

CONCISE EXPLANATORY STATEMENT

Agenda Date: September 14, 1994
Item Number: 2E

Docket: UT-940049
Rulemaking to amend WAC 480-120-056 relating to deposits; 480-120-061 relating to refusal of service; 480-120-081 relating to disconnection of service; 480-120-101 relating to complaints and disputes; 480-120-138 relating to pay telephones; and, 480-120-141 Alternate operator services.

Company name: Telecommunications companies - General

Staff: Mary Taylor, Consumer Program Specialist III *MT*
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Recommendation:

Adopt the proposed rules, using Option 1 of the deposit rule, with minor modifications; direct the Secretary to file the Order of Adoption and the adopted rules with the Code Reviser.

Discussion

On May 25, 1994, the Commission filed a notice of proposed rulemaking with the Code Reviser's Office in Docket UT-940049. Along with the above referenced sections, two versions of the deposit rule, WAC 480-120-056, were noticed for comment. Option 1 was Staff's preferred version which establishes a credit matrix and continues to allow extended payment arrangements on deposits. Option 2 was the local exchange companies' preferred version which uses commercial credit screening, requires deposit payment in full, and uses a statewide average deposit.

Staff has met several times with interested parties and reviewed the written comments from MCI, AT&T, Public Counsel, Evergreen Legal Services, the ACLU, Lewis River, one member of the public, and a coalition of local exchange companies comprised of the Washington Independent Telephone Association (WITA), U S West Communications (USWC) and GTE Northwest Incorporated (GTENW). Staff also reviewed considerable amounts of data received from GTENW and USWC, along with information solicited from other states.

While Staff and interested parties reached agreement on many of the proposed changes, there are several fundamental issues where agreement was not reached. Following is a brief summary of each existing rule and the effect of Staff's recommended changes.

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The document attached to this memo is the rules staff recommends for adoption. With minor modifications, they are the proposed rules. At the end of each section is a summary of the comments to the proposed rules that the Commission received and discussion of the issues.

WAC 480-120-056 - Deposits

The existing rule allows telecommunications companies to collect deposits only from known risk customers. A known risk is someone who owes an outstanding unpaid bill to any telecommunications company; has been disconnected for nonpayment in the last twelve months; or has received four or more disconnect notices in the last twelve months. Under the current rule, the deposit amount may not exceed the customer's average two month billing. Customers who are unable to pay the entire deposit when requested, are allowed to make payment arrangements (half of the deposit to establish/retain service with the other half due over the following two months). The deposit is refunded after the customer establishes good credit.

Under the proposed Option 1, which is Staff's recommended version, interexchange carriers (due to the competitive nature of their services) are given the ability to establish their own policies pertaining to deposits with the only requirement being "reasonable means appropriate under the circumstances;" a local exchange company may collect a deposit when an applicant is unable to pass a credit matrix or is a known credit risk as outlined in the proposed rule; the criteria used to determine when a customer is a credit risk is changed from four to three disconnection notices in the last year; toll restriction is established as an alternative to a deposit; and, the telecommunications companies may apply a deposit refund directly to a customer's account unless a mailed refund is specifically requested by the customer.

Due to fundamental differences, Staff did not adopt the companies' proposals for commercial credit screening or a statewide average deposit. Staff's investigation concluded that commercial credit screening had frequent errors and studies indicate that consumers do not pay utility bills in the same manner as they pay their "Sear's type" bills. In addition, the companies were unable to demonstrate unreasonable uncollectible levels. Specific uncollectible amounts are not included in this memo due to "confidential" concerns expressed by some of the companies.

WAC 480-120-061 - Refusal of service

The existing rule allows companies to refuse service when to provide service would adversely affect other customers; when installation is considered hazardous; until the company can secure all necessary right of ways and easements; when an applicant or subscriber owes the company an unpaid bill and has

not made payment arrangements (including a one time option for the customer to pay the obligation over a six month period); when an applicant or subscriber is requesting service at a service address where a former subscriber is known to reside and has an unpaid bill from the same address (until the bill is paid or arrangements made); for fraudulent behavior such as rotation of roommates name to avoid payment of a debt; and, denial of service for resale to a telecommunications company that is not properly registered with the Commission.

In addition to the current allowances, the proposed language would allow telecommunications companies to deny service to an applicant or subscriber who fails to provide information necessary to establish positive identification.

Staff recommends that the Commission adopt the proposed rule. Other changes urged by commenters, and Staff's reasons for not recommending these changes, are set out in the attachment.

WAC 480-120-081 - Discontinuance of Service

The existing rule specifies the circumstances under which the company may disconnect a customer's service. Further, the rule specifies the notice required prior to disconnect and under what circumstances service must be restored.

The proposed language would prohibit the disconnection of local service for nonpayment of interexchange carrier charges; prohibit disconnection for nonpayment of disputed third party billed calls; allow toll restriction in lieu of total disconnect; and establish guidelines relating to medical emergency situations which allow a person who has demonstrated a medical emergency to pay 25 percent (minimum of \$10) of the amount owed with the balance payable within 90 days.

The LECs in their comments opposed prohibition of disconnect for disputed third party billed calls. The proposed language states the Commission's long-time interpretation of the rules. The need for the rule is set out in the attachment.

The LECs also opposed the proposed medical emergency language as too detailed and burdensome. While the proposed rule may be detailed, it is essentially a set of optional guidelines and minimum timeframes. The companies are not prohibited from developing their own procedures which meet the minimum requirements.

Staff recommends that the Commission not adopt the proposed changes to subsection (2)(h) concerning abusive calls and telemarketing. Due process concerns were raised which could not be resolved.

WAC 480-120-101 Complaints and Disputes

The existing rule sets requirements for the investigation and resolution of customer disputes both at a company and Commission complaint level.

The proposed rule has additional language which requires companies to have Staff available during regular business days (non-state holidays) to respond to customers and Commission Staff. Commenters expressed some concern about the need for the rule. Staff believes that it is necessary. As drafted, the language does not require companies to fully staff their offices on company holidays but it does require the company to have staff available to deal with complaints on days other than Saturday, Sunday and State holidays.

WAC 480-120-138 - Pay Telephones -- Local and Intrastate

This rule sets out specific requirements for the operation of pay telephones. It also specifies that pay phones are subject to disconnection for violation of the rules if a deficiency is not corrected within five days from the date of written notice to the subscriber. Further, it requires that the cost of local exchange company field visits be recovered from the subscriber of the public access line.

The proposed rule would clarify the existing language as it relates to notification of deficiency, contact prior to disconnection and recovery of LECs costs associated with disconnect action. These are administrative changes intended only to clarify.

WAC 480-120-141 - Alternate Operator Services

This rule sets out specific requirements for the operation of alternate operator services. It also specifies that aggregator locations are subject to disconnection for violation of the rules if a deficiency is not corrected within five days from the date of written notice.

The proposed rule would clarify existing requirements relating to notification of deficiency and/or violation of rules. These are administrative changes intended only to clarify.

Summary

This rulemaking was initiated primarily to address industry's concerns that uncollectibles were a major problem and to further address the companies stated needs to be more efficient in their dealings with customers. The companies said that fraudulent behavior and their inability to screen applicants for positive identification was the primary cause of increased uncollectibles. In addition, USWC indicated selective carrier denial was another major contributing factor to the rise in uncollectibles because it enabled subscribers to carrier hop to avoid payment of bills.

