

I certify under penalty of perjury under the laws of the State of Washington that on August 1, 2000, I served a copy of this document on all counsel of record in the manner shown at the addresses listed on the attached Service List.

ORIGINAL

RECEIVED

Signed: Theresa A. Smith 00 AUG -1 PM 3:17

00 AUG -1 PM 2:25

HON. J. KATHLEEN LEARNED

KING COUNTY SUPERIOR COURT CLERK SEATTLE, WA.

KING COUNTY SUPERIOR COURT CLERK SEATTLE, WA.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

SANDY JUDD, TARA HERIVEL and ZURAYA WRIGHT, for themselves, and on behalf of all similarly situated persons,

NO. 00-2-17565-5 SEA

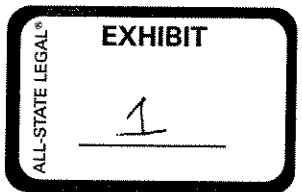
Plaintiffs,

FIRST AMENDED COMPLAINT - CLASS ACTION

v.

AMERICAN TELEPHONE AND TELEGRAPH COMPANY; GTE NORTHWEST INC.; CENTURYTEL TELEPHONE UTILITIES, INC.; NORTHWEST TELECOMMUNICATIONS, INC., d/b/a PTI COMMUNICATIONS, INC.; U.S. WEST COMMUNICATIONS, INC.; T-NETIX, INC.,

Defendants.



I. PARTIES, JURISDICTION AND VENUE

1. Plaintiff Sandy Judd is a resident of Snohomish County, Washington. She has received and paid for intrastate long-distance collect calls from Washington State prison inmates.

2. Plaintiff Tara Herivel is a resident of King County, Washington. She has received and continues to receive and pay for intrastate long-distance collect calls from Washington State prison inmates.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

3. Plaintiff Zuraya Wright is a resident of Lake Worth, Florida. She received and paid for interstate long-distance collect calls from a Washington State prison inmate before rate disclosure was first offered to her in November of 1999.

4. Jurisdiction is appropriate in this court because the defendants do business in the state of Washington, and because the amount in controversy exceeds \$300.00. Venue is proper because the non-resident defendants have been served in King County, Washington.

## II. NATURE OF CASE

5. Since at least 1992, the Washington State Department of Corrections has contracted with private "operator service providers," also known as "alternate operator services companies," to provide "0+" operator services on the payphones used by prison inmates incarcerated in the State of Washington. Prison inmates are required to use the "0+" operator service provider assigned by contract to the prison from which the call is placed, and may place only collect calls.

6. Since at least 1988, telecommunications companies acting as or contracting with operator service providers have been required by state law to assure appropriate disclosure of rates charged to consumers for services provided while connecting both intrastate and interstate long-distance telephone calls. However, the defendants, all telecommunications companies and operator service providers, have failed to assure appropriate disclosure of rates to the plaintiffs and others similarly situated, and continue to fail to do so for intrastate long-distance telephone calls. The defendants have provided disclosure of rates for at least some interstate calls from Washington prison inmates only since November of 1999.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

### III. CLASS ACTION ALLEGATIONS

7. *Definition of Class.* The class consists of all individuals who have received or will receive one or more long-distance intrastate or interstate collect calls from one or more Washington State prison inmates since June 20, 1996, except for those individuals who have received only interstate collect calls from Washington State prison inmates after November of 1999, and to whom timely disclosure of rates was offered.

8. *Class Representatives.* Named plaintiff Sandy Judd has received and paid for intrastate long-distance collect calls from Washington State prison inmates. Named plaintiff Tara Herivel has received and continues to receive and pay for intrastate long-distance collect calls from Washington State prison inmates. Named plaintiff Zuraya Wright received and paid for interstate collect calls from a Washington State prison inmate between June 20, 1996 and November of 1999.

9. *Size of Class.* There are approximately 14,000 prison inmates currently incarcerated in the State of Washington. Inmate are generally allowed access to prison payphones during daytime hours. Every person who is or has been called by any incarcerated person since July 20, 1996 is a potential class member, including family, friends, attorneys and news organizations. The class is expected to number in the tens or hundreds of thousands and is so large that joinder of all members is impracticable.

10. *Common Questions of Law and Fact.* This action requires a determination of whether the defendants have assured appropriate rate disclosure to the class member recipients of inmate-initiated intrastate and interstate long-distance collect telephone calls as required by RCW §80.36.520 and RCW §80.36.530.

1  
2 11. *Defendants Have Acted On Grounds Generally Applicable to the*  
3 *Class.* The defendants complete inmate-initiated collect telephone calls to call  
4 recipients, and have consistently failed to make proper disclosures. The defendants  
5 have acted on grounds generally applicable to the class. Certification is therefore  
6 proper under CR 23(b)(2).

7 12. *Questions of Law and Fact Common to the Class Predominate*  
8 *Over Individual Issues.* The claims of many individual class members are too small to  
9 justify filing and prosecuting the claims separately. Thus, any interest that individual  
10 members of the class may have in individually controlling the prosecution of separate  
11 actions is outweighed by the efficiency of the class action mechanism. This action can  
12 be most efficiently prosecuted as a class action in King County Superior Court, where  
13 the defendants do business. Issues as to the defendants' conduct towards members of  
14 the class predominate over questions, if any, unique to members of the class.  
15 Certification is therefore additionally proper under CR 23(b)(3).

16 13. *Class Counsel.* Plaintiffs have retained experienced and  
17 competent class counsel.

#### 18 IV. FACTUAL BACKGROUND

19 14. The defendants are telecommunications companies. On March 16,  
20 1992, all of the defendants except for T-Netix, Inc. contracted with the Washington  
21 Department of Corrections to provide operator services for inmate payphones. The  
22 parties have extended this contract through four amendments. The fourth  
23 amendment, which went into effect in March of 1999, adds T-Netix, Inc. as an operator  
24 service provider at some facilities.

25 15. Throughout the Class period, family members, attorneys and  
26 other persons have been unable to speak to Washington State prison inmates by

1 telephone, except as recipients of operator-assisted collect calls. Recipients are billed  
2 for these calls by the operator service provider assigned by contract to the prison from  
3 which the call originates.

4 16. Rates for intrastate long-distance collect calls are not made  
5 available to recipients over the phone prior to the receipt of an inmate-initiated call,  
6 nor are recipients given a separate number to call in order to learn the rates charged.

7 17. Rates for at least some interstate calls have been made available  
8 over the phone starting sometime in November of 1999. Prior to that time, recipients  
9 of inmate-initiated interstate calls could not access rates prior to receipt of the call, and  
10 also were not provided with any information on how to obtain the applicable rates.

11 **V. CLAIMS FOR RELIEF**

12 **FIRST CLAIM—VIOLATION OF THE WASHINGTON CONSUMER**  
13 **PROTECTION ACT, RCW 19.86 et seq.**

14 18. Plaintiffs re-allege paragraphs 1 through 16, above.

15 19. The defendants' repeated violations of RCW §80.36.520 constitute  
16 per se violations of the Washington Consumer Protection Act, RCW §19.86 et seq.,  
17 pursuant to RCW §80.36.530. The defendants have engaged in, and continue to  
18 engage in, unfair or deceptive acts or practices in trade or commerce in violation of the  
19 Washington State Consumer Protection Act. Such conduct affects the public interest,  
20 and has caused injury to the named plaintiffs and the plaintiffs' class.

21 20. Plaintiffs and the plaintiff class are entitled to damages as defined  
22 in RCW §80.36.530, and treble damages under RCW §19.86.090, along with costs of  
23 suit and attorney fees.

24 **SECOND CLAIM—INJUNCTIVE RELIEF**

25 21. Plaintiffs re-allege paragraphs 1 through 19, above.

26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

22. Plaintiffs and the plaintiff class are entitled to an injunction under RCW §19.86.090, under the common law, and under any other applicable laws, to enjoin further violations of RCW §80.36.520.

**VI. DEMAND FOR RELIEF**

WHEREFORE, plaintiffs request that this Court:

1. Enter judgment in favor of plaintiffs and the plaintiff class for damages in an amount to be proven at trial due to the defendants' failure to assure appropriate disclosure of rates charged under RCW §80.36 et seq. and RCW §19.86 et seq., including presumed damages under RCW §80.36.530 for each violation, and treble damages up to \$10,000 to each class member for each violation;

2. Enter judgment in favor of plaintiffs and the plaintiff class, and against the defendants, enjoining the defendants from further violations of RCW §80.36.520;

3. Award plaintiffs and the plaintiff class their attorney fees; and

4. Award such other relief as is just and proper.

DATED: August 1, 2000.

SIRIANNI & YOUTZ



Chris R. Youtz (WSBA #7786)  
Jonathan P. Meier (WSBA #19991)  
Marie E. Gryphon (WSBA #29242)  
Attorneys for Plaintiffs

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

RECEIVED  
JUDGES MAIL ROOM

2000 AUG 25 PM 4:27

KING COUNTY  
SUPERIOR COURT

IN THE SUPERIOR COURT OF WASHINGTON  
FOR KING COUNTY

HONORABLE J. KATHLEEN LEARNED

RECEIVED  
DEPT. 19

AUG 28 2000

JUDGE  
J. KATHLEEN LEARNED

SANDY JUDD, TARA HERIVEL and  
ZURAYA WRIGHT, for themselves, and on  
behalf of all similarly situated persons,

Plaintiffs,

v.

AMERICAN TELEPHONE AND  
TELEGRAPH COMPANY; GTE  
NORTHWEST INC.; CENTURYTEL  
TELEPHONE UTILITIES, INC.;  
NORTHWEST TELECOMMUNICATIONS,  
INC., d/b/a PTI COMMUNICATIONS, INC.;  
U.S. WEST COMMUNICATIONS, INC.; T-  
NETLX, INC.,

Defendants.

Case No.: 00-2-17565-5 SEA

~~PROPOSED~~ ORDER GRANTING AT&T  
CORP.'S MOTION TO DISMISS

FILED

KING COUNTY, WASHINGTON

NOV 09 2000

SUPERIOR COURT CLERK  
BY VICTOR A. DIGORNIA  
DEPUTY

ALL-STATE LEGAL®  
EXHIBIT  
2

THIS MATTER came on for hearing before the Court on October 6, 2000. Having heard  
argument of counsel and having considered the written submissions of the parties and all other  
documents on file in this matter, NOW THEREFORE:

IT IS ORDERED, ADJUDGED AND DECREED that Plaintiffs' First Amended Complaint is  
~~hereby dismissed without prejudice for failure to state a claim. Plaintiffs shall have \_\_\_ days from the  
date of entry of this Order to file an amended complaint.~~

Furthermore, Plaintiffs' claims against Defendant AT&T Corp. ("AT&T") for damages  
premised on nondisclosure of interstate long distance rates are hereby dismissed with prejudice under  
the filed tariff doctrine.

[PROPOSED] ORDER GRANTING AT&T CORP.'S MOTION TO  
DISMISS - 1

01000-006 \ 30564.doc

Page 407

ORIGINAL

Page 407  
STOKES LA  
815 FIFTH AVENUE, SUITE 4000  
SEATTLE, WASHINGTON 98104-3170  
(206) 626-4400

1 Furthermore, Plaintiffs' claims against AT&T premised on nondisclosure of intrastate long  
2 distance rates ~~are hereby dismissed without prejudice and~~ are referred to the Washington Utilities and  
3 Transportation Commission under the primary jurisdiction doctrine for resolution in the first instance,  
4 *of whether or not they are considered by the agency to be an*

DATED this 5<sup>th</sup> day of November, 2000.

*DSP under the contracts at issue herein, and if so of the regulations have been violated. CPA, class & damage issues are stayed pending WUTC action.*

*J. Kathleen Learned*  
THE HONORABLE J. KATHLEEN LEARNED  
KING COUNTY SUPERIOR COURT JUDGE

8 Presented by:

9 STOKES LAWRENCE, P.S.

11 By:

*Kelly Twiss Noonan*  
Kelly Twiss Noonan (WSBA #19096)

Laura J. Buckland (WSBA #16141)

13 Attorneys for Defendant AT&T Corp.



| Component   | Zone I           | Zone II |
|---|------------------|---------|
| Opaque Envelope   |                  |         |
| Minimum Nominal R Value                                   |                  |         |
| Roof/Ceilings   | R-30             | R-30    |
| Exterior Walls  | R-11             | R-11    |
| Floors over   |                  |         |
| Unconditioned Space                                       | R-11             | R-11    |
| Below Grade Walls <sup>1</sup>                            | R-4              | R-5     |
| Slab on Grade Floors <sup>2</sup>                         | <del>(R-8)</del> | R-10    |
|   | <u>R-7</u>       |         |
| Glazing   |                  |         |
| Type  | Double           | Double  |
| Maximum Total Area<br>(Percent of Gross<br>Exterior Wall) |                  |         |
|   | 32%              | 22%     |

shall be water-resistant material manufactured for this



**WSR 89-04-044**  
**ADOPTED RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Order R-293, Docket No. L-88-1882-R—Filed January 31, 1989]

In the matter of amending WAC 480-120-021, 480-120-041 and 480-120-106; and adopting WAC 480-120-141 relating to alternate operator services.

This action is taken pursuant to Notice No. WSR 88-23-043 filed with the code reviser on November 10, 1988. The rule change hereinafter adopted shall take effect pursuant to RCW 34.04.040(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and chapter 91, Laws of 1988, and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 88-23-043 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, January 18, 1989, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to December 23, 1988, and orally at 9:00 a.m., Wednesday, January 18, 1989, in the commission's hearing room above noted. At the January 18, 1989, meeting the commission considered the rule change proposal. Written

comments were received from American Operator Services, Inc., d/b/a National Telephone Services, Inc.; AT&T Communications of the Pacific Northwest, Inc. (AT&T); GTE Northwest, Inc. (GTE); International Telecharge, Inc. (ITI); Military Communications Center, Inc.; Payline Systems, Inc.; US West Communications, and Whidbey Island Telephone Company. Oral comments were presented by Mr. Robert Snyder on behalf of Whidbey Island Telephone Company, Ms. Greichen Hoover for International Telecharge, Inc., Mr. Carrington Phillip for the Public Counsel Division of the Office of the Attorney General, Mr. Dean Randall for GTE Northwest, Mr. Laddie Taylor for AT&T, Mr. Robert Saucier for International Pacific, Mr. Mike Moran for US West Communications, Mr. Jamie Bryant for National Telephone Services, Inc., and Mr. Roger Pease for Payline Systems, Inc.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-120-021, 480-120-041 and 480-120-106 should be amended; and WAC 480-120-141 should be adopted to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-120-021, 480-120-041 and 480-120-106 as amended; and WAC 480-120-141 as adopted will assure appropriate disclosure to consumers of the rates, fees, and charges for services provided by alternative operator service companies, as contemplated by chapter 91, Laws of 1988.

**ORDER**

WHEREFORE, IT IS ORDERED That WAC 480-120-021, 480-120-041, 480-120-106 and 480-120-141 as set forth in Appendix A, be amended and adopted as rules of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.04.040(2).

IT IS FURTHER ORDERED That the order and the annexed rules, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

DATED at Olympia, Washington, this 31st day of January, 1989.

Washington Utilities and Transportation Commission  
 Sharon L. Nelson, Chairman  
 Richard D. Casad, Commissioner  
 A. J. Pardini, Commissioner

**APPENDIX "A"**

AMENDATORY SECTION (Amending Order R-250, Cause No. U-85-58, filed 5/12/86, effective 7/31/86)

WAC 480-120-021 GLOSSARY. Alternate operator services company - any corporation, company, partnership, or person providing a connection to intrastate or interstate long-distance or to local services from places including but not limited to, hotels, motels, hospitals, campuses, and customer-owned pay telephones. Alternate operator services companies are those with which a hotel, motel, hospital, campus, or customer-owned pay

telephone, etc., contracts to provide operator services to its clientele.

Applicant - any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., applying to the utility for new service or reconnection of discontinued service.

