

Law Office of  
Richard A. Finnigan  
2112 Black Lake Blvd. SW  
Olympia, Washington 98512

Richard A. Finnigan  
(360) 956-7001  
rickfinn@localaccess.com

Candace Shofstall  
Legal Assistant  
(360) 753-7012  
candaces@localaccess.com

---

---

August 23, 2021

**VIA E-FILING**

Mr. Mark L. Johnson, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

Re: Washington Exchange Carrier Association – First Revised Sheet No. 42  
Canceling Original Sheet No. 42

Dear Mr. Johnson:

The purpose of this filing is to clarify the tariff of the Washington Exchange Carrier Association (WECA) that blocking of traffic may occur under certain circumstances focusing on abusive and illegal traffic. This action is taken to allow WECA members to be consistent with the rules and directions of the Federal Communications Commission (FCC) regarding robocalling.

**BACKGROUND**

The FCC has identified robocalling as one of the most vexing problems facing consumers today. In fact, in one of its orders on robocalling, the FCC stated as follows:

Protecting Americans from the dangers of unwanted and illegal robocalls is our top consumer protection priority. More than just an annoyance, these calls are a tool for scammers to take advantage of unsuspecting Americans. Bad actors often “spoof” or falsify caller ID information and deceive call recipients into believing they are trustworthy. Even in the midst of the COVID 19 pandemic, bad actors have continued their attempts to use illegal spoofing to target American consumers, once again illustrating the pervasiveness of this problem.<sup>1</sup>

As further described by the FCC, “When bad actors unlawfully falsify or spoof the caller ID that appears on a subscriber’s phone, they are using numbering resources to advance an illegal scheme.” And further, “We find that the rules we adopt today are necessary to enable voice service providers to help prevent these unlawful acts and to protect voice service subscribers from

---

<sup>1</sup>In the Matter of Call Authentication Trust Anchor, WC Docket No. 17-97, Second Report and Order, (FCC 20-136) (Rel. October 1, 2020) at ¶1.

Received  
Records Management  
08/23/21 10:09:03  
State Of WASH.  
UTIL. AND TRANSP.  
COMMISSION

scammers and bad actors.”<sup>2</sup>

To address robocalls the FCC has taken several steps. First, it has authorized carriers to block calls identified as likely to be robocalls. To do this, it has created a series of rules, including developing a safe harbor. Those rules can be found in 47 C.F.R. §64.1200(k) and (n). While the process is relatively complex, the bottom line is that blocking of individual calls has been authorized.

In addition to this activity, the FCC has created requirements for carriers to engage in call authentication. This is a series of rules as authorized by Congress under the TRACED Act,<sup>3</sup> which go by the name STIR/SHAKEN. Companies are in the process of deploying equipment and software that will comply with the FCC’s order on this matter. The FCC’s rules can be found at 47 C.F.R. §64.6300 *et seq.*

As part of those rules, beginning September 28, 2021, carriers, such as WECA’s members, are specifically directed to not accept calls from originating carriers who are not listed in the Robocall Mitigation Database established by the FCC. 47 C.F.R. §64.6305(c).

For carriers in Washington, one complicating factor is the existence of RCW 80.36.220, which states as follows:

Telecommunications companies shall receive, exchange and transmit each other's messages without delay or discrimination, and all telecommunications companies shall receive and transmit messages for any person. In case of the refusal or neglect of any telecommunications company to comply with the provisions of this section, the penalty for the same shall be a fine of not more than five hundred nor less than one hundred dollars for each offense.

On its surface, there would seem to be a conflict between RCW 80.36.220 and the direction set by the FCC in dealing with robocalls.

WECA believes that RCW 80.36.220 should not be read as an absolute. Rather the statute is qualified at least to the extent that carriers are permitted to block delivery of unlawful traffic, particularly in today’s age, the robocalls that the FCC desires be addressed.

RCW 80.36.220 was initially enacted in 1890. At that point in the time of telecommunications history, larger carriers were attempting to dominate the market by refusing to complete calls that originated on another carrier’s network. This statute, with others, was very helpful in advancing the spread of telecommunications to more rural areas. At the time, it served

---

<sup>2</sup> Ibid. at ¶ 34 and 35.

<sup>3</sup> Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act. S.151 - 116<sup>th</sup> Congress. P.L. 116-105

a very useful purpose. Today, its application is more problematic. In any event, the statute exists.

It is WECA'S position that the statute should be read to mean that the duty to receive, exchange and transmit other carrier's messages without delay or discrimination applies to lawful messages. This interpretation is bolstered by the fact that the Commission has allowed tariff provisions to go into effect that permit carriers to deal with abusive traffic. For example, WECA's Tariff WN U-2 contains a section dealing with abusive traffic. That section is Section 2.2.2(A) at Sheet 41. It reads as follows:

2.2.2 Unlawful and Abusive Use

(A) The service provided under this tariff shall not be used for an unlawful purpose or used in an abusive manner.

Abusive use includes:

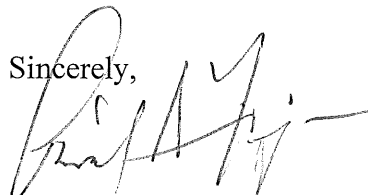
- (1) The use of the service of the Telephone Company for a call or calls, anonymous or otherwise, in a manner reasonably expected to frighten, abuse, torment, or harass another;
- (2) The use of the service in such a manner as to interfere unreasonably with the use of the service by one or more other customers.

CONCLUSION

Consistent with the foregoing, the addition of new Section 2.2.2(D) expressly recognizes that WECA's members may block abusive and other illegal traffic consistent with FCC rules and policies.

If there are any question concerning this matter, please contact the undersigned. The undersigned has authority to issue and file tariff sheets on behalf of WECA.

Sincerely,



RICHARD A. FINNIGAN

RAF/cs

cc: Client (via e-mail)  
Sally Brown (via e-mail)