Staff's proposal attempts to balance the companies' need to protect and collect revenues while ensuring the customers are treated fairly. The proposed rules allow companies to deny service until they can positively identify an applicant or customer. They allow the company to collect a deposit not only from a known risk customer but through the use of a credit matrix to establish credit worthiness. The rules also allow companies to toll restrict customer accounts for nonpayment of interexchange carrier charges which addresses the carrier hopping issue and should also assist in reducing uncollectibles.

Staff believes the proposed amendments improve the clarity and effectiveness of the rules, and adequately address the concerns expressed by the interested parties while protecting the interest of consumers. Therefore, Staff is recommending that the Commission adopt the rules as proposed.

WAC 480-120-056 - Deposits (1) Establishment of credit - nonresidential ((deposit requirements)). An applicant for or subscriber of nonresidential service may be required to demonstrate satisfactory credit by reasonable means appropriate under the circumstances.

(2) ~~((Residential deposit requirements. A deposit may be required under the following circumstances:~~

~~(a) A deposit may be required when, within the twelve months prior to the application, the applicant's service of a similar type has been disconnected for failure to pay amounts owing, when due, where applicant has an unpaid, overdue balance owing for service from the telecommunications company to which application is being made or any other telecommunications company; or where four or more delinquency notices have been served upon the applicant by any other telecommunications company during the twelve months previous to the application for service. A telecommunications company shall provide written notice to the subscriber that a deposit may be required upon issuance of the fourth delinquency notice.~~

~~(b) Installation or continuation of service to a residence where a prior subscriber still resides and where any balance for such service to that prior subscriber is past due or owing.~~

~~(c) When a subscriber (i) is initially provided service without a deposit on the basis of information supplied to the telecommunications company by the subscriber which is incorrect and the subscriber would have otherwise been required to make a deposit; or (ii) has an unpaid, overdue balance owing for the same class of service from the telecommunications company providing that service, or any other telecommunications company, which becomes known to the serving telecommunications company after current service has been provided; or (iii) has incurred excessive toll charges as defined in subsection (3)(b) of this section and the subscriber has elected not to make full payment of all proper toll charges as provided in subsection (3)(b) of this section.~~

~~(d) Any new or additional deposit required under authority of these rules, except as may be provided for elsewhere in these rules, is due and payable on the sixth business day after written notice of the deposit requirement is mailed to the subscriber, or, if personal service is elected, by 5 p.m. of the first business day following notification.~~

~~(3)) Establishment of credit for residential - interexchange telecommunications company services. An applicant for or subscriber of interexchange telecommunications services may be required to demonstrate satisfactory credit by reasonable means appropriate under the circumstances.~~

~~(3) Establishment of credit for residential - local exchange telecommunications company services. An applicant for or subscriber of local exchange service may demonstrate satisfactory credit by demonstrating any one of the following, provided the~~

applicant or subscriber is not subject to a deposit requirement under subsection (4)(b) of this section, and the information can be confirmed easily and quickly by the company:

(a) Prior residential service with the telecommunications company in question during the previous twelve months for at least six consecutive months during which service was rendered and was not disconnected for failure to pay, and no more than one delinquency notice was served upon the customer during the six-month period. Unless, the telecommunications company has determined that realignment of the customer's bill due date as provided for in WAC 480-120-106 would have negated the need for notices.

(b) Prior residential service with any telecommunications company with a satisfactory payment record as demonstrated in (a) of this subsection and the applicant provides the necessary information to substantiate the assertion. The applicant may either provide verification via a letter from their previous telecommunications company or have their previous telecommunications company provide the verification of credit.

(c) Consecutive employment during the entire twelve months next previous to application, with no more than two employers, and the applicant is currently employed. The applicant or subscriber must provide a work telephone number to enable the telecommunications company to verify employment.

(d) Stable monthly income during the entire twelve months next previous to application for service, and the applicant or subscriber is continuing to receive such income. The applicant or subscriber must provide a telephone number of the income provider which can confirm the information.

(e) Applicant owns or is purchasing the residence to be served. The applicant must provide a parcel number or another means whereby the telecommunications company can confirm the information.

Upon request, telecommunications companies within the state of Washington must provide applicants or subscribers confirmation of their payment history for the previous twelve-month period. Written confirmation may be provided to either the consumer or directly to the telecommunications company of which service is requested. Verbal confirmation must be provided directly to the telecommunications company of which service is requested. The criteria used for the confirmation must be the same as provided for in (a) of this subsection. The confirmation must be provided on the same or following business day of the request.

The information provided by the applicant or subscriber to establish credit shall be used only for purposes of establishing credit worthiness. Information shall not be provided to any person or telecommunications company for purposes other than to establish credit worthiness as provided for in (a) of this subsection.

(4) Deposit requirements. An applicant or subscriber may be required to pay a deposit under the following circumstances:

(a) When an applicant or subscriber is unable to establish credit as defined above.

(b) When a subscriber is initially provided service without a deposit on the basis of information supplied to the telecommunications company by the subscriber which is incorrect and the subscriber otherwise would have been required to make a deposit.

(c) In any event, a deposit may be required when within the last twelve months prior to application, the applicant's or subscriber's service of a similar type has been disconnected for failure to pay amounts owing, when due; or where applicant has an unpaid, overdue balance owing for the same class of service from the telecommunications company to which application is being made, or any other telecommunications company.

(d) When a subscriber has incurred excessive toll charges as defined in subsection (5) of this section.

(e) Any new or additional deposit required under authority of these rules, except as may be provided for elsewhere in these rules, is due and payable on the sixth business day after written notice of the deposit requirement is mailed to the subscriber, or, if personal service is elected, by 5:00 p.m. of the first business day following notification.

(5) Amount of deposit.

(a) In instances where a deposit may be required by the telecommunications company, the deposit shall not exceed:

(i) For nonresidential service, two-twelfths of estimated annual billings((+))i

(ii) For residential service, two months customary utilization for applicants or subscribers with previous verifiable service or two months estimated usage for applicants or subscribers without previous verifiable service. Customary utilization is calculated using charges for the previous three months service.

(b) Subscribers whose toll charges exceed thirty dollars, or whose toll charges exceed customary utilization over the previous six months by twenty dollars or by twenty percent, whichever is greater, may be required, upon written or verbal notice to the subscriber, to make payment of either of the following in the subscriber's election, before the close of the next business day following receipt of the notice:

(i) Full payment of outstanding toll charges specified in said notice; or all toll charges accrued to the time of payment providing the subscriber has been notified that he or she is liable for toll charges in addition to those charges specified in the notice which come to the attention of the telecommunications company between the time of notice and of payment.

(ii) Payment of a new or additional deposit in light of the subscriber's actual use based upon two months customary utilization.

(c) If the notice herein described is mailed, receipt may be presumed ((open)) upon the fourth business day following date of mailing.

(d) At the time application is made for service, the telecommunications company may request an estimate of the applicant's greatest monthly toll usage during the ensuing twelve months. When such an estimate is asked and given, the applicant for service shall be advised that if the estimate is exceeded by twenty dollars or twenty percent, whichever is greater, immediate payment may be required ~~((7))~~ if the toll is incurred by a telecommunications company authorized by the commission to collect deposits and advanced payments; a deposit or additional deposit may be required, or service may be disconnected.