Automatic dialing-announcing device - any automatic terminal equipment which incorporates the following features:

(1)(a) Storage capability of numbers to be called; or

(b) A random or sequential number generator that produces numbers to be called; and

(c) An ability to dial a call; and

(2) Has the capability, working alone or in conjunction with other equipment, of disseminating a prerecorded message to the number called.

Base rate area or primary rate area - the area or areas within an exchange area wherein mileage charges for primary exchange service do not apply.

Central office - a switching unit in a telephone system having the necessary equipment and operating arrangements for terminating and interconnecting subscribers' lines, farmer lines, toll lines and interoffice trunks. (More than one central office may be located in the same building or in the same exchange.)

Commission - the Washington utilities and transportation commission.

Competitive telecommunications company - a telecommunications company which is classified as such by the commission pursuant to RCW 80.36.320.

Competitive telecommunications service - a service which is classified as such by the commission pursuant to RCW 80.36.330.

Customer - user not classified as a subscriber.

Exchange - a unit established by a utility for communication service in a specific geographic area, which unit usually embraces a city, town or community and its environs. It usually consists of one or more central offices together with the associated plant used in furnishing communication service to the general public within that area.

Exchange area - the specific area served by, or purported to be served by an exchange.

Farmer line - outside plant telephone facilities owned and maintained by a subscriber or group of subscribers, which line is connected with the facilities of a telecommunications company for switching service. (Connection is usually made at the base rate area boundary.)

Farmer station - a telephone instrument installed and in use on a farmer line.

Interexchange telecommunications company - a telecommunications company, or division thereof, that does not provide basic local service.

Outside plant - the telephone equipment and facilities installed on, along, or under streets, alleys, highways, or on private rights-of-way between the central office and subscribers' locations or between central offices.

Station - a telephone instrument installed for the use of a subscriber to provide toll and exchange service.

Subscriber - any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., supplied with service by any utility.

Toll station - a telephone instrument connected for toll service only and to which message telephone toll rates apply for each call made therefrom.

Utility - any corporation, company, association, joint stock association, partnership, person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, operating or managing any telephone plant within the state of Washington for the purpose of furnishing telephone service to the public for hire and subject to the jurisdiction of the commission.

AMENDATORY SECTION (Amending Order K-142 Cause No. U-85-56, filed 11/7/85)

WAC 480-120-041 AVAILABILITY OF INFORMATION. Each utility shall make known to applicants for service and to its subscribers such information as is needed to assist in obtaining adequate and efficient service.

Information relative to the rates, and rules and regulations (filed tariffs and/or price lists) of the telecommunications company shall be made available to the public upon request and at any of its listed business offices. In addition, each telecommunications company shall publish in its directory a consumer information guide which details the rights and responsibilities of a utility customer. Such guide shall describe processes for establishing credit and determining the need and amount for deposits, the procedure whereby a bill becomes delinquent, the steps which must be taken by the utility to disconnect service, and the right of the customer to pursue any dispute with the utility first by procedures within the utility and then to the commission by formal or informal complaint.

A copy of these rules (chapter 480-120 WAC) shall also be kept on file in each of the utility's listed business offices and made available to its subscribers or their representatives upon request.

AMENDATORY SECTION (Amending Order R-233, Cause No. U-85-35, filed 8/23/85)

WAC 480-120-106 FORM OF BILLS. Bills to subscribers shall be rendered regularly and clearly list all charges. Each bill shall indicate the date it becomes delinquent and notice of means by which a subscriber can contact the nearest business office of the utility.

The portion of a bill rendered by the local exchange company on behalf of itself and other companies shall clearly specify the provider of the service or its authorized billing agent, and a toll free telephone number the consumer can call to question that portion of the bill and, if appropriate, receive credit. Consumers requesting an address where they can write to question that portion of the bill shall be provided that information.

A local exchange company shall not provide billing and collection services for telecommunications service to any company not properly registered to provide service within the state of Washington, except to a billing agent that certifies to the local exchange carrier that it will submit charges only on behalf of properly registered companies.

All bills for telephone service shall identify and set out separately any access or other charges imposed by order of or at the direction of the Federal Communications Commission. In addition, all bills for telephone service within jurisdictions where taxes are applicable will clearly delineate the amount, or the percentage rate at which said tax is computed, which represents municipal occupation, business and excise taxes that have been levied by a municipality against said utility, the effect of which is passed on as a part of the charge for telephone service.

Subscribers requesting by telephone, letter or office visit an itemized statement of all charges shall be furnished same. An itemized statement is meant to include separately, the total for exchange service, mileage charges, taxes, credits, miscellaneous or special services and toll charges, the latter showing at least date, place called and charge for each call. In itemizing the charges of information providers, the utility shall furnish the name, address, telephone number and toll free number, if any, of such providers. Any additional itemization shall be at a filed tariff charge.

Upon a showing of good cause, a subscriber may request to be allowed to pay by a certain date which is not the normally designated payment date. Good cause shall include, but not be limited to, adjustment of the payment schedule to parallel receipt of income. A utility may be exempted from this adjustment requirement by the commission.

#### NEW SECTION

**WAC 480-120-141 ALTERNATE OPERATOR SERVICES.** All telecommunications companies providing alternate operator services shall conform to this and all other rules relating to telecommunications companies not specifically waived by order of the commission. Alternate operator services companies (AOS) are those with which a hotel, motel, hospital, prison, campus, customer-owned pay telephone, etc., contracts to provide operator services to its clientele.

For purposes of this section the "consumer" means the party billed for the completion of an interstate/intrastate or local call. "Customer" means the hotel, motel, hospital, prison, campus, customer-owned pay telephone, etc., contracting with an AOS for service.

(1) An alternate operator services company shall require, as a part of the contract with its customer, that the customer:

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

SERVICES 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 DIALING THROUGH THE LOCAL TELEPHONE COMPANY ARE ALSO AVAILABLE FROM THE OPERATOR

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

(i) The name of the alternate operator services company, as registered with the commission.

(ii) Dialing directions so that a consumer may reach the AOS operator so as to receive specific rate information; and

(iii) Dialing directions to allow the consumer to dial through the local telephone company and to make it clear that the consumer has access to the other providers.

(2) The alternate operator services company shall:

(a) Identify the AOS company providing the service or its authorized billing agent at the beginning of every call, including those handled automatically; and

(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.

(3) The alternate operator services company shall assure that consumers 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.

(4) 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 from 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 caller 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.

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

(6) 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 consumers with specific call detail in accordance with WAC 480-120-106 upon request.

Date of Intended Adoption: July 26, 1991.

June 17, 1991  
 David H. Rodgers  
 Chief Deputy  
 Insurance Commissioner

AMENDATORY SECTION (Amending Order R 88-4, filed 3/25/88)

WAC 284-91-025 PLAN OF OPERATION APPROVED. Pursuant to RCW 48.41.040(4) and after public hearing, the commissioner has determined that the Plan of Operation, as set forth in WAC 281-91-027, provides a sound basis for the fair, reasonable and equitable administration of the pool and provides for the sharing of pool losses on an equitable, proportionate basis among the members of the pool. It is ((hereby)) approved. PROVIDED HOWEVER, That if the plan of operation of the pool or any policy issued by the pool contains any condition or provision that does not conform to the requirements of chapter 48.41 RCW or this chapter, the plan of operation or any policy issued by the pool shall be construed and applied in accordance with such conditions and provisions as would have applied had the plan of operation or policy issued by the pool been in full compliance with chapter 48.41 RCW and this chapter.

NEW SECTION

WAC 284-91-050 INVOLUNTARY TERMINATIONS FOR OTHER THAN NONPAYMENT OF PREMIUMS. (1) For purposes of RCW 48.41.100, coverage under prior health insurance shall be deemed to have been involuntarily terminated for a reason other than nonpayment of premium, except where the insured person voluntarily ceased paying required premiums while otherwise eligible to continue such prior coverage. Therefore, as an example, loss of eligibility for group health insurance because of voluntary termination of employment by a person covered by an employer's group health insurance policy will not be deemed voluntary termination of the prior insurance coverage.

(2) For purposes of RCW 48.41.140(3), coverage under any prior health insurance will be deemed to have been involuntarily terminated for a reason other than nonpayment of premium, if the premium required to continue coverage under such insurance exceeds by one-third or more the premium required to cover the individual under the pool's one hundred dollar deductible plan.

~~WSR 91-13-077  
 PERMANENT RULES  
 UTILITIES AND TRANSPORTATION  
 COMMISSION~~

[Order R-346, Docket No. TV-900716—Filed June 18, 1991, 12:02 p.m.]

In the matter of amending WAC 480-12-003 relating to motor freight carriers.

This action is taken pursuant to Notice No. WSR 91-10-081 filed with the code reviser on April 30, 1991. The rule change hereinafter adopted shall take effect pursuant to RCW 34.05.380(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement that statute.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 91-10-081 the above matter was scheduled for consideration at 9:00 a.m.,

Wednesday, June 5, 1991, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to May 28, 1991, and orally at 9:00 a.m., Wednesday, June 5, 1991, in the commission's hearing room above noted. At the June 5, 1991, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-12-003 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-12-003 will now reflect the proper reference to the rules pertaining to practice and procedure before the commission.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-12-003 as set forth in Appendix A, be amended as a rule of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.05.380(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 17th day of June, 1991.

Washington Utilities and Transportation Commission  
 Sharon L. Nelson, Chairman  
 Richard D. Casad, Commissioner  
 A. J. Pardini, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-24, filed 4/16/71)

WAC 480-12-003 PROCEDURE. Except as otherwise provided in this chapter, the commission's rules relating to procedure, chapter ((480-08)) 480-09 WAC shall govern the administrative practice and procedure in and before the commission in proceedings involving motor freight carriers.

WSR 91-13-078  
 PERMANENT RULES  
 UTILITIES AND TRANSPORTATION  
 COMMISSION

[Order R-345, Docket No. UT-900726—Filed June 18, 1991, 12:05 p.m.]

In the matter of amending WAC 480-120-021, 480-120-106, 480-120-138, and 480-120-141 and adopting

LL-STATE LEGAL®  
**EXHIBIT**  
 4

WAC 480-120-143 relating to telecommunications companies.

This action is taken pursuant to Notice No. WSR 91-03-122 filed with the code reviser on January 23, 1991. The rule change hereinafter adopted shall take effect pursuant to RCW 34.05.380(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and chapter 80.36 RCW and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 91-03-122 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, May 1, 1991, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to March 6, 1991, with reply comments due on March 27, 1991, and orally at 9:00 a.m., Wednesday, May 1, 1991, in the commission's hearing room above noted. At the May 1, 1991, meeting, on the record, the commission continued the matter to the May 8, 1991, weekly meeting at the same time and place.

At the May 8, 1991, meeting, the commission considered the rule change proposal, and took oral comment. Decisions regarding adoption of the amendments were made, and the matter was continued on the record to the May 15, 1991, weekly meeting for final adoption.

Written comments have been received from various persons in this docket, under the above notice and under prior notices, including: U.S. Long Distance, Bettye Horn, Joan Addington, Intellical, Inc., ITI, Eric Torrison, GTE Northwest, Inc., MCI Telecommunications Corp., U.S. West Communications, Public Counsel, International Pacific, National Technical Associates, Operator Assistance Network, Zero Plus Dialing, Inc., Northwest Payphone Association, Fone America, AT&T Communications of the Pacific Northwest, Inc., David Fluharty, United Telephone Co., Bruce Bennett, F.G. Hazeltine, M.D., Lisa Bergman, Douglas Syring, Elaine Britt, James H. Culler, Dean S. Johnson, William J. Clancy, Warren Bover, Jim Lazar, The Friedrich Group, Public Communications of America, Inc., The Park Lane Motel & R.V. Park, Norwest Marketing, James R. Redfield, Holiday Inn, Crowne Plaza-Seattle, Holiday Lodge-Wenatchee, Anacortes Inn, The Evergreen Inn-Leavenworth, Tower Inn-Richland, The Westin Hotel, Northwest Lodging, Inc., Travelers Inns, Washington State Hotel & Motel Association, The Inn at Friday Harbor, The Westwater Inn, Sheraton-Seattle, The Inn at Virginia Mason, Guenther Management Company, The Salish Lodge, Holiday Inn-Bellevue, A.M. Vendettuoli, Patricia's Enterprise, Sheraton-Tacoma,

Mt. Rainier Guest Services, Semi-ah-moo, Comfort Inn at Sea-Tac, Robin Bloomgarden, Hyatt Regency-Bellevue, Washington Independent Telephone Association, Public Communications of America, Sheraton-Spokane, Four Seasons, Integretel, Inc., Whidbey Telephone Co., Telesphere Limited, Inc., Central Telephone, CSI Pay Telephone Investors, Raymond Ruhlen, and Robert P. Dick.

Oral comments were also received from various persons in this docket, at the May 8 and May 15 meetings, as well as at meetings under prior notices in this docket. Oral comments have been received in this docket from: Dean Randall, GTE-NW; Ray Ohrme, Paytel NW; Doug Owens, Paytel NW and CSI; Mark Hargenbrite, Fone America; Bill Eagles and Jim McAllum, AT&T; Robert Snyder, Whidbey Telephone; Clyde MacIver, NW Payphone & MCI; Jim Wright, International Pacific; Arthur Butler, TRACER; Michael Dohen, Fone America; William Garling, Public Counsel; Kay Godfrey, Steven Kennedy, TRACER; Cliff Webster, Washington State Hotel & Motel Association; Tom Kent, Red Lion; David Thompson, Westin Hotels; Jack Doyle, Pacific Telecom; Mike Miran, U.S. West; Jim Lazar; James Cadu; George Vinyl, Telesphere, Inc.; Reid Preston, Telecall, Inc.; Richard Finnigan, Terry Vann, WITA; Glenn Harris, United Telephone; and Jim Ray, International Pacific.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-120-021, 480-120-106, 480-120-138, and 480-120-141 should be amended and WAC 480-120-143 should be adopted to read as set forth in Appendix A shown below and by this reference made a part hereof. These rules, as amended and adopted, establish requirements for alternative operator services companies and connection of pay telephones to the network of exchange telecommunications companies.

Some changes were made between the text of the amendments issued pursuant to Notice No. WSR 91-03-122 and the text finally adopted by the commission. Pursuant to RCW 34.05.340(3) these changes are explained as follows:

Changes from noticed draft: Definitions: The definition of operator services is changed to more closely reflect federal definitions, and to emphasize that the alternative operator services, AOS, rules apply only to operator services, as defined. WAC 480-120-021.

Commission as a sum paid to an aggregator or location owner is defined to distinguish from the WUTC. Id.

Location surcharge and operator service charge are defined as separate elements to distinguish them from other charges and to exclude per-call fees assessed and collected directly by aggregators. Id.

Person is defined for clarity. Id.

Local exchange telephone companies LECs, are removed from the definition of alternate operator services company, consistent with the draft initially noticed in this docket. LECs may still be considered aggregators under the terms of the rule, if their conduct meets that definition. Unlike LECs, AOS companies can be seen as entering and existing markets at will. AOS companies were the subject of specific legislative enactment. AOS

companies often charge higher rates than LECs, leading to consumer complaints. Consumers often expect that they are using their LEC when they use a pay phone; requirements that apply to non-LEC companies to inform the consumer that it is not the LEC are reasonable. Id.

Changes from noticed draft: Form of Bills: The local exchange company, LEC, must provide a copy of a billing agent's customer list to the commission only when a carrier is added to or deleted from the list in order to reduce unnecessary administrative effort. WAC 480-120-106.

Pay phone rule changes from noticed draft: Coinless pay telephones are defined to exclude in-room phones provided by hotels, hospitals, campuses and similar facilities for use of guests or residents. Jurisdictional issues were presented which are resolved by this exclusion. WAC 480-120-138(b).

For directory assistance, pay phones may charge the prevailing rate for comparable directory services. The intent is that a pay phone may, when pertinent, charge the consumer the prevailing charges for credit card use and for intraLATA or interLATA directory assistance calls. A location surcharge is not permitted on directory assistance calls. WAC 480-120-138(4).

