over the listings as a component of telecommunications service. It would be an undesirable outcome if the Commission were to lose its ability to protect consumers with regard to this aspect of service, simply because of a change in the medium of delivery.

5. For these reasons, discussed in more detail below, Public Counsel recommends against elimination or modification of WAC 480-120-251. Any requests for elimination or modification of distribution of White Pages directories should be prompted by an individual company request and be addressed by the Commission on a case-by-case basis. However, should the Commission consider changes to the distribution of White Pages directories, several types of protections

should be required before allowing any significant changes. These protections are discussed in the comments below.

## II. COMMENTS

**1. Do all telephone company customers need printed directories of telephone numbers? If not, which types of customers continue to need such directories?**

6. A printed copy of the White Pages directory is a valuable source of information for a wide variety of customers. This is especially true for those customers who do not have computers in their home, do not have access to the internet or have traditionally relied on printed materials due to age or other factors. Even for customers with computer access, the printed copy remains a well known, convenient and reliable information source that is available in the home or business when computer access may not be convenient or available (e.g. power outages). Moreover, it is very difficult for the Commission, or any party, to determine which individual customers may require printed White Pages directories. Customers themselves are in the best position to determine what they require and should therefore always be given the option to receive a printed copy of a White Pages directory.

**2. If all customers do not need printed directories, should the Commission continue to require telephone companies to provide them?**

7. Public Counsel does not believe a change to WAC 480-120-151 is warranted at this time. Because the White Pages directory is a vital source of information for consumers, and because there are public safety implications associated with moving away from printed distribution, delivery of printed White Pages directories should continue unless a customer affirmatively requests to not receive a printed copy of the directory. If a customer opts-out, the company should be required to provide, free of charge, alternative means to access directories which are easily accessible and available to all. In addition, should the company be permitted to offer

White Pages residential directories on an opt-out basis, important listings such as emergency numbers, government listings, etc., should still continue to be provided in print to all customers, in either in Yellow Pages distribution or some other means clearly described by the company.

**3. Should telephone companies give their customers the option to receive a printed directory?**

8. As discussed above, if modification to the distribution of printed White Pages directories is allowed, all customers should have the option to receive a printed copy of the directory, free of charge.

**a. If so, should customers be given the option not to receive a printed directory (opt out) or should customers be required to affirmatively request a directory (opt in)?**

9. Should the Commission determine that a telephone company should be allowed to offer optional distribution of printed White Pages directories to its customers, it should be on an opt-out only basis. As previously mentioned, the White Pages directory is a very valuable source of information to customers and providing such information through an online website or CD-ROM may be inadequate. An opt-out approach ensures that customers do not lose access to a printed directory due to, for example, lack of adequate notification or outreach on behalf of the telephone company. An opt-out approach would also address the issues of waste surrounding unwanted directories.<sup>1</sup>

10. Customer notification continues to be very important under an opt-out approach and the company should be required to provide adequate and clear notification of the changes to service.

---

<sup>1</sup> For example, in less than one year after the city of Seattle implemented an opt-out program for Yellow Pages a fifth of Seattle's households and businesses have cancelled delivery of printed Yellow Pages directories, removing 375 tons—more than 419,000 books—from the waste and recycle streams, according to city officials. *See*: "Opt-out program results in fewer phone books." The Seattle Times, April 24, 2012, available online at: [http://seattletimes.nwsourc.com/html/localnews/2018054981\\_phonebooks24m.html](http://seattletimes.nwsourc.com/html/localnews/2018054981_phonebooks24m.html)

Specifically, the company should provide clear and conspicuous information regarding the steps to opt-out and also how to opt-back in, which should always be an option. Further, in either an opt-out approach or opt-in approach, the company should be required to provide, free of charge, an alternative means to access directories. These directories must be a public resource, easily accessible and available to all.

11. In addition, as discussed previously in response to question number 2, regardless of whether a company is permitted to offer White Pages residential directories on an opt-out or opt-in basis, important listings such as emergency numbers, government listings, etc., should continue to be provided in print to all customers, in a manner clearly described by the company.

12. Public Counsel supports an opt-out approach over an opt-in approach; however, if a company is allowed to provide printed White Pages directories on an opt-in basis or should WAC 480-120-151 be eliminated entirely, a number of important customer protections should be implemented in conjunction with this change in service. These are detailed below in the response to question number 4.

**b. What costs would a telephone company incur to implement optional distribution of printed directories?**

13. This is a question best addressed by individual telephone companies and should be factored into any individual company request to begin offering optional distribution of printed directories.

**c. If any such costs would be significant, how should the company recover those costs?**

14. If costs to move to optional distribution outweighed the standard costs to distribute printed directories to all customers, then optional distribution should be abandoned and all customers should continue to receive printed directories, in accordance with the existing rule.

**4. Should the rule explicitly allow a telephone company to seek an exemption from the rule to relieve it of the obligation to print and/or deliver printed directories to customers? If so, what standard should the Commission consider?**

15. No, Public Counsel submits that any request to modify the obligation to print and/or deliver printed directories to customers should be triggered by an individual company's request to modify its obligations under the rule and a company can already make such a request for exemption under WAC 480-120-015. If the Commission were to grant an individual company's request to relieve or modify obligations to print or provide delivery of printed directories to customers, the Commission should require a number of protections to limit potential harm to customers. In several states where telephone companies have stopped issuing printed White Pages directories to all customers on a regular basis, state commissions have required a number of protections.<sup>2</sup> These or similar protections should be adopted in Washington state if WAC 480-120-251 is eliminated or modified.