~~((4))~~ (6) Transfer of deposit. Where a subscriber of whom a deposit is required transfers service to a new location within the same utility's service area, the deposit, less any outstanding balance, shall be transferable and applicable to the new service location.

~~((5))~~ (7) Interest on deposits. Interest on deposits held shall be accrued at a rate based upon a simple average of the effective interest rate for new issues of one year treasury bills, computed from December 1 of each year, continuing through November 30 of the following year. Deposits would earn that interest rate during January 1 through December 31 of the subsequent year. Interest shall be computed from the time of deposit to the time of refund or total application of the deposit and shall be compounded annually.

~~((6))~~ (8) Extended payment on deposit. Where a subscriber or applicant for service of whom a deposit is required is unable to pay the entire amount of the deposit in advance of installation or continuation of service, the subscriber or applicant shall be allowed to pay fifty percent of the deposit amount prior to installation or continuation of service, with the remaining amount payable in equal amounts ~~((on the telecommunications company's ordinary billing cycle during))~~ over the following two months ((of service)). A subscriber or applicant for service unable to meet this deposit requirement shall have the opportunity to receive service under subsection ~~((7))~~ (9) of this section, alternative to deposit, of this section.

~~((7))~~ (9) Alternative to deposit. A residential subscriber or applicant for residential service ~~((of whom))~~ who is unable to establish credit as provided above and is required to make a deposit ((is required)), but who is unable to make a deposit, shall be allowed, as an alternative to the making of a deposit, to:

(a) Furnish a satisfactory guarantor to secure payment of bills for service requested in a specified amount not to exceed the amount of deposit which may be required until satisfactory credit is established. The company may require that the guarantor reside in the state of Washington and currently have service with the telecommunications company requesting the deposit.

(b) Where technically feasible, accept a toll restricted access line in lieu of payment of the deposit until satisfactory credit is established as provided for above, or until a deposit is received. A toll restricted line shall provide access to emergency service, such as 911.

~~((8))~~ (10) Receipt. Where payment is made by cash, a receipt shall be furnished to each applicant or subscriber for the amount deposited.

~~((9))~~ (11) Refund of deposit or removal of toll restriction. Deposits shall be refunded or toll restriction converted to unrestricted service under the following circumstances ~~((in the following form))~~:

(a) Satisfactory payment. Where the subscriber has for twelve consecutive months paid for service in a prompt and satisfactory manner as evidenced by the following:

(i) The telecommunications company has not initiated disconnection proceedings against the subscriber.

(ii) No more than ~~((three))~~ two notices of delinquency have been made to the subscriber by the telecommunications company within the previous twelve-month period.

(b) Termination of service. Upon termination of service, the telecommunications company shall return to the subscriber the amount then on deposit plus accrued interest, less any amounts due the telecommunications company by the subscriber for service rendered on the telephone account for which the deposit was collected.

(c) Refunds - how made. Any deposit, plus accrued interest, ~~((shall))~~ may be ((refunded)) applied to the ((subscriber either)) subscriber's telephone account for service in the 13th and, if appropriate, subsequent months once satisfactory credit is established. Upon subscriber request, the refund shall be made in the form of a check issued and mailed to the subscriber no longer than fifteen days following completion of twelve months' satisfactory payment as described above ~~((, or applied to the subscriber's bill for service in the thirteenth and, if appropriate, subsequent months, in accordance with the preference as to refund indicated by the subscriber at the time of deposit, or as thereafter modified))~~.

~~((10))~~ (12) Should a larger or new deposit be required, the reasons therefor shall be specified in writing to the subscriber. Any requirement for a new or larger deposit shall be in conformity with the standards set forth in this section.

Discussion:

The notice of proposed rulemaking proposed two options for amending the existing rule. Option 1 was proposed by staff. Option 2 was proposed by the LECs. Staff recommends that the Commission adopt Option 1. Option 2 proposed several changes to this rule that staff cannot support. The LECs proposed the following: customers could only establish credit with previous good telephone history; use of commercial credit; eliminating the existing extended payment option toward deposit; and basing

deposit amounts on a statewide average as opposed to the existing criteria.

Staff does not support the LECs' proposal because the companies did not substantiate that commercial credit is reflective of utility payment history. A number of studies that staff reviewed showed that customers give higher priority to payment of utility bills than they do other revolving credit accounts. Therefore, it is unfair to assume that someone who is delinquent on a credit card debt is a telephone risk. Staff also reviewed studies that indicate commercial credit records have a much higher error rate than that presented by the companies.

Staff does not believe that commercial credit has any bearing on payment of utility bills. A case in point is a study done by USWC. The company tracked a number of accounts where customers did not have previous telephone history and were shown to be a risk through commercial credit, either because they had poor credit or no credit history. The study results showed that over 1/3 of the accounts never received a late notice. Under the LEC proposal these customers would have been required to post a deposit, get a guarantor, or accept toll restricted service.

The companies did not demonstrate that extended payments toward deposit caused them either administrative or financial harm. Additionally, staff believes without payment arrangements on deposits some customers would be unable to obtain full service.

Staff does not recommend the LEC's proposed change for use of a statewide average deposit because we continue to believe that deposit amounts should be specific to customer usage. To require a \$100 deposit from a customer who will use \$200 in service doesn't protect the company against uncollectible, nor is it fair to collect a \$100 deposit from a customer who is going to use \$25 worth of service a month.

Lewis River objected to the proposed removal of language that allows the company to collect a deposit from an applicant when a prior subscriber who owes a bill resides in the residence. Staff proposed removing this language after discussions with other telecommunications companies who indicated that they collect deposits based only on an applicant's credit and therefore do not use this section.

WAC 480-120-061 - Refusal of service (1) The ((utility)) telecommunications company may refuse to connect with or render service to an applicant for service when such service will adversely affect the service to other existing customers, or where the applicant has not complied with state, county, or municipal codes and/or regulations concerning the rendition of such service.

(2) A ((utility)) telecommunications company may refuse to serve an applicant for service or a subscriber if, in its judgment, the installation is considered hazardous or of such nature that satisfactory service cannot be given.

(3) A ((utility)) telecommunications company shall not be required to connect with or render service to an applicant unless and until it can secure all necessary rights of way, easements, and permits.

(4) A ((utility)) telecommunications company may deny service to an applicant or subscriber because of an overdue, unpaid prior obligation to the same ((utility)) telecommunications company for the same class of service at the same or different location until the obligation is paid or arrangements satisfactory ((arrangements)) to the telecommunications company are made: Provided, That an overdue or unpaid obligation to an information provider shall not be grounds for denial of service. A nontelecommunication company applicant for service shall only on an initial occurrence be entitled as a matter of right to arrange to pay an overdue, unpaid prior obligation over not less than six monthly billing periods. Any amount owed to a local exchange company or an interexchange carrier at the time a customer's local service is disconnected for nonpayment is considered a prior obligation. Any amount owed to an interexchange carrier at the time the telecommunications company toll restricts a customer's service for nonpayment is considered a prior obligation. If an applicant or subscriber defaults on a payment agreement such default shall constitute grounds for discontinuance or toll restriction of service under the provisions of WAC 480-120-081 ((2)(a)). A ((utility)) telecommunications company may offer a payment agreement at any time if deemed to be appropriate by the ((utility)) company.