Requirements for posting information to consumers are changed; instead of specifying in the rule the mechanics for securing rate information, the rule now allows the aggregator to post its preferred method for obtaining without-charge information regarding all charges including fees, so that the consumer will be able to be informed about the charges it will pay. This allows flexibility for an aggregator to use the method compatible with its system. Id.

A provision which would have limited charges for local calls and for access to 1-800 numbers and preferred interexchange carriers to twenty-five cents was deleted in light of federal/state jurisdictional issues; the unsettled nature of comparable provisions in federal regulation; and possible adverse economic effect. Id.

Concerns were expressed regarding fraud resulting from the use of 10XXX dialing codes to reach an interexchange carrier. Selective blocking is increasingly available from local exchange companies to allow calls to go through an operator, but to block direct-dialed calls which could be billed to the aggregator rather than the consumer. That sort of selective blocking will reduce fraudulent billing to the pay phone while allowing access to the consumer's preferred carrier. Outgoing and incoming call screening are features which provide information to operators that billing should not be made to the screened line. WAC 480-120-130(10) requires the local exchange company to provide these selective blocking and screening services upon request when the technology to provide them is available in the central office serving the requesting line. The change from the noticed draft is to describe and makes specific reference to the different services. WAC 480-120-138(10). WAC 480-120-141(12) provides for allocation of risk of loss when fraud occurs despite subscription to call screening.

Local exchange company field visits to pay phone locations shall be charged pursuant to tariff when a tariff

applies. This acknowledges and restates the general rule that tariffed rates must be charged for services provided. WAC 480-120-138(18).

References to adjudications are clarified to note that a range of adjudicative process is available to deal with complaints pursuant to pertinent administrative rules and law. WAC 480-120-138(19).

Changes from noticed draft: AOS rule: Prison service waivers can be accomplished on a case-by-case basis, so no express provision is required. WAC 480-120-141.

The list of operator service customers of each AOS is to be filed. The rule is changed to acknowledge that the list is proprietary, to protect confidential information, when the AOS complies with pertinent existing rules for identifying proprietary information. WAC 480-120-141(1).

The rule is clarified to state that AOS companies are required to secure compliance with their tariff provisions, as are other public service companies. Specific procedures to reduce disputes are identified for clarity. Existing pertinent commission adjudicative procedures are identified for completeness. To aid enforcement, when the commission has found that a customer/aggregator has knowingly and repeatedly violated commission AOS rules, it is to be refused AOS service until the commission finds the customer/aggregator will comply. Withholding of compensation is also required, consistent with federal requirements, on a location-by-location basis. WAC 480-120-141(2).

The consumer may be either, or both, the person initiating a call through an AOS company or the person paying for that call. The change is made to assure the availability of pertinent information and protections to the persons who may need them. WAC 480-120-141(3).

New posting requirements may be implemented later than initially proposed for practical considerations. Current posting rules must be complied with until then, for transition purposes. It is not feasible to require different notices for locations whose presubscribed AOS carrier exceeds prevailing rates and those which do not. WAC 480-120-141(4).

Notice to consumers of rates must include notice of the existence, nature and amount of location surcharges and other fees to better inform consumers. This provision is moved from noticed subsection 10(c). Id.

Proposed provisions to limit location charges to tariffed surcharge rates and to restrict local call, 1-800 and interexchange carrier access were deleted because of likely adverse economic effect on small business and because of potential interjurisdictional issues noted above. Id.

Audible notice, or branding, is required no later than, rather than "at" the beginning of the call, to allow compliance by reasonable notices either before or after the signal to enter billing information. WAC 480-120-141(5).

The branding message must use the carrier's name as registered with the commission, although the proposal is modified to allow the commission to grant a waiver to abbreviate or omit portions of the registered name if the full term is not necessary for clear consumer identification of the service provider. Id.

The proposed requirement to use specific branding language was deleted in light of difficulties in distinguishing between intrastate and interstate calls and because carriers demonstrated varying ways to provide adequate consumer notice of the carrier's identity. *Id.*

AOS carriers must maintain adequate facilities for a blockage rate not exceeding one percent in the time consistent busy hour, rather than a given busy hour, consistent with industry standards. If the AOS carrier provides facilities for access to consumers' preferred carriers, those facilities must also meet the stated adequacy standard. *Id.*

Location surcharges are allowed in AOS company tariffs, and can be waived by aggregators or may be established at a higher level for locations with demonstrably higher costs. This will help mitigate multi-tiered surcharges which may be discriminatory and confusing and may lead to unjustly high rates; will allow flexibility in pricing; and will avoid the need to spread the support of high-cost locations. WAC 480-120-141(10).

The section headings are changed to refer to variable rates and surcharges, the present subject of subsection (c). *Id.*

Clarification is added that the relevant rates for consideration are those which consumers are charged and that the relevant market means interLATA or intraLATA. *Id.*

The proposed cap upon location charges, fees or surcharges exceeding twenty-five cents for any call, above tariffed rates, was deleted because of potential adverse economic effect. The posting requirement related to such charges was moved to subsection (4) of this rule for proximity to other posting requirements, for clarity.

Departure from prevailing rates can be supported by an AOS. Such a demonstration can include evidence from aggregators about the economic necessity for location surcharges. This will assist AOS companies to support the economic need for charges paid to their customers. *Id.*

Subsection (12) is added in order to allocate risk of loss from fraud on toll traffic when loss from fraud occurs even through the local exchange company offers and an aggregator subscribes to call screening.

Local service to aggregators: A new section is added which requires LEC tariffs to provide that all aggregators who offer local calls on a per-call basis must provide without-charge access to 911, where available, and to the local exchange company operator. The requirement was noticed in WAC 480-120-141 (4)(c) as a condition required through AOS providers, but refers to a local services and is more appropriately associated with the provision of local exchange service. The requirement will assure that there is no impediment to dealing swiftly with emergency conditions affecting health or safety. WAC 480-120-143.

#### ORDER

WHEREFORE, IT IS ORDERED That WAC 480-120-021, 480-120-106, 480-120-138, and 480-120-141 as set forth in Appendix A, be amended and adopted as rules of the Washington Utilities and Transportation

Commission to take effect pursuant to RCW 34.05.380(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 17th day of June, 1991.

Washington Utilities and Transportation Commission  
Sharon L. Nelson, Chairman  
Richard D. Casad, Commissioner  
A. J. Pardini, Commissioner

#### APPENDIX "A"

AMENDATORY SECTION (Amending Order filed 1/31/89)

WAC 480-120-021 GLOSSARY. Alternate operator services company - any corporation, company, partnership, or person other than a local exchange company providing a connection to intrastate or interstate long-distance or to local services from ((places including but not limited to, hotels, motels, hospitals, campuses, and customer-owned pay telephones. Alternate operator services companies are those with which a hotel, motel, hospital, campus, or customer-owned pay telephone, etc., contracts to provide operator services to its client)) locations of call aggregators. The term "operator services" in this rule means any intrastate telecommunications service provided to a call aggregator location that includes as a component any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an intrastate telephone call through a method other than (1) automatic completion with billing to the telephone from which the call originated, or (2) completion through an access code use by the consumer with billing to an account previously established by the consumer with the carrier.

Applicant - any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., applying to the utility for new service or reconnection of discontinued service.

Automatic dialing-announcing device - any automatic terminal equipment which incorporates the following features:

- (1)(a) Storage capability of numbers to be called; or
- (b) A random or sequential number generator that produces numbers to be called; and
- (c) An ability to dial a call; and
- (2) Has the capability, working alone or in conjunction with other equipment, of disseminating a prerecorded message to the number called.

Billing agent - A person such as a clearing house which facilitates billing and collection between a carrier and an entity such as a local exchange company which presents the bill to and collects from the consumer.

Base rate area or primary rate area - the area or areas within an exchange area wherein mileage charges for primary exchange service do not apply.



Call aggregator – a person who, in the ordinary course of its operations, makes telephones available for intrastate service to the public or to users of its premises, including but not limited to hotels, motels, hospitals, campuses, and pay telephones.

Central office – switching unit in a telephone system having the necessary equipment and operating arrangements for terminating and interconnecting subscribers' lines, farmer lines, toll lines and interoffice trunks. (More than one central office may be located in the same building or in the same exchange.)

Commission (agency) – in a context meaning a state agency, the Washington utilities and transportation commission.

Commission (financial) – in a context referring to compensation for telecommunications services, a payment from an AOS company to an aggregator based on the dollar volume of business, usually expressed as a percentage of tariffed message toll charges.

Competitive telecommunications company – a telecommunications company which is classified as such by the commission pursuant to RCW 80.36.320.

Competitive telecommunications service – a service which is classified as such by the commission pursuant to RCW 80.36.330.

((Customer)) Consumer – user not classified as a subscriber.

Exchange – a unit established by a utility for communication service in a specific geographic area, which unit usually embraces a city, town or community and its environs. It usually consists of one or more central offices together with the associated plant used in furnishing communication service to the general public within that area.

Exchange area – the specific area served by, or purported to be served by an exchange.

Farmer line – outside plant telephone facilities owned and maintained by a subscriber or group of subscribers, which line is connected with the facilities of a telecommunications company for switching service. (Connection is usually made at the base rate area boundary.)

Farmer station – a telephone instrument installed and in use on a farmer line.

Interexchange telecommunications company – a telecommunications company, or division thereof, that does not provide basic local service.

Location surcharge – a flat, per-call charge assessed by an alternate operator services company on behalf of a call aggregator in addition to message toll charges, local call charges, and operator service charges. A location surcharge is remitted, in whole or in part, to the call aggregator-customer.

Operator service charge – a charge, in addition to the message toll charge or local call charge, assessed for use of a calling card, a credit card or for automated or live operator service in completing a call.

Outside plant – the telephone equipment and facilities installed on, along, or under streets, alleys, highways, or on private rights-of-way between the central office and subscribers' locations or between central offices.

Person – unless the context indicates otherwise, any natural person or an entity such as a corporation, partnership, municipal corporation, agency, or association.

Station – a telephone instrument installed for the use of a subscriber to provide toll and exchange service.

Subscriber – any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., supplied with service by any utility.

Toll station – a telephone instrument connected for toll service only and to which message telephone toll rates apply for each call made therefrom.

Utility – any corporation, company, association, joint stock association, partnership, person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, operating or managing any telephone plant within the state of Washington for the purpose of furnishing telephone service to the public for hire and subject to the jurisdiction of the commission.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

#### AMENDATORY SECTION (Amending Order R-293, filed 1/31/89)

WAC 480-120-106 FORM OF BILLS. Bills to subscribers shall be rendered regularly and shall clearly list all charges. Each bill shall indicate the date it becomes delinquent and notice of means by which a subscriber can contact the nearest business office of the utility.

The portion of a bill rendered by the local exchange company on behalf of itself and other companies shall clearly specify the alternate operator service company's billing agent and, where feasible, within ninety days after the effective date of this rule, the provider of the alternate operator service ((or its authorized billing agent;)) and a toll free telephone number the consumer can call to question that portion of the bill and, if appropriate, receive credit. A number may be used on this portion of the bill only if it connects the subscriber with a firm which has full authority to investigate and, if appropriate, to adjust disputed calls including a means to verify that the rates charged are correct. Consumers requesting an address where they can write to question that portion of the bill shall be provided that information.

A local exchange company shall not provide billing and collection services for telecommunications service to any company not properly registered to provide service within the state of Washington, except to a billing agent that certifies to the local exchange carrier that it will submit charges only on behalf of properly registered companies. As a part of this certification the local exchange company shall require that the billing agent provide to it a current list of each telecommunications company for which it bills showing the name (as registered with the commission) and address. This list shall be updated and provided to the local exchange company as changes occur. The local exchange company shall in turn, upon receiving it, provide a copy of this list to the



commission for its review whenever a carrier is added or deleted.

All bills for telephone service shall identify and set out separately any access or other charges imposed by order of or at the direction of the Federal Communications Commission. In addition, all bills for telephone service within jurisdictions where taxes are applicable will clearly delineate the amount, or the percentage rate at which said tax is computed, which represents municipal occupation, business and excise taxes that have been levied by a municipality against said utility, the effect of which is passed on as a part of the charge for telephone service.

Subscribers requesting by telephone, letter or office visit an itemized statement of all charges shall be furnished same. An itemized statement is meant to include separately, the total for exchange service, mileage charges, taxes, credits, miscellaneous or special services and toll charges, the latter showing at least date, place called and charge for each call. In itemizing the charges of information providers, the utility shall furnish the name, address, telephone number and toll free number, if any, of such providers. Any additional itemization shall be at a filed tariff charge.

Upon a showing of good cause, a subscriber may request to be allowed to pay by a certain date which is not the normally designated payment date. Good cause shall include, but not be limited to, adjustment of the payment schedule to parallel receipt of income. A utility may be exempted from this adjustment requirement by the commission.

AMENDATORY SECTION (Amending Order R-316, filed 3/23/90)

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 ~~((current))~~ 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.

~~((The subscriber shall pay the local directory assistance charge currently in effect for each pay telephone and may charge the user for directory assistance calls.))~~ The charge for each directory assistance call paid by the ~~((user))~~ consumer shall not exceed the ~~((current))~~ prevailing per call charge ~~((paid by the subscriber))~~ 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) "An accurate quotation of all rates and surcharges is available to the user by dialing 0 and requesting costs" 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 ~~((be capable of providing))~~ 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 where available, which prevents fraud to the 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 ~~((of))~~ or the ((coin-operated)) 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. WAC 480-120-081 (4)(g) shall not apply to such disconnections. Local exchange company field visits shall be charged to the subscriber if the charge is required by a pertinent local exchange company tariff.

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.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects, not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order R-293 filed 1/31/89)

WAC 480-120-141 ALTERNATE OPERATOR SERVICES. All telecommunications companies providing alternate operator services (AOS), as defined in WAC 480-120-021, shall ((conform to)) comply with this and all other rules relating to telecommunications companies not specifically waived by order of the commission. ((Alternate operator services companies (AOS) are those with which a hotel, motel, hospital, prison, campus, customer-owned pay telephone, etc., contracts to provide operator services to its clientele.))

(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. 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 ((the)), "consumer" means the party ((billed for the completion of)) initiating and/or paying for an ((interstate/intrastate)) interexchange or local call. "Customer" means the call aggregator, i.e., the hotel, motel, hospital, prison, campus, ((customer-owned)) pay telephone, etc., contracting with an AOS for service.

((++)) (4) An alternate operator services company shall require, as a part of ((the)) 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 Sty-mie 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 ((DIALING THROUGH THE LOCAL TELEPHONE COMPANY)) 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 ((so as)) without charge to receive specific rate information; and

(iii) Dialing d Directions to allow the consumer to ((dial through the local telephone company)) 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 ((or its authorized billing agent)) audibly and distinctly at the beginning of every call, and again before the call is connected, including ((those handled automatically, and)) 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 telephone 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 heaving traffic, such as national emergency, local disaster, holidays, etc.

((3)) (6) The alternate operator services company shall assure that ((consumers)) 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.

((4)) (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 ((from)) 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 ((caller)) 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.

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

((6)) (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 ((consumers with)) 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 U S 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 operator service 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 U S 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 vary at 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 U S 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; 95-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.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

WAC 480-120-143 LOCAL SERVICE TO AGGREGATORS. The local exchange company's tariff shall provide that every aggregator offering local calls on a per-call basis must provide without-charge access to 911, where available, and to the local exchange company operator.

### WSR 91-13-079

#### PERMANENT RULES

#### DEPARTMENT OF ECOLOGY

[Order 90-62—Filed June 18, 1991, 1:40 p.m., effective September 18, 1991]

Date of Adoption: June 18, 1991.

Purpose: Regulate the discharge of toxic pollutants from new pollution sources and certain existing sources in order to prevent air pollution, reduce emissions to the extend reasonably possible and maintain such levels of air quality as will protect human health and safety.

Statutory Authority for Adoption: RCW 70.94.331.

Pursuant to notice filed as WSR 91-01-083 on December 18, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 173-460-010 Purpose.

