

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Rule-Making
Proceeding Related To

Commission General – Tariffs:
Chapter 480-80 WAC

DOCKET NO. U-991301

Comments of Public Counsel

Attorney General of Washington

March 2, 2001

Public Counsel files these comments in response to the Commission's February 9, 2001 Notice of Opportunity to File Written Comments. We look forward to participating in this rulemaking and attending the March 6, 2001 workshop.

General Comments

Public Counsel supports the Commission's efforts to revise the price list rule applicable to services classified by the Commission as competitive to improve the important notice and disclosure functions that are not currently served by the existing rule. Public Counsel supports enhancing the notice and disclosure requirements of the rule to better inform customers of the prices, terms, and conditions that govern their relationship with the company providing their telecommunication services that have been classified as competitive.

Public Counsel remains concerned that the current practice of price listing does not provide adequate notice to customers of the price, terms, and conditions of the telecommunication services they seek which have been classified by the Commission as

competitive. While the current price listing mechanism is imperfect, it does provide at least a theoretical notice function. Public Counsel believes that any exception to the price list filing requirements should include a mechanism that provides direct notice to customers of the prices, terms, and conditions governing their relationship with a telecommunications company providing services that have been classified as competitive.

Specific Issues

Section 1 – Definitions, etc.

Public Counsel supports the terms of Section 1(c) which clarify that customers will not be presumed to have notice of the contents of a price list merely because it has been filed with the Commission. In a competitive environment it should be each telecommunication company's obligation to directly and fully inform its customers of competitively classified services of the prices, terms and conditions attendant to that service.

Public Counsel also supports the provisions of Section 1(d) which resolve conflicts or ambiguity in the customer's favor. This is appropriate given the inequity of bargaining power between the telecommunication company and its customers as well as the marketing misconduct that still occurs. Complaints regarding telecommunications services are the leading source of complaints to the Washington State Attorney General's Office Consumer Protection Division. Public Counsel hopes that the revisions to Section 1 as well as the remainder of the proposed price list rule will serve to encourage companies making offers of competitively classified telecommunications services to fully disclose the prices, terms, and conditions of their services and thereby decrease the volume of complaints and disagreements between the companies and their customers.

Section 2 – Form and Content

Public Counsel supports requiring that price lists fully detail the prices, terms, and conditions governing the competitively classified service that is being offered under price list.

Public Counsel remains concerned about the potential for abuse of the ability to file maximum prices under the terms of Section 2(d)(iii). This creates a risk that a competitively classified company's marketing efforts may market a service at less than the maximum price filed under the price list and then bill the customer at the maximum rate; not the quoted rate. This concern is particularly acute given the Commission's proposed waiver of RCW 80.36.130 for competitively classified companies. Public Counsel recognizes that the terms of Section 1(d) of the proposed rule would provide for ambiguities to be construed in the customer's favor. However, to avoid the risk of maximum pricing abuse Public Counsel would recommend an additional Section, 2(d)(iv) as follows:

Where a service is provided at less than the maximum rate any dispute as to rates, charges, or prices quoted to the customer shall be construed in the customer's favor.

A protection such as the above proposal would help to protect consumers from abusive marketing practices.

Section 3 – Publication and Disclosure

Public Counsel supports enhancing the publication and disclosure requirements for competitively classified services subject to price listing and believe that Section 3 is a good start to providing meaningful disclosure to customers of competitively classified services.

Public Counsel would support an additional requirement that would set forth a required pricing disclosure format so that customers are better able to make meaningful comparisons between competing offers for services classified as competitive. Today it is difficult, if not

impossible, for consumers to make meaningful comparisons of competing offers where those offers may contain, for example, a variety of initiation, monthly, and other charges in addition to per-minute charges. Public Counsel looks forward to working with Commission Staff to resolve this problem and would recommend as a starting point, last session's Senate Bill 6367 as a point of reference. It is available at: <http://www.leg.wa.gov/pub/billinfo/1999-00/senate/6350-6374/>

Section 4 – Filing of Contracts

Again, Public Counsel is concerned about the use in Section 4(a) of maximum pricing in price lists and believes additional consumer protection is needed to prevent the abuse of this privilege.

Conclusion

Public Counsel looks forward to working with the Commission Staff and interested parties at the March 6th workshop to improve the consumer protections available in today's increasingly competitive environment in a competitively neutral manner.