(5) A ((utility)) telecommunications company may deny service to an applicant or subscriber for service at an address where a former subscriber is known to reside and has an overdue, unpaid prior obligation to the same ((utility)) telecommunications company for the same class of telecommunications service at that address until the obligation is paid or satisfactory arrangements are made.

(6) A telecommunications company may deny service until any proper deposit is paid in full, or in part, or an alternative service option as defined in WAC 480-120-056 has been selected by the applicant or subscriber.

(7) A telecommunications company may deny installation or continuation of service to any applicant or subscriber who fails to provide accurate and verifiable information necessary to establish the identity of the applicant or subscriber until verifiable information is provided. Telecommunications companies must provide a means for applicants or subscribers to provide identification. At a minimum business offices and payment agencies required under WAC 480-120-510 must provide this service at no charge to the applicant or subscriber.

(8) A ((utility)) telecommunications company may deny installation or continuation of service to any applicant or subscriber who is shown to have obtained or retained service from the company by fraudulent means, including but not limited to false statements of credit references or employment; false statement of premises address; use of an alias or false name with intent to deceive; rotation of service among roommates or persons living together for the purpose of avoiding the debts of one or more of said persons, or any other similar fraudulent devices.

((+7)) (9) A local exchange company shall deny service to a nonregistered telecommunications company that intends to use the service requested to provide telecommunications for hire, sale, or resale to the general public within the state of Washington. Any telecommunications company requesting service from a local exchange company shall state in writing whether the service is intended to be used for intrastate telecommunications for hire, sale, or resale to the general public.

Discussion: In their formal comments, the LECs propose elimination of the one-time payment arrangements provided for under existing subsection 4. They did not provide information to substantiate a need for elimination of this rule. Staff does not believe it is unreasonable for a company providing an essential service to offer a customer one opportunity to rectify their account, and therefore is not recommending a change to the rule.

Public Counsel and Evergreen Legal Services are proposing that subsection (5) of the existing rule be eliminated. The contention is that the rule is discriminatory and violates both elementary principles of contract law and privacy law. The other parties in this proceeding expressed concern that the elimination of this subsection would increase their uncollectible levels. Staff does not recommend elimination of this section. No other rule adequately addresses the rotation scheme problem. The companies can minimize the potential for legal problems by the manner in which they apply the rule. We have not received many complaints regarding the rule's application.

WAC 480-120-081 - Discontinuance of service (1) By subscriber - a subscriber shall be required to give notice to the ((utility)) telecommunications company of his intention to discontinue service.

(2) By ((utility)) telecommunications company - service may be discontinued by the ((utility)) telecommunications company for any of the following reasons:

(a) For the nonpayment of bills. The ((utility)) telecommunications company shall require that bills for service be paid within a specified time after issuance. The minimum specified time shall be fifteen days. Upon the expiration of said specified time without payment, the bill may be considered delinquent.

(b) For tampering with the ((utility's)) telecommunications company's property.

(c) In case of vacation of the premises by subscriber.

(d) For nonpayment of any proper charges including deposit, as provided in the tariff or pricelist of the ((utility)) telecommunications company. Nonpayment of charges billed by the ((utility)) telecommunications company on behalf of information providers shall not be grounds for discontinuance of service in whole or in part. Nonpayment of interexchange carrier charges shall not be grounds for disconnection of local service. However, the telecommunications company may toll restrict a subscriber's service for nonpayment of proper interexchange carrier charges. Disputed third party billed charges shall not be grounds for disconnection of service in whole or in part.

(e) For violation of rules, service agreements, or filed tariff(s).

(f) For use of subscriber equipment which adversely affects the ((utility's)) telecommunications company's service to its other subscribers.

(g) For fraudulent obtaining or use of service. Whenever a fraudulent obtaining or use of the service is detected the ((utility)) telecommunications company may discontinue service without notice: Provided, however, That if the subscriber shall make immediate payment for such estimated amount of service as had been fraudulently taken and all costs resulting from such fraudulent use, the ((utility)) telecommunications company shall continue such service, subject to any applicable deposit requirements. If a second offense as to fraudulent obtaining or use is detected the ((utility)) telecommunications company may refuse to reestablish service, subject to appeal to the commission. The burden of proof of such fraudulent obtaining or use will be upon the ((utility)) telecommunications company in case of an appeal to the commission. This rule shall not be interpreted as relieving the subscriber or other person of civil or criminal responsibility.

(h) For unlawful use of service or use of service for unlawful purposes.

(3) When a local exchange telecommunications company has cause to totally disconnect or has totally disconnected a residential service, it shall postpone disconnection of local service or shall reinstate local service after receiving either verbal or written notification of the existence of a medical emergency for a grace period of five business days. When service is reinstated, payment of a reconnection charge and/or deposit shall not be required prior to reinstatement of local service.

(a) The local exchange company may require that the subscriber within five business days submit written certification from a qualified medical professional stating that the disconnection of local service would significantly endanger the physical health of the subscriber, a member of the subscriber's family or another permanent resident of the household.

"Qualified medical professional" means a licensed physician.

nurse practitioner, or physician's assistant authorized to diagnose and treat the medical condition without supervision of a physician. Nothing in this section precludes a company from accepting other forms of certification but the maximum the company can require is written certification. If the company requires written certification, it may require that the certification include some or all of the following information:

(i) The name of the resident whose health would be affected by the disconnection of local service;

(ii) The relationship to the subscriber;

(iii) A description of the health condition;

(iv) An explanation of how the physical health of the person will be endangered by disconnection of local service;

(v) A statement of how long the condition is expected to last; and

(vi) The title, signature and telephone number of the person certifying the condition.

(b) A medical emergency does not excuse a subscriber from paying delinquent and ongoing charges. The company may require that the subscriber do the following within the five business day grace period: Pay a minimum of twenty-five percent or ten dollars of the delinquent balance, whichever is greater; and enter into an agreement to pay the remaining delinquent balance within ninety days and to pay subsequent bills when due. Nothing in this section precludes the company from agreeing to an alternate payment plan, but the company may not require the subscriber to pay more than this subsection prescribes. The company shall send a notice confirming the payment arrangements within two business days.

(c) If within the five-day grace period the subscriber fails to provide acceptable certification or fails to make payment or enter into an acceptable payment arrangement, the company may disconnect local service without further notice.

(d) If the subscriber fails to abide by the terms of the payment agreement the company may disconnect local service following notification provided for in subsection (5)(b) of this section.

(e) The medical certification shall be valid only for the length of time the health endangerment is certified to exist but no longer than six months without renewal.

~~((+3))~~ (4) A subscriber's service shall be treated as continuing through a change in location from one premises to another within the same service area if a request for service at the new premises is made prior to disconnection of service at the old premises and service is not subject to termination for cause. A subscriber shall be entitled to the same type of service at the new premises unless precluded by the tariff or pricelist of the company.