Subsection (1) was revised to clarify that ecology will use the lists in WAC 173-460-150 and 173-460-160 to define toxic air pollutant. This change was made to insure consistency with the definition of toxic air pollutant.

WAC 173-460-020 Definition.

"Acceptable source impact level (ASIL)" was revised to clarify that the rule does not apply to restricted or controlled areas. This change was made in response to public comment requesting clarification.

"Reasonably available control technology for toxics (T-RACT)" was added. This technology category was added for two reasons. Changes to the Washington Clean Air Act restrict applicability of new source review and T-BACT to pollutant increases. Public comments recommended that T-BACT apply only to sources increasing toxic pollutants.

WAC 173-460-030 Requirements, applicability, and exemptions.

Subsection (1) was deleted. This change was made in response to comment that it was duplicative and inconsistent with requirements in WAC 173-460-040.

Subsection (3)(a) relabeled subsection (2)(a) and was modified by deleting all text after the word "devices." This change was made in response to public comment that the section was confusing and incorrect grammar.

Subsection (3)(e) was added to exempt "process vents subject to 40 CFR Parts 264 and 265, Subpart A.A." This was added in response to comment that regulation of these vents is duplicative with federal rule.

WAC 173-460-040 New source review.

Subsection (1), the explanation of notice of construction in subsection (1)(a) was moved to this section for clarity.

Subsection (1)(a), this subsection was rewritten to clarify. The phrase "unless conditions in subsections (c) and (d) of this subsection apply to the new source" was deleted and a second sentence used to explain when notification and notice of construction are not required. The term "application" was added to clarify that all new toxic sources must provide information to the authority. This change is made because of change of applicability of new source review to toxic increases, only. An application will be used to evaluate pollutant changes as increases or decreases.

Subsection (c) was deleted because the notice of construction requirements were consolidated in subsection (1)(a). A new requirement becomes subsection (c). This limits new source review of modifications and "the air contaminants whose emissions may increase as a result of the modification." This change is made for consistency with change made to the Washington Clean Air Act and because of public comment requesting that new source review be limited to toxic pollutant increases.

Subsection (d) was deleted and rewritten as subsection (2)(a)(b)(c). Subsection (2) is the same as subsection (d). Subsection (2)(a) is the same as subsection (d)(i). Subsection (d)(ii) was relabeled subsection (2)(b) and changed by deleting the phrase "does not increase toxic air pollutant emissions significantly." Change was made based on public comment that this phrase was ambiguous in how it related to the small quantity emission tables. Subsection (d)(iii) was relabeled subsection (2)(c) and simplified to relate all minor material changes to the small quantity emission tables. The requirement for demonstrating no overall toxicity increase was dropped. This was changed because of public comment that this section was ambiguous. Subsection (d)(iv) was dropped because it was duplicative with the nonprocess fugitive emission exemption in WAC 173-460-030.

Subsection (2) is relabeled subsection (3).

Subsection (3)(a) is relabeled subsection (4)(a) and changed to add "and authority" after "state." Change is made to clarify that sources must be in accord with applicable local authority rules. Change is made in response to public comment recommending this addition.

Subsection (3)(b) is relabeled subsection (4)(b) and modified by adding "for the toxic air pollutants which are likely to increase." Change is made for consistency with the Washington Clean Air Act and because of

postmark is the date of submission for documents you send by mail. For documents you transmit by other means, the date we receive the document is the date of submission.

**NEW SECTION**

**WAC 296-27-21045** What are the requirements related to movable equipment? (1) For serious, repeat, and willful violations involving movable equipment, you must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment if the violation has not already been abated. You must do this for hand-held equipment immediately after you receive the citation, and you must do this for other equipment before moving it within the worksite or between worksites.

(2) You must use a warning tag that properly warns employees about the nature of the violation involving the equipment and that tells them where the citation is posted. Nonmandatory Appendix A contains a sample tag that you may use to meet this requirement.

(3) For the construction industry, a tag designed and used in accordance with WAC 296-155-300(8) and 296-24-14011 meets the requirements of this section when the information required by subsection (2) of this section is included on the tag.

(4) You must make sure that the tag or copy of the citation attached to movable equipment is not altered, defaced, or covered by other material.

(5) You must make sure that the tag or copy of the citation attached to movable equipment remains attached until:

- You have abated the violation and you have submitted all abatement verification documents required by this regulation to us;
- You have permanently removed the cited equipment from service;
- You no longer have control over the cited equipment; or
- A final order vacates the violation.

**NEW SECTION**

**WAC 296-27-21050** Appendix A (Nonmandatory). What can a warning tag for movable equipment involved in serious, repeat, or willful violations look like? You may use a warning tag similar to the sample shown below. You must make sure the warning tag meets the requirements of and is used in accordance with the requirements of WAC 296-27-21045.



○

**WARNING:**

**EQUIPMENT HAZARD**

**CITED BY L & I**

**EQUIPMENT CITED:**

\_\_\_\_\_

\_\_\_\_\_

**HAZARD CITED:**

\_\_\_\_\_

\_\_\_\_\_

**FOR DETAILED INFORMATION**

**SEE L & I CITATION POSTED AT:**

\_\_\_\_\_

\_\_\_\_\_

BACKGROUND COLOR—ORANGE  
MESSAGE COLOR—BLACK

**WSR 99-02-020**  
**PERMANENT RULES**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[General Order No. R-452, Docket No. UT-970301—Filed December 29, 1998, 3:42 p.m.]

In the matter of amending WAC 480-120-021, 480-120-138 and 480-120-141; and repealing WAC 480-120-137, 480-120-142 and 480-120-143, relating to pay phone and operator services providers.

**STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (commission or WUTC) takes this action under Notice No. WSR 98-17-068, filed with the code reviser on August 17, 1998. This commission brings this proceeding pursuant to RCW 80.04.160, 80.36.520, and 80.01.040.

**STATEMENT OF COMPLIANCE:** This proceeding complies with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

**DATE OF ADOPTION:** The commission adopted this rule on October 28, 1998.

PERMANENT



**CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** The proposal requires pay phone service providers and operator service providers to provide a consistent level of service and to meet intrastate standards that are consistent with federal requirements. The rules will also preserve, to the extent possible, continued consumer protections in a largely-deregulated environment by measures including adequate disclosure to consumers at the pay phone itself, at the time of a call. The rules recognize federal mandates lifting economic regulation from pay telephones and operator services. Rule amendments delete provisions that are no longer applicable or are unduly burdensome, maintain a minimum level of service, provide a means to obtain limitations on service when needed for public purposes, impose consumer protections through disclosure at the pay phone, and inform consumers of their rights as pay phone users. The rules also reduce the level of bureaucratic involvement in this business to the minimum consistent with adequate consumer protection. Rules revisions are designed to meet standards set out in Executive Order 97-02.

**REFERENCE TO AFFECTED RULES:** This rule repeals, amends, or suspends the following sections of the Washington Administrative Code:

Amends WAC 480-120-021 Glossary, 480-120-138 Pay telephones—Local and intrastate and 480-120-141 Alternate operator services; and repeals WAC 480-120-137 Customer-owned pay telephones—Interstate, 480-120-142 Alternate operator services—Enforcement, and 480-120-143 Local service to aggregators.

**PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** The commission filed a preproposal statement of inquiry (CR-101) on March 27, 1998, at WSR 97-08-036.

**ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT:** The statement advised interested persons that the commission was considering entering a rule making relating to pay telephones and alternate operator service providers. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), by sending notice to all registered telecommunications companies, and by providing notice to the commission's list of telecommunications attorneys.

Pursuant to the notice, the commission held a workshop on May 5, 1997. The commission on July 3, 1997, wrote interested persons, summarizing the workshop and requesting comments. On September 12, 1997, the commission staff circulated a draft of possible rule changes, based on the discussions and comments, to interested persons, requesting further comments. Commission staff received comments, and prepared and sent a second draft of possible rules to interested persons on April 28, 1998, and requested comments on the possible changes.

Staff convened a meeting of interested persons on June 2, 1998, to discuss the economic impact of this rule making. Representatives from the Northwest Payphone Association, local and long distance telephone companies, and public counsel were invited to attend. Commission staff also circulated a questionnaire to gain more information about the cost impacts of the rule. Five companies responded to the ques-

tionnaire. This information and their participation in the discussion led to the results summarized in the small business economic impact statement.

**NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of proposed rule making (CR-102) on August 17, 1998, at WSR 98-17-068. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 98-17-068 at 9:30 a.m., Wednesday, October 28, 1998, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice also provided interested persons the opportunity to submit written comments to the commission.

**COMMENTERS (WRITTEN COMMENTS):** The commission received written comments from Fullers of Chehalis and Centralia, Jeffrey D. Glick of Seattle, GTE Northwest Inc. (GTE-NW), McDonalds in Vancouver, the Northwest Payphone Association (NWPA), William Paine of Maple Valley, the Public Counsel section of the Washington Attorney General (public counsel), the City of Seattle, Sentury Market in Goldendale, United Telephone Company of the Northwest (Sprint), Teltrust Communications Services, Inc. (Teltrust), US WEST Communications, Inc. (US WEST), the Washington Independent Telephone Association (WITA), and Washington State Representative Philip E. Dyer.

Based on the comments received, commission staff suggested revised language without changing the intent or ultimate effect of the proposed rule.

**RULE-MAKING HEARING:** The rule changes were considered for adoption, pursuant to the notice, at the commission's regularly scheduled open public meeting on October 28, 1998, before Chairwoman Anne Levinson and Commissioner Richard Hemstad. The commission heard oral comments from Suzanne Stillwell, representing commission staff; Brooks Harlow, representing the NWPA; Matt Steuerwalt, representing public counsel; and Theresa Jensen, representing US WEST. Oral commenters repeated concerns that were stated in their previous written comments.

**SUGGESTIONS FOR CHANGE THAT ARE REJECTED:** Although all participants worked diligently to achieve consensus, the participants and commission staff did not reach complete agreement on some topics. A summary of those areas follows.

**1. Jurisdictional issues.** Several commenters assert that the commission does not have jurisdiction over pay phones at all because, they argue, the Telecommunications Act of 1996 removed all regulation from the state. Commenters believe that the proposed rules are inconsistent with federal law and regulation and that the incumbent local exchange companies (LECs) will be disadvantaged in the competitive market. The commission rejects these arguments. While FCC rules ended state regulation of the local coin rate, it left to the states the authority to regulate other aspects of the pay phone industry, especially in the area of consumer protection. The rules are consistent with the intent of Congress and the FCC, and are competitively neutral as it relates to incumbent LECs.

**2. Disclosure at the pay phone.** Commenters argued that the disclosure that the rules require from both the pay phone service provider and operator service provider is unnecessary and costly, that too many numbers must be posted, and that

technical limitations may affect their ability to offer on-demand verbal rate quotes. The commission strongly believes that adequate disclosure at the pay phone site is essential to promote effective competition and to inform and protect users appropriately of pay phone services. The amount of posting will be nearly the same as prior rule language (adding one telephone number while removing other language). Adding the commission's compliance number is a necessary consumer protection measure. The commission will consider requests for waivers of the rules pursuant to WAC 480-120-141 (2)(b) if technical limitations reasonably prevent offering on-demand verbal rate quotes on request.

3. Compensation for incoming calls. Commenters argued that pay phone providers should be allowed to charge customers for calls made to pay phones (incoming calls), and that the rules' prevention of such charges violates federal law. The commission rejects this argument. Federal statute and FCC orders are at most ambiguous about the existence of an obligation to compensate incoming calls, and the commission finds no legal or policy reason to allow such charges.

4. Restrictions on call length. Some pay phone providers (PSPs) and/or location providers want the authority to restrict the length of local calls. These PSPs argue that all customers should have reasonable access to a phone. The rules require that a basic local call be a minimum of fifteen minutes, which will allow persons ample time to conduct business, wait on "hold," or deal with exceptional circumstances. Public counsel urges that there be no restrictions on length of local calls, except to meet needs due to illicit activity. The rule does not require the restriction of calls to fifteen minutes, but offers a balance between customer turnover and individual callers' needs. The requirement does not affect the rate for a local call, which pursuant to federal requirements is not regulated.

Other specific comments that the commission rejected in adopting the rules include the following:

WAC 480-120-138 Pay phone service providers (PSPs)

WAC 480-120-138 (3)(d), required access to telecommunications relay service calls for the hearing impaired. Public counsel urged retaining the broader language of the existing rule, WAC 480-120-138(8), to require that "... installation complies with all applicable federal, state, and local laws and regulations concerning the use of telephones by disabled persons." Although the commission does not support other violations of law, and if it learns of such violations will report them appropriately, it has no jurisdiction to act upon such violations. Other agencies have the responsibility for ensuring compliance with other federal, state and local laws.

WAC 480-120-138 (4)(a), posting of rates. The rule requires that the rate and any call length limitations be clearly and legibly posted on or near the front of the pay phone. Public counsel asks that all placards bear the rate in thirty-point or larger type and contrasting color. Contrasting colors can be an effective means of highlighting the local call charge, as well as larger type, and either one is reasonable.

WAC 480-120-138 (4)(c), notice that no change is provided. GTE argues that it is a commonly known fact that pay phones do not make change and that it needlessly uses space on an already overloaded placard. The commission rejects the argument: virtually all contemporary-technology coin-

operated devices offer change, and there is no technological reason why the telephone instrument cannot be provisioned to do so. GTE can avoid the disclosure requirement by providing instruments that make change.

WAC 480-120-138 (4)(g) and (k), posting requirements. Subsection (4)(g) requires the PSP to post the name, address, and without-charge telephone number of all presubscribed operator service providers serving the instrument, and that the placard be updated within thirty days after a change. GTE argues that the thirty-day requirement will be burdensome in parts of its rural territory. In some areas, the company may only maintain telephones on an "as needed" basis. As to WAC 480-120-138 (4)(k), requiring updated placarding within sixty days after the effective date of a rule change, GTE asks that it be amended to permit change at the time of the next regularly scheduled visit to the pay phone. The commission rejects the suggestion that the time periods be extended. The trade-offs here are between consumer information and PSP convenience and expense. From the time of the change until the correct information is posted, consumers will not have on-site access to accurate information. The commission recognizes that an "immediate change" requirement would impose hardships on PSPs and sizeable expense. The time periods set in the rule appropriately balance the affected interests. PSP information shows that the time periods will allow changes to be made during "routine" site visits in the vast majority of instances. Thirty days is appropriate to change out placards when there has been a change in a presubscribed operator service provider, and sixty days is a reasonable time period to change out placards as a result of this or comparable rule changes.

WAC 480-120-138 (4)(j), commission toll-free number. This subsection requires posting, in contrasting colors, the commission's consumer complaint compliance number, to include a statement that, "If you have a complaint about service from this pay phone and are unable to resolve it with the pay phone owner/operator, please call the WUTC at 1-888-333-WUTC (9882)." NWP, US WEST, and GTE object to printing a Washington-specific placard that puts another number in very limited space. They contend that the public may become confused and fail to follow instructions for routine calls. They fear that this will lead to a costly level of misdirected complaints that should be managed by the PSP. The commission rejects this view. The commission compliance number is necessary to support its compliance efforts and to get information from consumers about pay phone problems.

Public counsel suggests retaining the existing rule language of WAC 480-120-138(14) that requires credit-card operated phones to identify all credit cards accepted. The commission believes that in today's market this is not critical for consumer protection, and the marketplace will address this issue.

WAC 480-120-138 (5)(c), one line per instrument. This subsection requires that a PSP obtain a separate pay phone access line (PAL) for each pay phone instrument. Pay phone providers oppose this, suggesting that it may stifle innovation and prevent PSPs from obtaining the most efficient and cost-effective service. The problem addressed by this rule is assuring that the pay phone is available for service - if a single line serves more than one instrument, the line cannot be



available for both instruments at the same time. The rule was modified in response to this objection and now specifically provides for commission waiver if a company demonstrates that technology accomplishes the same result as the rule's requirement.

