



enjoined the “split-regime” rules previously adopted by the WUTC which contained a form of opt-in. Verizon v. Showalter. 282 F.Supp2nd 1187 (W.D. Wash 2003). Public Counsel recommends that the Commission pursue further rulemaking to consider whether a broader opt-in approach could be adopted that would meet the objections raised to the prior approach.

In the alternative, Public Counsel recommends that the Commission conduct further rulemaking to, at a minimum, adopt Washington rules consistent with the current FCC rules. This would provide a basis for better enforcement in Washington of existing protections. In addition, it is important that such a rulemaking also consider improvements, clarifications and refinements, consistent with the FCC rules and WUTC authority, to address such issues as proper form and content of opt-out notices, and restrictions on sharing private information with entities such as third parties, joint venture partners, marketing partners, wholesale customers, and corporate affiliates.

**B. Record of third-party verifications in anti-slamming rule (WAC 480-120-147)**

Public Counsel supports inclusion of a requirement in this rule that companies record the date of the third-party verification.

**C. Application of the out-of-service credit provision (WAC 480-120-164)**

Public Counsel believes that the pro-rata credits provided for in this rule should not be limited to instances where the customer contacts the company to report an out-of-service condition. The rule as adopted plainly does not require such action, and the burden should not be placed on the customer to contact the company to report an outage in order to receive a credit.

**D. Application of WTAP “fresh start” rule to former customers (WAC 480-120-174)**

Public Counsel believes that the payment plan provided in this rule should be available to any WTAP or Tribal Lifeline eligible customer at any time. It should not be limited to a specific

time period immediately after service is disconnected. The rule as adopted does not restrict the

availability of this payment plan to a limited time period after disconnection. We are not aware of any reasonable policy argument to support such an interpretation.

**E. Requirement to offer WTAP service (WAC 480-122-020)**

Public Counsel does not yet have a recommendation regarding whether this rule should be modified to remove the requirement that any local exchange company with more than 100 residential customers offer WTAP service to eligible low-income applicants. As the rulemaking record is further developed, and more information regarding the need and impact of such a change is available, stakeholders will be in a better position to make informed recommendations on this issue.

**III. CONCLUSION**

These comments represent Public Counsel's initial comments in this docket. We look forward to working with Commission Staff and stakeholders during the entirety of this rulemaking.