~~((+4))~~ (5) Except in case of danger to life or property, fraudulent use, impairment of service, or violation of law, no ~~((utility))~~ telecommunications company shall discontinue service unless the following conditions are met:

~~(a) ((Before effecting disconnection of service, a utility shall make a good faith, bona fide effort to reach the subscriber in person or by telephone to advise the subscriber of the pending disconnection and the reasons therefor. Where telephone contact is elected, at least two attempts to reach the subscriber by telephone during reasonable hours shall be made. If a business or message telephone is provided by the subscriber, the utility shall endeavor by that means to reach the subscriber if unable to make contact through the subscriber's home telephone. A log or record of the attempts shall be maintained by the utility showing the telephone number called and the time of call. Telephone or personal contact shall not be a substitute for written notice of disconnection as specified below. Telephone or personal contact need not be attempted when (i) the company has had cause in any two previous billing periods during a consecutive twelve month period to attempt such contact, and (ii) the company has notified the subscriber in writing that such telephone or personal contact will not be attempted in the future before effecting disconnection of services.~~

~~(b))~~ Each ((utility)) telecommunications company shall provide, subsequent to a subscriber's account becoming delinquent, written notice of disconnection served on the subscriber either by mail or, at its option, by personal delivery of the notice to the subscriber's address. If a mailed notice is elected, service shall not be disconnected prior to the eighth business day following mailing of the notice. If personal delivery is elected, disconnection shall not be permitted prior to 5 p.m. of the first business day following delivery. Delivered notice shall be deemed effective if handed to a person of apparent competence in the residence or, if a business account, a person employed at the place of business of the subscriber. If no person is available to receive notice, notice shall be deemed served if attached to the primary door of the residence unit or business office at which service is provided. If service is not discontinued within ten working days of the first day on which disconnection may be effected, unless other mutually acceptable arrangements have been made, that disconnect notice shall become void and a new notice shall be required before the service can be discontinued.

(b) Before effecting disconnection of service, a telecommunications company shall make a good faith, bona fide effort to reach the subscriber in person or by telephone to advise the subscriber of the pending disconnection and the reasons therefor. Where telephone contact is elected, at least two attempts to reach the subscriber by telephone at the service number during reasonable hours shall be made. If a business or message telephone is provided by the subscriber, the telecommunications company shall endeavor by that means to reach the subscriber if unable to make contact through the subscriber's service telephone number. A log or record of the attempts shall be maintained by the telecommunications company showing the telephone number called and the time of call. Telephone or

personal contact shall not be a substitute for written notice of disconnection as specified below. Telephone or personal contact need not be attempted when:

(i) The company has had cause in any two previous billing periods during a consecutive twelve-month period to attempt such contact; and

(ii) The company has notified the subscriber in writing that such telephone or personal contact will not be attempted in the future before effecting disconnection of services.

All notices of delinquency or pending disconnection shall detail procedures pertinent to the situation and provide notice of means by which the subscriber can make contact with the ((utility)) telecommunications company to resolve any differences. All notices must accurately state amounts owing for service(s) which are subject to disconnection. A new notice will be required in cases where information is incorrect.

(c) Except in case of danger to life or property, no disconnection shall be accomplished on Saturdays, Sundays, legal holidays, or on any other day on which the ((utility)) telecommunications company cannot reestablish service on the same or following day.

(d) When a ((utility)) telecommunications company employee is dispatched to disconnect service, that person shall be required to accept payment of a delinquent account at the service address if tendered in cash, but shall not be required to dispense change for cash tendered in excess of the amount due and owing. Any excess payment shall be credited to the subscriber's account. When disconnection is not effected due to such payment the ((utility)) telecommunications company shall be permitted to assess a reasonable fee as provided for in the tariff of the ((utility)) telecommunications company for the disconnection visit to the service address. Notice of the amount of such fee, if any, shall be provided within the notice of disconnection.

(e) Where the ((utility)) telecommunications company has reasonable grounds to believe service is to other than the subscriber of record, the ((utility)) company shall undertake reasonable efforts to inform occupants of the service address of the impending disconnection. Upon request of one or more service users, where service is to other than the subscriber of record, a minimum period of five business days shall be allowed to permit the service users to arrange for continued service.

(f) Where service is provided to a hospital, medical clinic with resident patients, or nursing home, notice of pending disconnection shall be provided to the secretary, Washington state department of social and health services, as well as to the subscriber. Upon request from the secretary or his designee, a delay in disconnection of no less than five business days from the date of notice shall be allowed so that the department may take whatever steps are necessary in its view to protect the interests of patients resident therein who are responsibilities of the department.

(g) Service may not be totally disconnected while a subscriber is pursuing any remedy or appeal provided for by these rules, provided any amounts not in dispute are paid when due. The subscriber shall be so informed by the ((utility)) telecommunications company upon referral of a complaint to a ((utility)) company supervisor or the commission.

(h) Where a subscriber's toll charges substantially exceed the amount of any deposit or customary utilization, and where it appears the subscriber will incur excessive, uncollectible toll charges while an appeal is being pursued, the ((utility)) telecommunications company may, upon authorization from the commission, disconnect service. A subscriber whose service is so eligible for disconnection may maintain service pending resolution of any dispute upon payment of outstanding toll charges subject to refund if the dispute is resolved in the subscriber's favor.

((+5)) (6) Payment of any delinquent amount to a designated payment agency of the ((utility)) telecommunications company shall constitute payment to the ((utility)) company, if the subscriber informs the ((utility)) company of such payment and the ((utility)) company verifies such payment.

((+6)) (7) Service shall be restored when the causes of discontinuance have been removed and when payment or satisfactory arrangements for payment of all proper charges due from the applicant, including any proper deposit, has been made as provided for in the tariff or pricelist of the ((utility)) telecommunications company; or as the commission may order pending resolution of any bona fide dispute between the ((utility)) telecommunications company and the subscriber or applicant over the propriety of disconnection.

((+7)) (8) A ((utility)) telecommunications company may make a charge for restoring service when service has been discontinued or toll restricted for nonpayment of bills. The amount of such charge is to be specified in the ((utility's)) telecommunications company's tariff or pricelist.

When service is ((discontinued)) disconnected for nonpayment of a bill it may be either completely disconnected, toll restricted or partially disconnected. Toll restriction must allow access to emergency numbers such as 911. Partial disconnection means telephone service will be restricted to either incoming or outgoing service. In case of a partial disconnection, the subscriber shall be notified of the restricted usage. Upon any complete disconnection of telephone service to a subscriber, charges for service will be discontinued as of the date of the disconnection.

Discussion: The LECs oppose the proposed language which would prohibit disconnection of disputed third party billed calls. Staff believes this language is necessary. While the telecommunications companies have the capability to verify with a party whether they will authorize the call to be billed to their number, the companies do not make this verification. The

companies previously obtained authorization on third party billed calls but stopped a number of years ago to cut their costs. When USWC, previously PNB, stopped verifying calls the company was advised that all disputed third party charges would have to be adjusted, because a consumer had no control over charges to their own number. Staff's proposed language simply clarifies this position.

Lewis River opposes the proposed prohibition against disconnecting local service for interexchange carrier charges. The company contends that most LECs purchase the accounts receivable from the IXCs, and that the proposed change could cause the LECs to lose billing and collection contracts with the carriers. Lewis River did not substantiate their claim and no other written comments were received objecting to the prohibition against disconnection of local service. Staff does not believe that essential local service should be disconnected for competitive services.