WAC 480-120-138 (5)(d) and (e), extension, cordless or tabletop telephones. US WEST argues that the WUTC should not regulate the operational characteristics of extension telephones, cordless, or tabletop telephones because such phones, as customer provided equipment (CPE), are deregulated. We reject this argument. The rule does not regulate CPE. It does not prohibit such equipment, set a rental rate for such equipment, or regulate the dimensions, color, form, or style of the equipment. The rule regulates the services provided to the customer, a matter that remains within the commission's jurisdiction.

WAC 480-120-138 (5)(f), keypad restriction. The rule requires that a pay phone may not restrict the number of digits or letters that may be dialed. US WEST argues that the restriction is inconsistent with marketplace demands, and that whether or not to apply keypad restriction should be a decision between the PSP and location providers. The commission rejects US WEST's arguments. In today's environment, consumers need keypad access after dialing the number to enter billing codes, to retrieve voice messages, use pagers, access bank accounts and credit card accounts, call offices that use automated menus, etc. Keypad restrictions often mean that the cost of a call is wasted and the consumer has no means to conduct her or his activities. Keypad restriction is of little value in preventing professional crime, because portable tone generators are readily available to persons who know they will need them. If location-specific problems call for keypad restrictions, waiver is available under subsection (6) of the rule.

WAC 480-120-138 (5)(g), coin and credit operation. Pay phones may provide credit-only service, or coin and credit service. US WEST again states that it is inconsistent with marketplace demands, and should be a decision between the PSP and location providers to determine type of restrictions. A company may apply for waiver of the rules if necessary.

WAC 480-120-138(6), authorizing restrictions. This provision allows the commission to direct limitations on pay phone service upon request of local governing jurisdictions to support their efforts to prevent or limit criminal or illicit activities. Restrictions may include, but are not limited to, blocking of incoming calls, limiting touch tone capabilities, and imposing coin restriction during certain hours. US WEST argues that this is beyond the commission's jurisdiction and inconsistent with federal law; it argues that PSPs will implement such restrictions appropriately and willingly at the request of local communities, property owners, neighborhood groups, or others at the discretion of the company. The commission rejects the suggestion that such restrictions must be available without commission oversight. The commission has the jurisdiction and the authority to ensure consumer protection and the minimum service and quality standards provided from pay phones. While the commission should not be an impediment to effective local police and

safety regulation, interests of consumers must be a factor in the process.

WAC 480-120-138(7), telephone directories. The PAL provider must furnish without charge one current directory each year and the PSP must ensure that a current directory is available at every pay phone. GTE argues that this is costly and burdensome, and suggested that the PSP need only make "a reasonable effort" to make a current directory available at every pay phone location. We disagree. Providing a directory is a part of pay phone service. Consumers should not be forced to use directory assistance for numbers that are readily available in a local directory.

WAC 480-120-138(8), correcting malfunctions and rule violations. The rule imposes a five-day limit for correcting reported malfunctions or rule violations. US WEST argues that "Malfunction" aspect should be removed because it is beyond the WUTC's jurisdiction since pay phones are deregulated. As noted repeatedly in this order, the commission disagrees sharply with US WEST's limited view of our jurisdiction. Public counsel suggests retaining provisions of the existing WAC 480-120-138(18) that make a LEC responsible to ensure that its PSP customers comply with rules regarding the use of its PAL line. We reject this suggestion; in today's competitive marketplace it is inappropriate to require the LEC to police the activities of a competitor. Each company is independently responsible for compliance with WUTC rules.

WAC 480-120-141 Operator service providers (OSPs)

WAC 480-120-141 (2)(a), posting - rates. Public counsel asks the commission to retain the language from the prior rule that "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..." The commission rejects the request. The adopted disclosures provide needed notice, especially coupled with the opportunity to receive an on-demand verbal rate quote.

GTE, NWP, US WEST expressed the same concerns discussed above in WAC 480-120-138(4) on disclosure requirements for pay phone service providers. The commission notes that disclosure is reasonably required for consumer protection, and resolves these concerns in the same way.

WAC 480-120-141 (2)(b), verbal disclosure of rates. Before an operator-assisted call from an aggregator location may be connected by a presubscribed OSP, the OSP must verbally advise the caller how to receive a rate quote, such as by pressing a specific key or keys, but no more than two keys, or by staying on the line. The rate quoted for the call must include any applicable surcharge, and charges must not exceed the quote.

Teltrust argues that the proposal is premature in light of the FCC's reconsideration of the parallel federal rule, which is subject to change. It argues that the rule is burdensome and expensive and that it threatens to harm OSPs as well as consumers by leading to rate increases. GTE states that it does not have the technology to comply, but that it should be able to do so by late 1999. The NWP does not object to the verbal requirement as long as it is consistent with federal requirements both in substance and in the timing of imple-

mentation. US WEST argues that the WUTC should postpone adoption of rule language concerning this issue until the FCC adopts its final rule, stating that the needed technology is not currently available for US WEST, and will take about fifteen months to implement once a final decision is made to use it. US WEST also argues that the rule generates costs and expenses to the company that they do not face today. Public counsel argues that provisions of existing rules, WAC 480-120-141 (10)(b) and (11) containing limits on OSP rates should be retained.

The commission adopts the FCC's verbal disclosure requirement on an intrastate basis. Staff recognizes that the FCC granted limited waivers and extensions of time to come into compliance to several specific petitioners for automated calls, collect call and inmate services (October 31, 1998, and December 31, 1998, for collect call and inmate services, respectively). Further, the FCC permitted OSPs that use store-and-forward technology, until October 1999, to come into compliance with its rules. The federal rule is stayed only as it applies to interstate intraLATA operator services until sixty days after release of the FCC's reconsideration order.

The verbal rate disclosure option is necessary to better inform consumers, fosters a more competitive environment, and it serves the public interest. Petitioners to the FCC rule have indicated they can use live operators for rate quotes during the interim period. Staff's intent is that the WUTC rules be as consistent with the FCC as local conditions permit. If there are significant changes to the FCC rule resulting from the FCC's review and resulting order, the commission will do an expedited rule making at that time to consider changes needed for consistency. Waivers will be considered during the interim period, consistent with the FCC approach.

WAC 480-120-141 (6)(b), operational capabilities - adequate facilities. This rule requires the OSP to determine cause of excessive blockage and take steps to correct the problem. US WEST argues this is not enforceable, stating that the responsible party is the Interexchange Carrier (IXC), since the IXC is provisioning trunking. The commission believes that the OSP needs to pursue any service problem directly with the IXC or other responsible party to resolve a blocking problem.

WAC 480-120-141 (6)(c), operator service standards. US WEST asks the commission to reject this language as ambiguous and not measurable. The commission believes that the language as stated is a reasonable public expectation and that it is stated with sufficient clarity.

WAC 480-120-141 (6)(d), operational capabilities - reorigination. The rule requires an OSP to reoriginate calls to another carrier upon request and without charge when equipment that will accomplish reorigination with screening and allow billing from the point of origin of the call, is in place. If reorigination is not available, the OSP must give dialing instructions for the consumer's preferred carrier. US WEST asks the commission to eliminate this provision because its operators do not have dialing instructions for customers who wish to reoriginate a call to another carrier. Customers are transferred to directory assistance to learn their preferred carrier's access number. The company argues that OSPs should not have to incur the expense of increased call handling time. The commission notes that this is not new rule language and

that it requires no new technology. The required service is appropriate and should continue to be required.

WAC 480-120-141(9), enforcement. Public counsel asks the WUTC to retain language from WAC 480-120-142, which includes specific RCWs and WACs detailing minimum service levels. The commission rejects the proposal because revised rule incorporates needed references.

**COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission repealed the three rules proposed for repeal and adopted the proposed rule amendments, with the changes described and discussed in this order. Appendix A of this order sets out the rule as adopted.

**CHANGES FROM PROPOSAL:** The commission adopted the proposal with the following changes from the text noticed at WSR 98-17-068. Note that the changes described below are in addition to nonsubstantive grammatical, editorial, and minor clarifying changes.

#### WAC 480-120-021 Glossary

Pay phone services definition was changed to "provision of pay phone equipment to the public for placement of local exchange, interexchange, or operator service calls." This amendment was offered by the NWPA. We adopt it for the reasons advocated in its support.

WAC 480-120-138 Pay phone service providers (PSPs)

WAC 480-120-138 (4)(b) is changed to state that "notice must be posted that directory assistance charges may apply, and to ask the operator for rates," rather than the proposed requirement to state the rate. Public counsel asks that the commission retain a rate cap at dominant carrier's rates. The FCC requirement appears to be clear that PSPs, if charged for directory assistance, may pass those costs on to the consumer/caller. The adopted language is consistent with the intent of the rule and the need for appropriate disclosure from pay phones.

WAC 480-120-138 (5)(h), one way call restriction. Many commenters want the flexibility to deal on their own with the question of whether or not to ban incoming calls. They argue that pay phone owners and location providers should be allowed to restrict phones against incoming calls whenever they choose. The commission believes that, generally, two-way service should be available from pay phones. However, the commission proposed exceptions to this policy to meet concerns that were expressed. Present exceptions allowing restricting incoming calls in libraries and hospitals, where quiet is necessary for the operation of the institution, would continue. The commission proposed a new exception, inside the building of a private business, where the pay phone provider and the location owner may decide whether to restrict against incoming calls. Phones located outside such private business locations, and in or on premises where people have access to public transportation such as airports, bus and train stations, must provide two-way service unless the commission grants a waiver. Adopted language addresses concerns heard in the comments, and it is consistent with the intent of the rule and appropriate consumer protection.

WAC 480-120-138(6) is revised to remove repetitive and unnecessary language, to correctly identify the appropriate subsection for requesting a waiver, and to shorten the

PERMANENT

comment period from thirty to twenty days when there has been a request to restrict a pay phone, as the City of Seattle suggests. It is consistent with the intent of the rule and with appropriate consumer protection.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determined that WAC 480-120-021, 480-120-138, and 480-120-141 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, and WAC 480-120-137, 480-120-142, and 480-120-143 should be repealed, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 3, repealed 3; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

ORDER

THE COMMISSION ORDERS:

1. WAC 480-120-021, 480-120-138, and 480-120-141 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, and WAC 480-120-137, 480-120-142, and 480-120-143 are repealed, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts the commission staff memorandum, presented when the commission considered filing a preproposal statement of inquiry, when it considered filing the formal notice of proposed rule making, and when it considered adoption of this proposal in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption of the proposed changes, as required by RCW 34.05.025.

DATED at Olympia, Washington, this 28th day of December 1998.

Washington Utilities and Transportation Commission

Anne Levinson, Chair

Richard Hemstad, Commissioner

William R. Gillis, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-384, Docket No. UT-921192, filed 2/26/93, effective 3/29/93)

WAC 480-120-021 Glossary. Access line - a circuit between a subscriber's point of demarcation and a serving switching center. Access code - sequence of numbers that, when dialed, connect the caller to the provider of operator telecommunication services associated with that sequence.

Aggregator - is referenced in these rules as a call aggregator, defined below.

Alternate operator services company - ((any corporation, company, partnership, or person other than a local exchange company providing a connection to intrastate or interstate long distance or to local services from locations of call aggregators. The term "operator services" in this rule means any intrastate telecommunications service provided to a call aggregator location that includes as a component any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an intrastate telephone call through a method other than: Automatic completion with billing to the telephone from which the call originated, or completion through an access code used by the consumer with billing to an account previously established by the consumer with the carrier)) is referenced in these rules as an operator service provider (OSP), defined below.

Applicant - any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., applying to the utility for new service or recon-  
nection of discontinued service.

Automatic dialing-announcing device - any automatic terminal equipment which incorporates the following features:

- (1)(a) Storage capability of numbers to be called; or
- (b) A random or sequential number generator that produces numbers to be called; and
- (c) An ability to dial a call; and
- (2) Has the capability, working alone or in conjunction with other equipment, of disseminating a prerecorded message to the number called.

Automatic location identification/data management system (ALI/DMS) - ALI/DMS is a feature that forwards to the public safety answering point (PSAP) a caller's telephone number, the name and service address associated with the telephone number, and supplementary information as defined in the DMS for automatic display at the PSAP. The DMS is a combination of manual procedures and computer programs used to create, store, manipulate, and update data required to provide selective routing, ALI, emergency service numbers, and other information associated with the calling party's telephone number.

Billing agent - a person such as a clearing house which facilitates billing and collection between a carrier and an entity such as a local exchange company which presents the bill to and collects from the consumer.

Base rate area or primary rate area - the area or areas within an exchange area wherein mileage charges for primary exchange service do not apply.

PERMANENT

Call aggregator - ((a)) any corporation, company, partnership, or person, who, in the ordinary course of its operations, makes telephones available ((for intrastate service)) to the public or to users of its premises for telephone calls using a provider of operator services, including but not limited to hotels, motels, hospitals, campuses, and pay ((telephones)) phones (see also pay phone service provider).

Centrex - a telecommunications service providing a subscriber with direct inward dialing to telephone extensions and direct outward dialing from them.

Central office - a switching unit in a telephone system having the necessary equipment and operating arrangements for terminating and interconnecting subscribers' lines, farmer lines, toll lines and interoffice trunks. (More than one central office may be located in the same building or in the same exchange.)

Commission (agency) - in a context meaning a state agency, the Washington utilities and transportation commission.

Commission (financial) - in a context referring to compensation for telecommunications services, a payment from an AOS company to an aggregator based on the dollar volume of business, usually expressed as a percentage of tariffed message toll charges.

Competitive telecommunications company - a telecommunications company which is classified as such by the commission pursuant to RCW 80.36.320.

Competitive telecommunications service - a service which is classified as such by the commission pursuant to RCW 80.36.330.

Consumer - user not classified as a subscriber.

Customer premises equipment (CPE) - telecommunications terminal equipment, including inside wire, located at a subscriber's premises on the subscriber's side of the standard network interface point of demarcation (excluding pay telephones provided by the serving local exchange company).

Emergency calling - the ability to access emergency services by dialing 911, or dialing a local number to police and/or fire where 911 is not available, without the use of a coin or the entering of charge codes. Where enhanced 911 is operational, the address displayed to the public safety answering point (PSAP) shall be that of the phone instrument if different from the public access line demarcation point and the phone number must be that of the pay phone.

Exchange - a unit established by a ((entity)) telecommunications company for communication service in a specific geographic area, which unit usually embraces a city, town or community and its environs. It usually consists of one or more central offices together with the associated plant used in furnishing communication service to the general public within that area.

Exchange area - the specific area served by, or purported to be served by an exchange.

Farmer line - outside plant telephone facilities owned and maintained by a subscriber or group of subscribers, which line is connected with the facilities of a telecommunications company for switching service. (Connection is usually made at the base rate area boundary.)

Farmer station - a telephone instrument installed and in use on a farmer line.

Foreign exchange service - a communications exchange service that uses a private line to connect a subscriber's local central office with a distant central office in a community outside the subscriber's local calling area.

Interexchange telecommunications company - a telecommunications company, or division thereof, that does not provide basic local service.

Interoffice facilities - facilities connecting two or more telephone switching centers.

Local coin call - a connection from a pay phone within the local calling area of not less than fifteen minutes.

Location surcharge - a flat, per-call charge assessed by an ((alternate operator services company)) operator service provider (OSP) on behalf of a call aggregator/pay phone service provider in addition to message toll charges, local call charges, and operator service charges. A location surcharge is remitted, in whole or in part, to the call ((aggregator-customer)) aggregator/pay phone service provider.

Operator service charge - a charge, in addition to the message toll charge or local call charge, assessed for use of a calling card, a credit card, or for automated or live operator service in completing a call.

Operator service provider (OSP) - any corporation, company, partnership, or person providing a connection to intrastate or interstate long-distance or to local services from locations of call aggregators. The term "operator services" in this rule means any intrastate telecommunications service provided to a call aggregator location that includes as a component any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an intrastate telephone call through a method other than: Automatic completion with billing to the telephone from which the call originated; or completion through an access code used by the consumer with billing to an account previously established by the consumer with the carrier.