**Notice and Outreach**

16. Notification of any changes to distribution of White Pages should be clear, conspicuous and often. For example, in New Jersey, in response to a proposal made by Verizon to change its distribution of residential White Pages, the New Jersey Board of Public Utilities ("Board") required Verizon New Jersey to provide numerous notices and perform outreach efforts as part of its request to change the delivery of its residential White Pages. Specifically, the Board required

---

<sup>2</sup> In Ohio, by Order entered February, 11, 2009, the Public Utilities Commission of Ohio ("PUCO") addressed a request made by AT&T Ohio regarding modifying distribution of White Page directories. The PUCO adopted a number of customer notification provisions. *See: In the Matter of the Application of AT&T Ohio for Waiver of Certain Minimum Telephone Service Standards as Set Forth in Chapter 4901:1:5, Ohio Administrative Code, Case No. 09-42-TP-WVR, Finding and Order (entered Feb. 11, 2009).* The Florida Public Service Commission, addressing a similar request by AG&T Florida, also ordered a number of notification and outreach conditions. *See: In re: Petition by BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast for waiver of Rule 25-4.040(2), Florida Administrative Code, Docket No. 090082-TL; Order No. PSC-09-0492-PAA-TL (issued July 8, 2009) at 4.*

the company to provide seven separate forms of notice to customers and initiate an outreach program which included publication of messages in three publications with high senior subscription levels. A press release and bill insert were required along with notices on the last printed directories customers were to receive. Each notice was required to specify to customers the elimination of the residential portion of White Pages directory, state where they could find the information online, and a toll free number where they could request a free copy of the White Pages listing.<sup>3</sup> These or similar customer notifications conditions should also be required in Washington if WAC 480-120-251 is eliminated or modified. In addition, any proposed changes which allow for optional distribution of telephone White Pages directories should only be implemented following one year of customer notice and outreach to allow sufficient time for consumers to prepare and respond to the changes.

### **Data Tracking and Reporting**

17. Efforts should also be made to examine the impact on customers due to any changes in distribution of White Pages. A study examining this issue should be required with any changes to distribution of printed White Pages directories. For example, in addition to outreach and notification requirements, the New Jersey Board of Public Utilities also required Verizon to submit quarterly reports containing data on the number of customers who requested printed copies of White Pages and the number of directory assistance calls.
18. In addition to these consumer protections, Public Counsel also recommends that the following conditions be required under any opt-in or electronic-only distribution of White Pages directories.

---

<sup>3</sup> *In the Matter of Verizon New Jersey's Petition for Waiver of New Jersey Administrative Code (N.J.A.C) Regulations 14:10:1A.5 Subsections (a) and (b) Pertaining to the Publishing and Distribution of Telephone Directories*, Docket No. TO10040255; Order of Approval (dated September 22, 2010).



### New Customers

19. All new customers should be provided a printed copy of residential White Pages unless they affirmatively decline such a copy. Such customers should also be provided adequate notice at the time of enrollment that they will have to request future printed versions.

### Existing Customers

20. A customer that affirmatively requests a printed copy of the residential White Pages directory should be provided a printed copy every year without having to make a further request until they affirmatively decline to receive future printed copies.

### Emergency Numbers in White Pages

21. Regardless of any change to the distribution of residential White Pages directories, emergency and government listings, etc., should continue to be provided to customers in printed form. This could be accomplished by including the information in directories that the company will continue to provide to the customer, for example, in Yellow Pages directories. The company should clearly explain to customers how this information will be provided.

22. The list above captures some of the basic consumer protections that should accompany any proposal to modify distribution of printed White Pages directories. There may be additional appropriate protections that Public Counsel may advocate for at a future stage in this proceeding.

### **5. Should the Commission give telephone companies the option to provide online directories of telephone numbers instead of printed directories?**

23. Again, should the Commission decide to modify requirements for the distribution of printed White Pages directories, in either an opt-out or opt-in scenario, Public Counsel recommends that the company be required to provide, free of charge, alternative means to access directories which are easily accessible and available to all. An online directory is one alternative

a company could pursue to provide White Pages directory access. At a minimum, each telephone company seeking alternative distribution through an online directory should be required to provide a link to the online directory through the company's national website in order to make the online directory as accessible as possible. Accessibility should also not be hampered through excessive advertising, and any online directory website should also be user-friendly.

24. Despite best efforts to achieve accessibility, not all customers will be able to use an online directory because not all customers own computers or have internet access. Therefore, it bears reiterating that an important protection under any proposal for modified distribution of printed White Pages directories is to require that emergency numbers and government listings, etc., continue to be provided in printed form to all customers.

### III. CONCLUSION

25. In summary, Public Counsel recommends against elimination or modification of WAC 480-120-251 at this time. Any requests for elimination or modification of distribution of White Pages directories should be triggered by an individual company request for waiver under WAC 480-120-015 and be reviewed by the Commission on a case-by-case basis considering the types of factors discussed in these comments. However, should the Commission consider going forward with a rulemaking on this issue and consider changes to the distribution of White Pages directories, several types of protections, as described in these comments, should be required before allowing any significant changes.