The proposed rule contains language that deals with disconnection of service if law enforcement authorities notify the company that the subscriber's number has been the source of abusive calls or that the subscriber is using the service for unlawful telemarketing. In written comments the Attorney General Fair Practices Division proposes modified language for disconnection of telemarketers who are using telephone service deceptively. The ACLU and Public Counsel raised constitutional concerns about the abusive calls proposal, and the ACLU commented that the Commission should not adopt a telemarketing rule that does not provide for reasonable pre-disconnection notice and hearing. Staff recommends that the Commission not adopt the abusive calls proposal. After reviewing the modified telemarketer language proposed by Fair Practices, staff believes that the procedure proposed is already available under existing rules, and therefore recommends that the existing rule be left as it is and the proposed change not be adopted.

The LECs object to staff's proposed medical emergency language. The companies contend that the rule is unnecessary and that the language is burdensome on the customer, medical professionals and the companies. They contend that it results in a regulatory burden similar to that addressed in the Governor's June 1994 Executive order. Staff does not believe the proposal is burdensome because the bulk of the rule is optional to the companies. The rule sets minimum timeframes and maximum payment amounts that the company may demand, but beyond these requirements the company may use part or all the remaining guidelines or disregard them outright.

WAC 480-120-101 Complaints and disputes.

Any complaint or dispute involving a ((utility)) telecommunications company and a subscriber shall be treated in the following manner:

((a)) (1) Each complaint or dispute received by a ((utility)) telecommunications company shall be investigated promptly as required by the particular case, and the result reported to the applicant or subscriber. When circumstances indicate the need for corrective action, such action shall be taken as soon as possible.

(2) Each ((utility)) telecommunications company shall ensure that personnel engaged in initial contact with a dissatisfied or complaining applicant or subscriber shall inform the applicant or subscriber that if dissatisfied with the decision or the explanation that is provided, the applicant or subscriber has the right to have that problem considered and acted upon by supervisory personnel. The applicant or subscriber shall be provided with the name or department of such supervisory personnel and a telephone number by which they may be reached.

(3) Each ((utility)) telecommunications company shall ensure that supervisory personnel contacted by a dissatisfied applicant or subscriber shall inform a still-dissatisfied applicant or subscriber of the availability of the commission for further review of any complaint or dispute. The toll-free telephone number and address of the commission shall also be provided.

(4) All parties to a dispute between an applicant or subscriber and the ((utility)) telecommunications company shall have the right to bring before the commission an informal complaint pursuant to the provisions of WAC ((480-08-040)) 480-09-150 and/or a formal complaint pursuant to the provisions of WAC ((480-08-050)) 480-09-420.

(5) When a complaint is referred to a ((utility)) telecommunications company by the commission, the utility shall, within 2 working days, report results of any investigation made regarding the complaint to the commission and shall keep the commission currently informed as to progress made with respect to the solution of, and final disposition of, the complaint. If warranted in a particular case, a utility may request an extension of time.

(6) Records - each utility shall keep a record of all complaints concerning the utility's service or rates. The record shall show at least the name and address of the complainant, the nature and date of the complaint, action taken, and the final disposition of the complaint. Such records shall be maintained in a suitable place readily available for commission review.

All written complaints made to a utility shall be acknowledged. Correspondence and records of complaints shall be retained by the utility for a minimum period of one year.

(7) Each telecommunications company shall ensure that it has personnel available during regular work days to address customer complaints or inquiries and to respond to commission staff. Regular work days mean Monday - Friday, excluding official state holidays.

Discussion: The LECs and Lewis River oppose the proposed new subsection (7). Lewis River comments the proposed rule unnecessarily dictates relationships between service providers and its customers, and also indicates a degree of arrogance in the way staff interacts with the telecommunications companies. The LECs comment that the language was generated as a result of one occasion when the Consumer Affairs staff was unable to reach its regulatory contact.

Staff recommends that the Commission adopt the proposed subsection. Staff does not believe that it is unreasonable to expect that a company's customer be able to reach them during regular business hours, nor do we believe it is unreasonable for the company to have contacts available for commission contact.

WAC 480-120-138 Pay telephones--Local and intrastate.

Every telecommunications company operating an exchange within the state of Washington may allow pay telephones to be connected to the company's network for purposes of interconnection and use of registered devices for local and intrastate communications. Every such telecommunications company offering such service shall file tariffs with the commission setting rates and conditions applicable to the connection of pay telephones to the local and intrastate network under the following terms and conditions. Local exchange companies that do not have a public access line tariff on file with the commission shall not be subject to these rules.

For purposes of these rules "pay telephone" is defined as equipment connected to the telephone network in one of the following modes:

(a) Coin operated: A telephone capable of receiving nickels, dimes, and quarters to complete telephone calls. Credit card or other operator-assisted billing may be used from a coin-operated instrument.

(b) Coinless: A pay telephone where completion of calls, except emergency calls, must be billed by an alternative billing method such as credit card, calling cards, collect, third-party billing, or billed in connection with the billing of meals, goods, and/or services. These pay phones include, but are not limited to, charge-a-call, cordless, tabletop, and credit card stations. The term does not include in-room telephones provided by hotels, motels, hospitals, campuses or similar facilities for the use of guests or residents.

For purposes of these rules, the term "subscriber" is defined as a party requesting or using a public access line for the purpose of connecting a pay telephone to the telephone network.

(1) Pay telephones connected to the company network must comply with Part 68 of the Federal Communications Commission rules and regulations and the National Electric Code and National Electric Safety Code as they existed on January 1, 1991, and must be registered with the Federal Communications Commission, or installed behind a coupling device which has been registered with the Federal Communications Commission.

(2) All pay telephones shall provide dial tone first to assure emergency access to operators without the use of a coin.

(3) The caller must be able to access the operator and 911 where available without the use of a coin.

(4) The charge for each directory assistance call paid by the consumer shall not exceed the prevailing per call charge for comparable directory assistance. In the absence of persuasive contrary evidence, the charge of U S WEST Communications for intraLATA directory assistance or AT&T for interLATA directory assistance shall be accepted as the prevailing charge. A location surcharge is not permitted.

(5) Emergency numbers (e.g., operator assistance and 911) must be clearly posted on each pay telephone.

(6) Information consisting of the name, address, telephone number of the owner, or the name of the owner and a toll-free telephone number where a caller can obtain assistance in the event the pay telephone malfunctions in any way, and procedures for obtaining a refund from the subscriber must be displayed on the front of the pay telephone.

The following information shall also be posted on or adjacent to the telephone instrument:

(a) The method by which the consumer may obtain without charge an accurate quotation of rates, fees and surcharges; and

(b) The notices required by WAC 480-120-141(4).

In no case will the charges to the user exceed the quoted costs.

(7) The telephone number of the pay telephone must be displayed on each instrument.

(8) The subscriber shall ensure that the pay telephone is compatible for use with hearing aids and its installation complies with all applicable federal, state, and local laws and regulations concerning the use of telephones by disabled persons.

(9) The pay telephone, if coin operated, must return the coins to the caller in the case of an incomplete call and must be capable of receiving nickels, dimes, and quarters. Local exchange company pay telephones shall not be subject to the requirements of this subsection.