Outside plant - the telephone equipment and facilities installed on, along, or under streets, alleys, highways, or on private rights-of-way between the central office and subscribers' locations or between central offices.

Pay phone or pay telephone - any telephone made available to the public on either a fee-per-call basis, independent of any other commercial transaction, for the purpose of making telephone calls, whether the telephone is coin-operated or is activated by calling collect or using a calling card.

Pay phone access line, public access line, pay telephone access line, pay station service, pay phone service (PAL) - is referenced in these rules as an access line, see above.

Pay phone services - provision of pay phone equipment to the public for placement of local exchange, interexchange, or operator service calls.

Pay phone service provider (PSP) - any corporation, company, partnership, or person who owns or operates and makes pay phones available to the public.

Presubscribed provider of operator services - the provider of operator services to which the consumer is connected when a call is placed without dialing an access code.

Person - unless the context indicates otherwise, any natural person or an entity such as a corporation, partnership, municipal corporation, agency, or association.

Private branch exchange (PBX) - customer premises equipment installed on the subscriber's premises that functions as a switch, permitting the subscriber to receive incoming calls, to dial any other telephone on the premises, to access a tie trunk leading to another PBX or to access an outside trunk to the public switched telephone network.

Private line - a dedicated, nonswitched telecommunications channel provided between two or more points.

Public safety answering point (PSAP) - an answering location for enhanced 911 (E-911) calls originating in a given area. PSAPs are designated as a primary or secondary. Primary PSAPs receive E-911 calls directly from the public; secondary PSAPs receive E-911 calls only on a transfer or relay basis from the primary PSAP. Secondary PSAPs generally serve as centralized answering locations for a particular type of emergency call.

Reverse search of ALI/DMS data base - a query of the automatic location identification (ALI/DMS) data base initiated at the public safety answering point (PSAP) to obtain electronically the ALI data associated with a known telephone number for purposes of handling an emergency call when the searched telephone line is not connected to the PSAP.

Special circuit - an access line specially conditioned to give it characteristics suitable for handling special or unique services.

Standard network interface (SNI) - the point of interconnection between telecommunications company communications facilities and terminal equipment, protective apparatus, or wiring at a subscriber's premises. The network interface or demarcation point is located on the subscriber's side of the telecommunications company's protector, or the equivalent thereof in cases where a protector is not employed.

Station - a telephone instrument installed for the use of a subscriber to provide toll and exchange service.

Subscriber - any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., supplied with service by any utility.

Toll station - a telephone instrument connected for toll service only and to which message telephone toll rates apply for each call made therefrom.

Trunk - a single or multichannel telecommunications medium between two or more switching entities which may include a PBX.

Utility - any corporation, company, association, joint stock association, partnership, person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, operating or managing any telephone plant within the state of Washington for the purpose of furnishing telephone service to the public for hire and subject to the jurisdiction of the commission.

**AMENDATORY SECTION** (Amending Order R-422, Docket No. UT-940049, filed 9/22/94, effective 10/23/94)

**WAC 480-120-138** (~~Pay telephones—Local and intrastate~~) **Pay phone service providers (PSPs)**, (~~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 intercon-~~

~~nection 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, tabstop, 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 inter-exchange 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 prefixes 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 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 shall not apply to such disconnections. The local exchange company shall ensure that any costs associated with the field visits 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. (1) General. This section sets out the standards applicable to providing pay phone service in the state of Washington. All pay phone service providers (PSPs) must comply with this and all other rules relating to pay phone services.

Every local exchange company within the state of Washington must allow pay phones to be connected to its network, and must file a tariff or price list with the commission to include the rates and conditions applicable to providing service to pay phones via its network.



The absence from these rules of specific requirements of the Americans with Disabilities Act and of other local, state or federal requirements does not excuse PSPs from compliance with those requirements.

(2) Registration and application of rules.

(a) Pay phone service providers (PSPs) operating a pay phone within the state of Washington must register by:

(i) Submitting a master business application to the master license service, department of licensing; and

(ii) Obtaining a unified business identifier (UBI) number. A PSP that already has a UBI number need not reapply.

(b) Except where pay phone services or PSPs are specifically referenced, the rules of general applicability to public service companies or telecommunications companies do not apply to pay phone services. This does not exempt pay phone service providers from rules applicable to remedies or sanctions for violations of rules applicable to PSP operations.

(3) Access. Pay phones must provide access to:

(a) Dial tone;

(b) Emergency calling;

(c) Operator;

(d) Telecommunications relay service calls for the hearing impaired;

(e) All available subscriber toll-free services; and

(f) All available interexchange carriers, including the local exchange company.

Access to services (a) through (e) of this subsection, must be provided at no charge to the calling party.

(4) Disclosure - What must be posted. The following information must be clearly and legibly posted on or near the front of the pay phone, and must not be obstructed by advertising or otherwise:

(a) The rate for local calls, including any restrictions on the length of calls. Clear and legible posting of the rate can be accomplished by using 30 point or larger type print, or contrasting color;

(b) Notice that directory assistance charges may apply, and to ask the operator for rates;

(c) Notice that the pay phone does not make change, if applicable;

(d) The emergency number (911);

(e) The name, address, phone number, and unified business identifier (UBI) number of the owner or operator;

(f) A without-charge number to obtain assistance if the pay phone malfunctions, and procedures for obtaining a refund;

(g) The name, address, and without-charge number of all presubscribed operator service providers, as registered with the commission. This information must be updated within thirty days of a change in the OSP.

(h) Notice to callers that they can access other long distance carriers;

(i) The phone number including area code of the pay phone. When the pay phone is in an area that has had an area code change, that area code change must be reflected on the pay phone within thirty days of the area code conversion;

(j) In contrasting colors, the commission compliance number for consumer complaints, to include the following information: "If you have a complaint about service from this pay phone and are unable to resolve it by calling the

repair/refund number or operator, please call the commission at 1-888-333-WUTC (9882); and

(k) Placarding shall be in place within sixty days after the effective date of an applicable rule change.

(5) Operation and functionality.

(a) The pay phone, if coin operated, must return coins to the caller in the case of an incomplete call, and must be capable of receiving nickels, dimes, and quarters.

(b) Pay phone keypads must include both numbers and letters.

(c) A PSP must order a separate pay phone access line (PAL) for each pay phone installed. The commission may waive this requirement if a company demonstrates that technology accomplishes the same result as one to one ratio by means other than through a PAL, that the service provided to consumers is fully equivalent, and that all emergency calling requirements are met. This PAL must pass the appropriate screening codes to the connecting carrier to indicate that the call is originating from a pay phone.

(d) Extension telephones may be connected to a pay phone access line for the purpose of monitoring emergency use only. An extension phone must be activated only when 911 is dialed from the pay phone, and the extension phone must be equipped with a "push to talk" switch or other mechanism to prevent inadvertent interruption of the caller's conversation with the public safety answering point. The pay phone must be clearly labeled to indicate that "911 calls are monitored locally."

(e) Cordless and tabletop pay phones may be connected to the telephone network only when the bill is presented to the user before leaving the premises where the bill was incurred, unless the consumer requests that the call be alternatively billed.

(f) The pay phone may not restrict the number of digits or letters that may be dialed.

(g) Pay phones may provide credit-only service, or coin and credit service.

(h) Pay phones must provide two-way service, and no charge may be imposed by the PSP for incoming calls. Exceptions to two-way service are allowed under the following circumstances:

(i) Service provided to hospitals and libraries where a telephone ring might cause undue disturbance;

(ii) Service provided within a building on the premises of a private business establishment, in the discretion of the business owner. For purposes of this section, premises where people have access to public transportation such as airports, bus and train stations are not considered private business establishments, and

(iii) Service at locations where local governing jurisdictions or law enforcement find that incoming calls may be related to criminal or illicit activities and have obtained an order under subsection (6) of this section. Each pay phone confined to one-way service must be clearly marked on or near the front of the pay phone.

(6) Restrictions. A PSP must limit the operational capabilities of pay phones only when directed by the commission. The commission may direct such limitations upon request of local governing jurisdictions (or other governmental agencies) in their efforts to prevent or limit criminal or illicit

activities. Restrictions may include, but are not limited to, blocking of incoming calls, limiting touch tone capabilities and coin restriction during certain hours.

Requests for a commission order directing the restriction of a pay phone (or pay phones in a certain geographic area) must be made by petition to the commission for waiver of subsection (5) of this section to allow one or more specific restrictions and for an order directing restriction of the phone. The petition may be made on a form provided by the commission. The petition must include a request for the restriction signed by an agent of the local government jurisdiction in which the pay phone is located who has authority from the jurisdiction to submit the request and must state the jurisdiction's reasons for the request.

The petitioner must serve a copy of the petition on the pay phone service provider no later than the date the petition is filed with the commission. The petitioner must post a notice prominently visible at the pay phone(s) of the proposed restriction, no later than the day it is filed with the commission, and maintain it at the location until the commission acts on the petition. The notice must explain what is proposed and how to file an objection to the petition with the commission. The petition is for an administrative, and not an adjudicative, decision and will be processed administratively.

If no objection is made by any person or by commission staff within the twenty-day comment period, the commission will enter an order directing the restriction. If an objection is filed, the commission will hear the petition after notice to the objector and the petitioner.

Once restrictions are in place at the telephone, the PSP must post on or near each pay phone so limited, in legible and prominent type, a description of each limitation in effect, times when the restrictions will be in effect, and the name and without-charge number of the governmental agency that recommended the restriction.

(7) Telephone directories. The provider of the pay phone access line must furnish without charge one current telephone directory each year for each pay phone access line (PAL).

The PSP must ensure that a current directory is available at every pay phone.

(8) Malfunctions and rule violations. Malfunctions of the pay phone, or rule violations reported to the repair/refund number or the commission, must be corrected within five days.

(9) Complaints and disputes. Complaints and disputes regarding pay phone service providers shall be treated in accordance with WAC 480-120-101.

AMENDATORY SECTION (Amending Order R-430, Docket No. UT-950134, filed 4/28/95, effective 5/29/95)

WAC 480-120-141 ((Alternate operator services.))  
Operator service providers (OSPs). ((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 maintain, revise and provide to the commission upon request 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 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 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 480-09-120 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.

(2) 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 Stylus 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 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 those 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, \$0.25 higher per call than AT&T daytime charges for intraLATA and 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 vary at 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, \$0.25 higher per call than AT&T daytime charges for intraLATA and 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.)) (1) General. This section gives information to operator service providers (OSPs) that provide operator services from pay phones and other aggregator locations within Washington. All telecommunications companies providing operator services (both live and automated) must comply with this and all other rules relating to telecommunications companies not specifically waived by order of the commission. The absence from these rules of specific requirements of the Americans with Disabilities Act and of other local, state or federal requirements does not excuse OSPs from compliance with those requirements.

(a) Each operator service provider (OSP) must maintain a current list of the customers it serves in Washington and the locations and telephone numbers where the service is provided.

(b) No OSP may provide service to a PSP that is not fully in compliance with the rules.

(c) For purposes of this section, "consumer" means the party initiating and/or paying for a call using operator services. In collect calls, both the originating party and the party on the terminating end of the call are consumers. "Customer" means the call aggregator or pay phone service provider, i.e., the hotel, motel, hospital, correctional facility/prison, or campus, contracting with an OSP for service.

(2) Disclosure.

(a) What must be posted. The following information must be clearly and legibly posted on or near the front of a pay phone, and must not be obstructed by advertising or other messages:

(i) The name, address, and without-charge number of all presubscribed operator service providers, as registered with the commission. This information must be updated within thirty days after a change of OSPs;

(ii) Notice to consumers that they can access other long distance carriers;

(iii) In contrasting colors, the commission compliance number for consumer complaints, to include the following information: "If you have a complaint about service from this pay phone and are unable to resolve it by calling the repair/refund number or operator, please call the commission at 1-888-333-WUTC (9882)"; and

(iv) Placarding as a result of rule changes shall be in place within sixty days after the effective date of the rule change.

(b) Verbal disclosure of rates. Before an operator-assisted call from an aggregator location may be connected by a presubscribed OSP, the OSP must verbally advise the consumer how to receive a rate quote, such as by pressing a specific key or keys, but no more than two keys, or by staying on the line. This message must precede any further verbal information advising the consumer how to complete the call, such as to enter the consumer's calling card number. This rule applies to all calls from pay phones or other aggregator locations, including prison phones, and store-and-forward pay phones or "smart" telephones. After hearing an OSP's message, a consumer may waive their right to obtain specific

rate quotes for the call they wish to make by choosing not to press the key specified in the OSP's message to receive such information or by hanging up. The rate quoted for the call must include any applicable surcharge. Charges to the user must not exceed the quoted rate.

(3) Access. Pay phones must provide access to the services identified in WAC 480-120-138(3).

(4) Branding. The operator service provider must:

(a) Identify the OSP providing the service audibly and distinctly at the beginning of every call, including an announcement to the called party on calls placed collect.

(b) Ensure that 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.

(c) State the name of the company as registered with the commission (or its registered "doing business as" name) whenever referring to the OSP. Terms such as "company," "communications," "incorporated," "of the northwest," etc., may be omitted when not necessary to identify clearly the OSP.

(5) Billing. The operator service provider must:

(a) Provide to the billing company applicable call detail necessary for billing purposes, as well as an address and toll free telephone number for consumer inquiries.

(b) Ensure that consumers are not billed for calls that are not completed. For billing purposes, calls must be itemized, identified, and rated from the point of origination to the point of termination. No call may be transferred to another carrier by an OSP unless the call can be billed from the point of origin of the call.

(c) Charges billed to a credit card need not conform to the call detail requirements of this section. However, the OSP must provide specific call detail in accordance with WAC 480-120-106, Form of bills, upon request.

(6) Operational capabilities. The operator service provider must:

(a) Answer at least ninety percent of all calls within ten seconds from the time the call reaches the carrier's switch.

(b) 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 is the responsibility of the OSP to determine what caused the blockage and take immediate steps to correct the problem.

(c) Offer operator services that equal or exceed the industry standards in availability, technical quality, response time, and that also equal or exceed industry standards in variety or are particularly adapted to meet unique needs of a market segment.

(d) Reoriginate calls to another carrier upon request and without charge when the capability to accomplish reorigination with screening and allow billing from the point of origin of the call is in place. If reorigination is not available, the P must give dialing instructions for the consumer's preferred carrier.

(7) Emergency calls. For purposes of emergency calls, every OSP must have the following capabilities:

(a) Be able to transfer the caller into the appropriate E-911 system and to the public safety answering point (PSAP) serving the location of the caller with a single keystroke from the operator's console, to include automatic identification of the exact location and address from which the call is being made;

(b) Have the ability for the operator to stay on the line with the emergency call until the PSAP representative advises the operator that they are no longer required to stay on the call; and

(c) Be able to provide a without-charge number for direct access to public safety answering points should additional information be needed when responding to a call for assistance from a phone utilizing the provider's services. That emergency contact information must not be considered proprietary.

(8) Fraud protection.

(a) A company providing telecommunications service may not bill a call aggregator for the following:

(i) Charges billed to a line for calls which originated from that line through the use of carrier access codes (i.e., 10XXX+0, 10XXX+01, 950-XXXX), toll-free access codes, or when the call originating from that line otherwise reached an operator position, if the originating line subscribed to outgoing call screening or pay phone specific ANI coding digits and the call was placed after the effective date of the outgoing call screening or pay phone specific ANI coding digits order; or

(ii) Collect or third-number billed calls, if the line serving the call that was billed had subscribed to incoming call screening (also termed billed number screening) and the call was placed after the effective date of the call screening service order.

(b) Any calls billed through the access line provider in violation of (a)(i) or (ii) of this subsection must be removed from the call aggregator's bill by the access line provider. If investigation by the access line provider determines that the pertinent call screening or pay phone specific ANI coding digits was operational when the call was made, the access line provider may return the charges for the call to the telecommunications company as not billable.

(c) Any call billed directly by an OSP, or through a billing method other than the access line provider, which is billed in violation of (a)(i) and (ii) of this subsection, must be removed from the call aggregator's bill. The telecommunications company providing the service may request an investigation by the access line provider. If the access line provider determines that call screening or pay phone specific ANI coding digits (which would have protected the call) was subscribed to by the call aggregator and was not operational at the time the call was placed, the OSP must bill the access line provider for the call.

(9) Enforcement. Operator service providers are subject to all pertinent provisions of law.

(a) Suspension. The commission may suspend the registration of any company providing operator services if the company fails to meet minimum service levels or fails to provide disclosure to consumers of protection available under chapter 80.36 RCW and pertinent rules.

(i) Suspension may be ordered following notice and opportunity for hearing as provided in RCW 80.04.110 and the procedural rules of the commission.

(ii) No operator service provider may operate while its registration is suspended.

(iii) Except as required by federal law, no provider of pay phone access line service may provide service to any operator service provider whose registration is suspended.

(b) Penalty. The commission may assess a penalty as provided in RCW 80.36.522 and 80.36.524, upon any company providing operator services if the company fails to meet minimum service levels or fails to provide disclosure to consumers of protection available under chapter 80.36 RCW.

(c) Alternatives. The commission may take any other action regarding a provider of operator services as authorized by law.

(d) Complaints. Complaints and disputes will be treated in accordance with WAC 480-120-101.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 480-120-137 Customer-owned pay tele-  
phones—Interstate.
- WAC 480-120-142 Alternate operator services—  
Enforcement.
- WAC 480-120-143 Local service to aggregators.

**WSR 99-02-023  
PERMANENT RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed December 30, 1998, 11:00 a.m., effective March 30, 1999]

Date of Adoption: December 30, 1998.

Purpose: Chapter 296-24 WAC, General safety and health standards.

Subject: First aid relating to longshore, stevedore, and related waterfront operations. State-initiated adopted amendments are made to delete a reference to chapter 296-56 WAC in WAC 296-24-06105, which exempts applicability of chapter 296-24 WAC first aid requirements to longshore, stevedore, and related waterfront industries. This exemption previously existed because first aid requirements were included in the vertical standard.

However, under a separate rule amendment adoption (see this Washington State Register for other WISHA rule adoptions), the department replaced existing first aid requirements in chapter 296-56 WAC with a reference to first aid requirements in chapter 296-24 WAC. Deletion of the exemption in chapter 296-24 WAC was necessary to make first aid requirements applicable to longshore, stevedore and related waterfront operations.

Both rules are adopted and become effective on March 30, 1999.

Citation of Existing Rules Affected by this Order Amending WAC 296-24-06105 What workplaces does this rule apply to?

Statutory Authority for Adoption: RCW 49.17.040

Adopted under notice filed as WSR 98-20-079 on October 6, 1998.

Changes Other than Editing from Proposed to Adopted Version: No public comments were received on this proposal. Therefore, WISHA is adopting the rule as proposed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: March 30, 1999.

December 30, 1998

Gary Moore  
Director

**AMENDATORY SECTION** (Amending WSR 98-06-061, filed 3/2/98, effective 6/1/98)

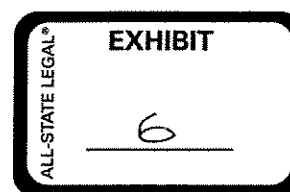
WAC 296-24-06105 What workplaces does this rule apply to? This rule applies to all workplaces, except for the ones listed below. They are, instead covered by separate individual rules (vertical standards):

| Rule Title                   | Chapter      |
|------------------------------|--------------|
| • Agriculture                | 296-307 WAC  |
| • Compressed Air Work        | 296-36 WAC   |
| • Construction               | 296-155 WAC  |
| • Fire Fighters              | 296-305 WAC  |
| • Logging                    | 296-54 WAC   |
| ((* Longshoring/Stevedoring  | 296-56 WAC)) |
| • Sawmills                   | 296-78 WAC   |
| • Shipbuilding and Repairing | 296-304 WAC  |

**WSR 99-02-024  
PERMANENT RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed December 30, 1998, 11:05 a.m., effective March 30, 1999]

Date of Adoption: December 30, 1998.



Westlaw.

WA ADC 480-120-262  
 WAC 480-120-262  
 Wash. Admin. Code 480-120-262

Page 1

**WASHINGTON ADMINISTRATIVE CODE  
 TITLE 480. UTILITIES AND TRANSPORTATION COMMISSION  
 CHAPTER 480-120. TELEPHONE COMPANIES  
 PART VII. TELECOMMUNICATIONS SERVICES**

Current with amendments adopted through November 3, 2004  
 2WAD Req. by T. Hanson

Current with amendments adopted through 4-6-1999

480-120-262. Operator service providers (OSPs).

(1) Only for the purpose of this section:

'Consumer' means the party paying for a call using operator services. For collect calls, a consumer is both the originating party and the party who receives the call.

'Customer' means the call aggregator or pay phone service provider (PSP) contracting with an operator service provider (OSP) for service, such as hotel, motel, hospital, correctional facility, prison, campus, or similar entity.

'Operator service provider (OSP)' means any corporation, company, partnership, or person providing a connection to intrastate or interstate long-distance or to local services from locations of call aggregators.

'Operator services' means any telecommunications service provided to a call aggregator location that includes automated or live assistance to customers in billing or completing (or both) telephone calls, other than those billed to the number from which the call originated or those completed through an access code used to bill a customer's account previously established with the company.

This section applies to OSPs providing operator services from pay phones and other call aggregator locations. Each OSP must maintain a current list of the customers it serves in Washington and the locations and telephone numbers where the service is provided.

(2) **Posted disclosure.** OSPs must post clearly, legibly, and unobstructed, on or near the front of the pay phone the presubscribed OSP's name, address, and toll-free number, as registered with the commission. This information must be updated within thirty days after a change of OSPs. OSPs must post a notice to consumers that they can access other long distance companies and, in contrasting colors, the commission compliance number for consumer complaints and the following information:

'If you have a complaint about service from this pay phone and are unable to resolve it by calling the repair or refund number or operator, please call the commission at 1-888-333-WUTC (9882).'

(3) **Oral disclosure of rates.** This subsection applies to all calls from pay phones or other call aggregator locations, including, but not limited to, prison phones and store-and-forward pay phones or 'smart' phones. When a collect call is placed, both the consumer placing the call and the consumer receiving the call must be given the rate quote options required by this section.

(a) **Oral rate disclosure message required.** Before an operator-assisted call from a call aggregator location can be connected by an OSP (whether by a presubscribed or other provider), the OSP must first provide an oral rate

Copr. © 2004 West. No Claim to Orig. U.S. Govt. Works.

WA ADC 480-120-262  
 WAC 480-120-262  
 Wash. Admin. Code 480-120-262

Page 2

disclosure message to the consumer. If the charges to the consumer do not exceed the benchmark rate in (f) of this subsection, the oral rate disclosure message must comply with the requirements of (b) of this subsection. In all other instances, the oral rate disclosure message must comply with the requirements of (c) of this subsection.

(b) **Rate disclosure method when charges do not exceed benchmark.** The oral rate disclosure message must state that the consumer may receive a rate quote and explain the method of obtaining the quote. The method of obtaining the quote may be by pressing a specific key or keys, but no more than two keys, or by staying on the line. If the consumer follows the directions to obtain the rate quote, the OSP must state all rates and charges that will apply if the consumer completes the call.

(c) **Rate disclosure method when rates exceed benchmark.** The oral rate disclosure message must state all rates and charges that will apply if the consumer completes the call.

(d) **Charge must not exceed rate quote.** If the OSP provides a rate quote pursuant to either (b) or (c) of this subsection, the charges to the user must not exceed the quoted rate. If a consumer complains to the commission that the charges exceeded the quoted rate, and the consumer states the exact amount of the quote, there will be a rebuttable presumption that the quote provided by the complaining consumer was the quote received by the consumer at the time the call was placed or accepted.

(e) **Completion of call.** Following the consumer's response to any of the above, the OSP must provide oral information advising that the consumer may complete the call by entering the consumer's calling card number.

(f) **Benchmark rates.** An OSP's charges for a particular call exceed the benchmark rate if the sum of all charges, other than taxes and fees required by law to be assessed directly on the consumer, would exceed, for any duration of the call, the sum of fifty cents multiplied by the duration of the call in minutes plus fifty cents. For example, an OSP's charges would exceed the benchmark rate if any of these conditions were true:

- (i) Charges for a one-minute call exceeded one dollar;
- (ii) Charges for a five-minute call exceeded three dollars; or
- (iii) Charges for a ten-minute call exceeded five dollars and fifty cents.

(4) **Access.** Pay phones must provide access to the services identified in WAC 480-120-263(3).

(5) **Branding.** The OSP must identify audibly and distinctly the OSP providing the service at the beginning of every call, including an announcement to the called party on collect calls. The OSP must ensure that the call begins 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. The OSP must state the name of the company as registered with the commission (or its registered 'doing business as' name) whenever referring to the OSP. When not necessary to identify clearly the OSP, the company may omit terms such as 'company,' 'communications,' 'incorporated,' or 'of the Northwest.'

(6) **Billing.** The OSP must provide to the billing company applicable call detail necessary for billing purposes and an address and toll-free number for consumer inquiries. The OSP must ensure that consumers are not billed for calls that are not completed. For billing purposes calls must be itemized, identified, and rated from the point of origination to the point of termination. An OSP may not transfer a call to another company unless the call can be billed from the point of origin. The OSP must provide specific call detail upon request, in accordance with WAC 480-120-161 (Form of bills). Charges billed to a credit card need not conform to the call detail requirements of that section.

Copr. © 2004 West. No Claim to Orig. U.S. Govt. Works.

(7) **Operational capabilities.** The OSP must answer at least ninety percent of all calls within ten seconds of the time the call reaches the company's switch. The OSP must maintain adequate facilities in all locations so the overall blockage rate for lack of facilities, including the facilities for access to consumers' preferred interexchange companies, does not exceed one percent in the time-consistent busy hour. Should excessive blockage occur, the OSP must determine what caused the blockage and take immediate steps to correct the problem. The OSP must reoriginate calls to another company upon request and without charge when technically able to accomplish reorigination with screening and allow billing from the point of origin of the call. If reorigination is not available, the OSP must provide dialing instructions for the consumer's preferred company.

(8) **Emergency calls.** For purposes of emergency calls, every OSP must be able to transfer the caller into the appropriate E911 system and to the public safety answering point (PSAP) serving the location of the caller with a single keystroke from the operator's console, to include automatic identification of the exact location and address from which the call is being made. The OSP must be able to stay on the line with the emergency call until the PSAP representative advises the operator that they are no longer required to stay on the call. The OSP must provide a toll-free number for direct access to PSAPs should additional information be needed when responding to a call for assistance from a phone using the provider's services. That emergency contact information must not be considered proprietary.

(9) **Fraud protection.**

(a) A company may not bill a call aggregator for:

(i) Charges billed to a line for originating calls using company access codes, toll-free access codes, or originating calls that otherwise reach an operator position if the originating line subscribed to outgoing call screening or pay phone specific ANI coding digits and the call was placed after the effective date of the outgoing call screening or pay phone specific ANI coding digits order; or

(ii) Collect or third-number-billed calls if the line serving the call that was billed had subscribed to incoming call screening (also termed 'billed number screening') and if the call was placed after the effective date of the call screening service order.

(b) The access line provider must remove from the call aggregator's bill any calls billed through the access line provider in violation of this subsection. If investigation by the access line provider determines that the pertinent call screening or pay phone specific ANI coding digits was operational when the call was made, the access line provider may return the charges for the call to the company as not billable.

(c) Any call billed directly by an OSP, or through a billing method other than the access line provider, which is billed in violation of this subsection, must be removed from the call aggregator's bill. The company providing the service may request an investigation by the access line provider. If the access line provider determines that call screening or pay phone specific ANI coding digits (which would have prevented the call) was subscribed to by the call aggregator and was not operational at the time the call was placed, the OSP must bill the access line provider for the call.

(10) **Suspension.** The commission may suspend the registration of any company providing operator services if the company fails to meet minimum service levels or to provide disclosure to consumers of protection available under chapter 80.36 RCW and pertinent rules.

Except as required by federal law, no provider of pay phone access line service may provide service to any OSP whose registration is suspended.

WA ADC 480-120-262  
WAC 480-120-262  
Wash. Admin. Code 480-120-262

Page 4

Statutory Authority: RCW 80.01.040 and 80.04.160. 03-01-065 (Docket No. UT-990146, General Order No. R-507), S 480-120-262, filed 12/12/02, effective 7/1/03.

<General Materials (GM) - References, Annotations, or Tables>

WA ADC 480-120-262  
END OF DOCUMENT

Copr. © 2004 West. No Claim to Orig. U.S. Govt. Works.



AGREEMENT BETWEEN STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS  
AND AMERICAN TELEPHONE AND TELEGRAPH COMPANY  
FOR INSTALLATION AND OPERATION OF AN INMATE TELEPHONE SYSTEM  
AT STATE CORRECTIONAL INSTITUTIONS AND WORK RELEASE FACILITIES

This Agreement is made and entered into this 16<sup>th</sup> day of March, 1992, by and between the State of Washington Department of Corrections ("Department"), and American Telephone and Telegraph Company ("Contractor").

WHEREAS, Department issued Request for Proposal No. CRFP2562, dated September 4, 1991, for an Inmate Telephone System and Recording/Monitoring at Department Correctional Institutions and Work Release Facilities (the "RFP");

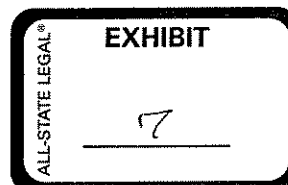
WHEREAS, on November 12, 1991, Contractor responded to the RFP with a total solution, combining a proposal by Contractor, an interexchange carrier; to provide interLATA long distance service, with proposals by three local exchange companies ("LECs"), GTE Northwest Incorporated ("GTE"), Telephone Utilities of Washington, Inc. dba PTI Communications ("PTI") and U.S. West Communications ("USWC"), to provide inmate telephone stations and enclosures, recording and monitoring equipment and local and intraLATA telephone service (collectively, the "Combined Proposal" and individually, the "AT&T Proposal," the "GTE Proposal, the "PTI Proposal" and the "USWC Proposal");

WHEREAS, on December 20, 1991, the Department announced its selection of Contractor as the successful vendor on the basis of the Combined Proposal, with the understanding that Department and Contractor would enter into an Agreement covering the entire project as set forth in the RFP and that Contractor would enter into Subcontracts with GTE, PTI and USWC to cover those portions of the RFP for which those three LECs would be responsible;

NOW, THEREFORE, Department and Contractor do mutually agree as follows:

1. Incorporation by Reference of RFP and Proposals.

Contractor hereby agrees to provide the equipment and services required by the RFP, on the basis set forth in the Combined Proposal. The RFP and the Combined Proposal, including the AT&T Proposal, GTE Proposal, PTI Proposal and the USWC Proposal (except for USWC's response to Attachment B to the RFP), shall constitute and hereby are made a part of this Agreement as though fully set forth herein. As used herein, the term "Contractor" shall include and refer to AT&T, its subcontractors and suppliers, and the subsidiaries, affiliates, employees and agents of each of them.



2. Scope of Agreement.

A. The terms and conditions of this Agreement apply to the LEC Public Telephones at Department Correctional Institutions and Work Release Facilities listed on Attachment A to the RFP, as well as to new and expanded facilities for which the Department requests service.

B. This Agreement applies to two types of LEC Public Telephones: Public Telephones made available to Inmates, from which only collect calls can be made ("Inmate Public Telephones") and other Public Telephones located on the premises of certain facilities for use by staff and visitors but not inmates ("Staff Public Telephones"), from which both "1+" and "0+" telephone calls can be made. Unless otherwise stated in this Agreement, the term "Public Telephone" shall refer both to Inmate Public Telephones and Staff Public Telephones.