(10) All pay telephones must provide access to all interexchange carriers where such access is available. If requested by the subscriber, the local exchange company providing the public access line shall supply, where available, (a)

restriction((+)) which prevents fraud by selective blocking of 10XXX 1+ codes and (b) call screening to identify the line as one to which charges may not be billed, at appropriate tariffed rates.

(11) Except for service provided to hospitals, libraries, or similar public facilities in which a telephone ring might cause undue disturbance, or upon written request of a law enforcement agency, coin-operated pay telephones must provide two-way service, and there shall be no charge imposed by the subscriber for incoming calls. This subsection will not apply to pay telephones arranged for one-way service and in service on May 1, 1990. Should an existing one-way service be disconnected, change telephone number, or change financial responsibility, the requirements of this subsection shall apply. All pay telephones confined to one-way service shall be clearly marked on the front of the instrument.

(12) Pay telephones shall be connected only to public access lines in accordance with the approved tariffs offered by the local exchange company. Local exchange company pay telephones are not subject to this requirement.

(13) A subscriber must order a separate pay telephone access line for each pay telephone installed. Extension telephones may be connected to a pay telephone access line when the instrument:

(a) Prevents origination of calls from the extension station; and

(b) Prevents third party access to transmission from either the extension or the pay telephone instrument.

Local exchange companies are exempted from (b) of this subsection.

(14) Credit card operated pay telephones shall clearly identify all credit cards that will be accepted.

(15) Involuntary changes in telephone numbers upon conversion of pay telephones from local exchange company-owned to privately-owned pay telephones are prohibited.

(16) No fee shall be charged for nonpublished numbers on a public access line.

(17) Cordless and tabletop pay telephones shall not be connected to the telephone network except under the following conditions:

(a) The bill for usage is tendered to the user before leaving the premises where the bill was incurred or alternatively billed at the customer's request; and

(b) The user is notified verbally or on the instrument that privacy on cordless and tabletop telephones is not guaranteed; and

(c) When other electrical devices are equipped with filters, as necessary, to prevent interference with the pay telephone.

(18) Violations of the tariff, commission rules pertaining to pay telephone service, or other requirements contained in these rules, including interexchange carrier access requirements, will subject the pay telephone to disconnection of service (~~if the deficiency is not corrected within five days from date of~~

written notification to the subscriber)) as follows. When the local exchange company becomes aware of a violation, prior to disconnection of service, it shall immediately send written notification to the subscriber outlining all deficiencies. If any deficiency is not corrected within five days from the date of written notification to the subscriber, the local exchange company shall discontinue service. Prior to effecting the disconnection of service, the local exchange company shall make two bona fide attempts to reach the subscriber by telephone to advise the subscriber of the impending disconnection. WAC 480-120-081 ((4)(g)) shall not apply to such disconnections. The local exchange company shall ensure that any costs associated with the field visits ((shall be charged to the subscriber if the charge is required by a pertinent local exchange company tariff)) for public access lines services be recovered from the subscriber of the public access line service in question.

It shall be the responsibility of every local exchange company to assure that any subscriber taking service pursuant to these rules and to tariffs filed pursuant to these rules meets all of the terms and conditions contained within these rules and the tariffs so filed. It shall be the duty of the local exchange company to enforce the terms and conditions contained herein.

It shall be the responsibility of the local exchange company to provide free of charge one current telephone directory each year for each public access line. It shall be the responsibility of the subscriber to make a reasonable effort to assure a current directory is available at every pay telephone location.

Public access lines will be charged at rates according to the relevant tariff as approved by the commission.

(19) Disconnection of, or refusal to connect, a pay telephone for violation of these rules may be reviewed by the commission in a formal complaint under WAC 480-09-420(5) through an adjudicative or a brief adjudicative proceeding under the provisions of chapters 34.05 RCW and 480-09 WAC.

Discussion: The LECs comment that the existing rule causes them anti-trust concerns. They are uncomfortable disconnecting potential competitors. They propose deletion of the rule, or a modification providing that a LEC shall discontinue service upon notice from the commission. The companies raised the same arguments at the time this WAC was originally proposed, and the commission adopted the existing rule after hearing the arguments. The changes currently proposed are simply clarifications of the existing rule and would not create any new anti-trust concerns. Staff recommends that the commission adopt the proposed language.

WAC 480-120-141 Alternate operator services.

All telecommunications companies providing alternate operator services (AOS), as defined in WAC 480-120-021, shall comply with this and all other rules relating to telecommunications companies not specifically waived by order of the commission.

(1) Each alternate operator services company shall file with the commission at least every six months a current list of operator services customers which it serves and the locations and telephone numbers to which such service is provided to each customer. A customer list provided pursuant to this rule is proprietary information and, if identified when filed as required in WAC 480-09-015, is subject to the protections of that rule.

(2) Each AOS company is responsible for assuring that each of its customers complies fully with contract and tariff provisions which are specified in this rule. Failure to secure compliance constitutes a violation by the AOS company.

(a) The AOS company shall withhold on a location-by-location basis the payment of compensation, including commissions, from a call aggregator, if the AOS company reasonably believes that the call aggregator is blocking access to interexchange carriers in violation of these rules.

(b) Violations of tariff, contract or other statements of conditions of service, in commission rules pertaining to AOS company service, or of other requirements contained in these rules, including interexchange carrier access requirements, will subject an aggregator to termination of alternate operator services ~~((if the deficiency is not corrected within five days from date of written notification to the aggregator))~~ as follows. When the AOS becomes aware of a violation, prior to disconnection of service, it shall immediately send written notification to the aggregator outlining all deficiencies. If any deficiency is not corrected within five days from the date of written notification to the aggregator, the AOS shall terminate service. Prior to effecting the termination of service, the AOS company shall make two bona fide attempts to reach the subscriber by telephone to advise the subscriber of the impending termination. WAC 480-120-081 ~~((4)(g))~~ shall not apply to such terminations.

(c) AOS company actions in furtherance of this rule may be reviewed by the commission in a formal complaint under WAC 480-09-420 through an adjudicative or a brief adjudicative proceeding under the provisions of chapters 34.05 RCW and 480-09 WAC.

(d) An AOS company shall refuse to provide operator services to a call aggregator who the commission has found to have knowingly and repeatedly violated commission rules regarding the provision of alternate operator service until the commission has found that the call aggregator will comply with relevant law and rule.

(3) For purposes of this section, "consumer" means the party initiating and/or paying for an interexchange or local call. "Customer" means the call aggregator, i.e., the hotel, motel, hospital, prison, campus, pay telephone, etc., contracting with an AOS for service.

(4) An alternate operator services company shall require, as a part of any contract with its customer and as a term and condition of service stated in its tariff, that the customer:

(a) Post on the telephone instrument in plain view of anyone using the telephone, in eight point or larger Stymie Bold type, the information provided in the following notice:

SERVICE ON THIS INSTRUMENT MAY BE PROVIDED AT RATES THAT ARE HIGHER THAN NORMAL. YOU HAVE THE RIGHT TO CONTACT THE OPERATOR FOR INFORMATION REGARDING CHARGES BEFORE PLACING YOUR CALL. INSTRUCTIONS FOR REACHING YOUR PREFERRED CARRIER ARE ALSO AVAILABLE FROM THE OPERATOR.

(b) Post and maintain in legible condition on or near the telephone:

(i) The name, address, and without-charge number of the alternate operator services company, as registered with the commission;

(ii) Dialing directions so that a consumer may reach the AOS operator without charge to receive specific rate information; and

(iii) Directions to allow the consumer to reach the consumer's preferred carrier and to make it clear that the consumer has access to the other providers.

(c) Provide access from every instrument to 1-800 services and all available interexchange carriers; and

(d) Shall post, on or near the instrument, a notice stating whether a location surcharge or any other fee is imposed for telecommunications access through the instrument, the amount of any fee or location surcharge, and the circumstances when it will apply.

(e) Posting under these rules shall begin no later than October 1, 1991, and shall be completed no later than January 31, 1992. In the interim, posting in compliance with the immediate prior posting provisions of WAC 480-120-141 is required and shall constitute compliance with this rule.

(5) The alternate operator services company shall:

(a) Identify the AOS company providing the service audibly and distinctly at the beginning of every call, and again before the call is connected, including an announcement to the called party on calls placed collect.

(i) For purposes of this rule the beginning of the call is no later than immediately following the prompt to enter billing information on automated calls and, on live and automated operator calls, when the call is initially routed to the operator.

(ii) The message used by the AOS company shall state the name of the company as registered with the commission whenever referring to the AOS company. Terms such as "company," "communications," "incorporated," "of the northwest," etc., when not necessary to clear consumer identification of the entity providing service may be omitted when authorized by letter from the secretary of the commission.

(iii) The consumer shall be permitted to terminate the telephone ((~~elal~~{eall})) call at no charge before the call is connected.

(iv) The AOS company shall immediately, upon request, and at no charge to the consumer, disclose to the consumer:

(A) A quote of the rates or charges for the call, including any surcharge;

(B) The method by which the rates or charges will be collected; and

(C) The methods by which complaints about the rates, charges, or collection practices will be resolved.

(b) Provide to the local exchange company such information as may be necessary for billing purposes, as well as an address and toll free telephone number for consumer inquiries.

(c) Reoriginate calls to another carrier upon request and without charge, when equipment is in place which will accomplish reorigination with screening and allow billing from the point of origin of the call. If reorigination is not available, the AOS company shall give dialing instructions for the consumer's preferred carrier.

(d) Assure that a minimum of ninety percent of all calls shall be answered by the operator within ten seconds from the time the call reaches the carrier's switch.

(e) Maintain adequate facilities in all locations so the overall blockage rate for lack of facilities, including as pertinent the facilities for access to consumers' preferred interexchange carriers, does not exceed one percent in the time consistent busy hour. Should excessive blockage occur, it shall be the responsibility of the AOS company to determine what caused the blockage and take immediate steps to correct the problem. This subsection does not apply to blockage during unusually heavy traffic, such as national emergency, local disaster, holidays, etc.

(6) The alternate operator services company shall assure that persons are not billed for calls which are not completed. For billing purposes, calls shall be itemized, identified, and rated from the point of origination to the point of termination. No call shall be transferred to another carrier by an AOS which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.

(7) For purposes of emergency calls, every alternate operator services company shall have the following capabilities:

(a) Automatic identification at the operator's console of the location from which the call is being made;

(b) Automatic identification at the operator's console of the correct telephone numbers of emergency service providers that serve the telephone location, including but not limited to, police, fire, ambulance, and poison control;

(c) Automatic ability at the operator's console of dialing the appropriate emergency service with a single keystroke;

(d) Ability of the operator to stay on the line with the emergency call until the emergency service is dispatched.

No charge shall be imposed on the caller by the telephone company or the alternate operator services company for the emergency call.

If the alternate operator services company does not possess these capabilities, all calls in which the consumer dials zero (0) and no other digits within five seconds shall be routed directly to the local exchange company operator, or to an entity fully capable of complying with these requirements. AOS companies lacking sufficient facilities to provide such routing shall cease operations until such time as the requirements of this section are met.

(8) Complaints and disputes shall be treated in accordance with WAC 480-120-101, Complaints and disputes.

(9) Charges billed to a credit card company (e.g., American Express or Visa) need not conform to the call detail requirements of this section. However, the AOS shall provide specific call detail in accordance with WAC 480-120-106 upon request.

(10) "Public convenience and advantage"; surcharges; variable rates.

(a) For services, public convenience and advantage means at a minimum that the provider of alternate operator services offers operator services which equal or exceed the industry standards in availability, technical quality and response time and which equal or exceed industry standards in variety or which are particularly adapted to meet unique needs of a market segment. In the absence of other persuasive evidence, a demonstration that operator service equals or exceeds that provided by US WEST Communications for intraLATA services or AT&T for interLATA services will be accepted as demonstrating public convenience and advantage.

(b) Charges no greater than the prevailing charges in the relevant market - intraLATA or interLATA - will be accepted as demonstrating that charges are for the public convenience and advantage. In the absence of persuasive contrary evidence, the charges for US WEST for intraLATA service and AT&T for interLATA service will be accepted as the prevailing charges.

(c) Surcharges; variable rates. No location surcharge may be added to without-charge calls nor to a charge for directory assistance. No tariff may provide for rate levels which, in the option of a call aggregator, provided, that an aggregator may waive application of the surcharge to calls from its instruments, and provided further, that an AOS company may establish a tariff rate for high-cost locations if the conditions for application of the rate confine it to locations with substantially higher than average operating costs.

(11) Rates to the consumer for the provision of alternate operator services, including directory assistance, shall not exceed the prevailing rates for such services in the relevant market - intraLATA or interLATA - unless need for the excess to produce rates which are fair, just and reasonable is demonstrated to the satisfaction of the commission. In the absence of

persuasive contrary evidence, rate levels of US WEST for intraLATA service and AT&T for interLATA service will be considered the prevailing rate.

(12) Fraud prevention.

(a) A company providing interexchange telecommunications service may not bill a call aggregator for charges billed to a line for calls which originated from that line through the use of 10XXX+0; 10XXX+01; 950-XXXX; or 1-800 access codes, or when the call originating from that line otherwise reached an operator position, if the originating line subscribed to outgoing call screening and the call was placed after the effective date of the outgoing call screening order.

(b) A company providing interexchange telecommunications service may not bill to a call aggregator any charges for collect or third number billed calls, if the line serving to which the call was billed was subscribed to incoming call screening and the call was placed after the effective date of the call screening service order.

(c) Any calls billed through the local exchange carrier in violation of subparagraphs (a) or (b) above must be removed from the call aggregator's bill by the local exchange company upon identification. If investigation by the local exchange company determines that the pertinent call screening was operational when the call was made, the local exchange company may return the charges for the call to the interexchange telecommunications company as not billable.

(d) Any call billed directly by an alternate operator service company, or through a billing method other than the local exchange company, which is billed in violation of subparagraphs (a) and (b), above, must be removed from the call aggregator's bill. The telecommunications company providing the service may request an investigation by the local exchange company. If the local exchange company, after investigation, determines that call screening which would have protected the call, which is offered by the LEC and was subscribed to by the call aggregator, was not operational at the time the call was placed, the AOS company shall bill the LEC for the call.

Discussion: No comments were received.