3. Provision of InterLATA and International Service by Contractor.

Contractor agrees to provide "0+" interLATA and international service to all Public Telephones located on the premises of Department Correctional Institutions and Work Release Facilities. The Department hereby selects Contractor as the "0+" primary interexchange carrier ("PIC") for operator assisted ("0+") interLATA and international calls placed from all such LEC Public Telephones. The Department appoints Contractor as its Agent for purposes of submitting the Department's selection of Contractor as its PIC for such LEC Public Telephones. Nothing in this Agreement requires the Department to route "1+" interLATA calls to AT&T from any telephones covered by this Agreement.

4. Subcontractors.

The Department hereby approves Contractor's use of GTE, PTI and USWC as Subcontractors under this Agreement. Set forth below is a list of the equipment and services for which each of the Subcontractors will be responsible to provide to the Department, in accordance with the specifications of the RFP and the GTE Proposal, PTI Proposal and USWC Proposal:

A. GTE. GTE shall install and maintain public telephone sets, all associated equipment, lines, Dictaphone recording/monitoring equipment and call timing and call blocking software at the following location:

- i. Washington State Reformatory, Monroe

GTE shall install and maintain public telephone sets, all associated equipment, lines, call timing and blocking software at the following locations:

- ii. Twin Rivers Corrections Center
- iii. Indian Ridge Corrections Center, Arlington
- iv. Special Offender Center, Monroe

GTE shall also provide local and intraLATA telephone service and operator service to the GTE Public Telephones at the above four locations.

B. PTI. PTI shall install and maintain public telephone sets, all associated equipment, lines, Dictaphone recording/monitoring equipment and call timing and call blocking software at the following locations:

- i. Clallam Bay Corrections Center
- ii. Washington Correction Center for Women

PTI shall install and maintain public telephone sets, all associated equipment, lines, call timing and call blocking software at the following locations:

- iii. Olympic Corrections Center
- iv. Pine Lodge Pre-Release
- v. Coyote Ridge

PTI shall also provide local telephone service and operator service to PTI Public Telephones at the above five locations.

C. USWC. USWC shall install and maintain public telephone sets, all associated equipment, lines, Dictaphone recording/monitoring equipment and call timing and blocking software at the following locations:

- i. Washington Corrections Center, Shelton
- ii. McNeil Island Penitentiary
- iii. Washington State Penitentiary, Walla Walla
- iv. Airway Heights

USWC shall install and maintain public telephone sets, all associated equipment, lines, call timing and blocking software at the following locations:

- v. Tacoma Pre-Release
- vi. Cedar Creek Corrections Center
- vii. Larch Corrections Center

USWC shall also provide local and intraLATA telephone service and operator service to USWC Public Telephones at the above six locations.

5. Term.

The term of this Agreement shall be five (5) years, commencing as of March 16, 1992 ("Effective Date"). Upon at least sixty (60)

days' written notice prior to the end of the initial term or a renewal term, either party may request renewal of the Agreement, in which case the Agreement may be renewed for any length of time agreed upon by the parties. Upon expiration of the initial term or a renewal term without either notice of termination or signing of an agreement to renew, this Agreement shall automatically continue on a month-to-month basis.

6. Ownership of Equipment.

All equipment installed on Department premises pursuant to this Agreement shall be provided as a service to the Department in accordance with the RFP. No equipment shall be sold or leased to the Department under this Agreement. Title to all public telephone equipment, monitoring/recording equipment, software, wiring, hardware and enclosures installed pursuant to this Agreement shall remain in Contractor, or the applicable subcontractor or supplier, during the term of this Agreement.

7. Commissions Payable to the Department

A. In return for the right to provide Inmate and Public Telephone Service under this Agreement, Contractor, GTE, PTI and USWC shall each pay to the Department on a monthly basis the commissions set forth in Attachment 1 to this Agreement. Each carrier's monthly commission checks shall be sent to the ~~Superintendent of each covered Correctional Institution or Work Release Program~~, made payable to the Inmate Welfare Fund, unless and until the Department shall specify a different payee for the carriers' commission checks.

B. For all facilities in USWC territory, commissions shall be payable as of the Effective Date of this Agreement. For all facilities in GTE and PTI territory, commissions shall be payable as of the cutover date established pursuant to the implementation schedule mutually agreed upon by the Department, Contractor and its subcontractors.

C. The commission schedule set forth in Attachment 1 shall also apply to LEC public telephones at any new Department Correctional Institutions or Work Release Facilities which are added to this Agreement at the request of the Department.

D. If any of the Commissions set forth in Attachment 1 are not paid within 45 days after the end of any billing cycle, interest at an annual rate of 10% shall be paid commencing as of the 46th day. This interest charge shall not apply to the true-up commission payments made by Contractor and USWC with respect to the initial billing cycles of this Agreement.

8. Reports.

Contractor, GTE, PTI and USWC shall each provide the following reports with respect to the traffic carried by that entity:

A. A monthly call detail report for Inmate Public Telephones, by institution, and addressed to the superintendent of the institution showing the date, time, payphone number, called number and length of each call.

B. A monthly commission report for Inmate and Staff Public Telephones, by institution, showing total revenues generated by each Inmate and Staff Public Telephone for that monthly commission cycle. Each such report shall be sent to two locations: one copy to the institution and one copy to the Department of Corrections, Attention: Sharon Shue, Telecommunications Manager, P. O. Box 41110, MS: 61, Olympia, WA 98504-41110.

9. Maintenance

Contractor, its subcontractors and suppliers shall provide maintenance for the equipment, software and services supplied under this Agreement pursuant to the terms and conditions of the RFP and Proposals submitted in response to the RFP. The appropriate LEC (GTE, PTI or USWC) shall designate a single point of contact to receive trouble reports for each Correctional Institution or Work Release Program in that LEC's territory. The Department shall address trouble reports relating to any service or equipment provided under this Agreement to these designated points of contact, which are listed in Attachment 2 to this Agreement. Following the installation of equipment under this Agreement, Contractor, its subcontractors and suppliers shall leave the Department's premises in good condition and broom clean.

10. Responsibilities of the Department

The Department shall:

A. Take reasonable precautions to protect the public telephone stations and related equipment and monitoring and recording equipment and software from damage, vandalism, theft or hazardous conditions and promptly report any damage, service failure or hazardous condition to Contractor's points of contact as referred to in Section 9 and listed in Attachment 2 to this Agreement.

B. Subject to the Department's security requirements, provide access as needed to Contractor, its subcontractors, suppliers and agents to service the equipment provided herein.

C. Keep the public telephone stations clean and the station locations free from debris or obstructions.

11. InterLATA "0+ Service

A. Staff Public Telephones shall comply with the signage and unblocking requirement of the Telephone Operator Consumer Services Improvement Act of 1990.

B. If this Agreement is amended to add a Correctional Institution or Work Release Program located in an area where Contractor does not track billed "0+" interLATA revenues from LEC Public Telephones, a monthly average revenue (MAR) mutually agreed upon by the parties will be used in calculating Contractor's monthly "0+" interLATA revenues. The developed MAR will be based upon the monthly revenues generated from a like Washington State institution, with a similar inmate population and a similar ratio of inmates to public telephones.

12. Monitoring/Recording

Contractor shall provide live or mechanical operator announcements for all personal calls made from Inmate Public Telephones that the call is coming from a prison inmate and that it will be recorded and may be monitored and/or intercepted. The Department shall be responsible for instituting procedures at each ~~location to ensure that attorney-client calls are not recorded or~~ monitored.

13. Indemnification

A. The Contractor shall defend, protect and hold harmless the State of Washington, the Department, or any employees thereof, from and against all claims, suits, or actions arising from any negligent or deliberate act or omission of the Contractor or subcontractor, or agents of either, while performing under the terms of this Agreement. The provisions of this paragraph shall not apply to any act or omission by the Contractor for which the Department, in the text of this Agreement, has agreed to defend and hold the Contractor harmless. The provisions of this section shall survive any termination or the expiration of this Agreement.

B. The Department shall defend, protect and hold harmless Contractor, its employees, agents or subcontractors, from and against all claims, suits, actions, loss or injury arising from any negligent or deliberate act or omission of the Department or any employee thereof, while performing under the terms of this Agreement, except to the extent that the claims result from the negligence or willful acts of Contractor's employees, agents or subcontractors. The Department shall defend, protect and hold harmless the Contractor, its employees, agents or subcontractors, from and against all claims, suits, actions, loss or injury arising out of or in any way connected with Contractor's provision of call

recording equipment and call monitoring equipment to the Department under this Agreement. The provisions of this section shall survive any termination or the expiration of this Agreement.

#### 14. Regulatory

The local, intraLATA and interLATA service provided under this Agreement is subject to applicable tariffs or price lists, as filed pursuant to the requirements of the Federal Communications Commission and the Washington Public Service Commission..

#### 15. Force Majeure

Neither party shall be held liable for any delay or failure in performance of any part of this Agreement caused by circumstances beyond the reasonable control of the party affected or its subcontractors or suppliers, including, but not limited to, fire, explosion, lightning, pest damage, power surges or failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages.

#### 16. Limitation of Liability

Except in cases involving willful or wanton conduct, Contractor's liability to the Department with respect to the provision of local, intraLATA or interLATA service shall be limited to its obligation to pay commissions as set forth above. Contractor's liability with respect to the provision of public telephone stations and related equipment and the provision of monitoring and recording equipment is limited to direct damages which are proven. CONTRACTOR SHALL NOT BE LIABLE TO THE DEPARTMENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGE OF ANY KIND, INCLUDING LOST PROFITS (WHETHER OR NOT CONTRACTOR HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE), BY REASON OF ANY ACT OR OMISSION IN ITS PERFORMANCE UNDER THIS AGREEMENT.

#### 17. Conflict Resolution

A. Should a dispute arise between the parties hereto, with respect to the terms of this Agreement or the performance hereof, the parties shall attempt to resolve the dispute informally, by investigating and discussing the issues. In working toward a resolution of the dispute, the parties may seek the assistance of upper management within the respective organizations of the Department and the Contractor.

B. In the event that informal efforts to resolve a dispute are unsuccessful, the parties shall, prior to filing suit, submit their dispute to a mutually agreed upon third party mediation service for non-binding mediation (for example, Judicial Mediation

Service, 1420 Fifth Avenue, Suite 400, Seattle, WA 98101). Each party shall share the cost of such mediation.

18. Termination and Termination Procedure

A. In the event that a correctional facility covered by this Agreement is closed for lack of funding, consolidation with other facilities or as a result of other judicial or governmental action, the Department may terminate this Agreement as to that facility.

B. In the event of a failure by Contractor to perform any of the provisions hereof with respect to any one or more correctional facilities covered by this Agreement, or with respect to any one or more of the three LEC territories covered by this Agreement (GTE, PTI or USWC), the Department may give Contractor thirty (30) days' written notice of intent to terminate for default, specifying the nature of the alleged failure of performance and identifying the location(s) and/or LEC territory affected. Contractor shall not be deemed to be in default if Contractor cures the failure of performance within the thirty (30) day notice period, or if the nature of Contractor's default is such that more than thirty (30) days are reasonably required for its cure, then Contractor shall not be deemed to be in default if Contractor shall commence such cure within said thirty (30) day period and thereafter diligently ~~prosecute such cure to completion.~~

C. Unless there is a default consisting of a failure of performance as to the entire Agreement, a termination of this Agreement under the terms of this Section 18 a and b as to any single correctional facility or as to any single LEC territory shall not operate as a termination as to any other correctional facility or other LEC territory, and this Agreement shall remain in full force and effect for all other correctional facilities and LEC territories.

D. During the first three years of this Agreement, the Department may terminate this Agreement in whole or in part only upon one or more of the following events:

1. Termination for the reasons provided for in section 18 a., b. and c. herein, or
2. Any action by the legislature, the Governor's office, the Federal Communication Commission, the Washington Utilities and Transportation Commission or a court of competent jurisdiction which results in or necessitates termination of this Agreement in whole or in part.

Any termination under paragraph 18 D(2) above requires at least 90 calendar days written notice of such action be



provided to Contractor by Department as provided in Section 19 "Notices."

After the first three years of this Agreement, either party may terminate this Agreement without cause by giving written notice to the other party, as provided for herein, at least 180 calendar days prior to the effective date of said termination.

#### 19. Notices

A. Any notices or other communications to be given under this Agreement shall be provided to the following parties by personal delivery, first class U.S. mail or facsimile:

|                              |                                |
|------------------------------|--------------------------------|
| State of Washington          | AT&T                           |
| Department of Corrections    | 4460 Rosewood Drive, Room 6330 |
| P.O. Box 9699, MS: FN-61     | Pleasanton, CA 94588           |
| Olympia, WA 98504            | Attention: Patricia Maitland   |
| Attention: Gary L. Banning   | Facsimile no.: (510) 224-5498  |
| Administrator, Contracts     | Tel. no. (510) 224-4926        |
| and Regulations              |                                |
| Facsimile no. (206) 586-8723 |                                |
| Tel. no. (206) 753-5770      |                                |

The name, address or facsimile number for notice may be changed by giving notice in accordance with this Section. If mailed in accordance with this Section, notice shall be deemed given when actually received by the individual addressee or designated agent or three (3) business days after mailing, whichever is earlier. If transmitted by facsimile in accordance with this Section, notice shall be deemed given when actually received by the individual addressee or designated agent or one (1) business day after transmission, whichever is earlier.

B. Courtesy copies of any notices provided by one party to the other under this Agreement shall be provided, using any of the methods specified in Section 19A, to:

|                                |                               |
|--------------------------------|-------------------------------|
| U.S. West Communications, Inc. | GTE Northwest Incorporated    |
| 14808 SE 16th, Basement        | 2312D West Casino Road        |
| Bellevue, WA 98007             | Everett, WA 98204             |
| Attention: Susan Haynes        | Attention: Joanna Sissons     |
| Facsimile no. (206) 451-6011   | Facsimile no.: (206) 353-6558 |
| Tel. no. (206) 451-5328        | Tel. no. (206) 356-4175       |

PTI Communications  
Post Office Box 90  
Forks, WA 98331  
Attention: John Fryling  
Facsimile no.: (206) 374-9636  
Tel. no.: (206) 374-2300

20. Rights in Data

The data covered by General Term "Rights in Data" contained in Attachment B to the RFP does not include information relating to interLATA, intraLATA or local calls, which shall remain the property of the applicable carrier (AT&T, USWC, PTI or GTE), and shall be kept confidential subject to the requirements of Washington public records law. In the event of a third party request for such data, the Department shall notify Contractor in advance of responding to the request in sufficient time to allow Contractor to negotiate any appropriate protective arrangements, consistent with any applicable time limits for the Department to respond to the third party, but in any event prior to disclosing the data.

21. Bond

Contractor shall post a performance bond or a performance/payment bond in the amount of \$500,000 on a form acceptable to the Department. Such bond shall be for the purpose of guaranteeing satisfactory performance by Contractor of the services required hereunder and the payment of commissions due or owing to the Department.

22. Incorporation of General Terms and Conditions

~~The Department of Corrections General Terms and Conditions, as~~ set forth in Attachment B to the RFP, are incorporated herein by reference, except as modified are amended herein, and with the exception of the following, which are deleted as inapplicable to this project:

A. General Term "Indemnification" on page 5 of Appendix B is superseded by Section 13 above ("Indemnification").

B. General Term "Disputes" on page 10 of Appendix B is superseded by Section 17 above ("Conflict Resolution"), and Section 18 ("Termination and Termination Procedure").

C. General Terms "Termination by Contractor" and "Termination for Convenience on page 11 of Appendix B are superseded by Section 5 above ("Term") and Section 18 ("Termination and Termination Procedure").

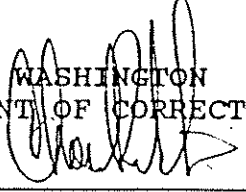
23. Contract Modifications

The parties may supplement or amend this Agreement by mutual consent, provided such supplement or amendment is in writing and signed by authorized representatives of both parties.

24. Entire Agreement

This Agreement and the documents incorporated herein by reference, i.e., the Combined Proposal, the RFP and the Department of Corrections General Terms and Conditions (Attachment B), constitute the entire understanding between the parties and supersede all prior understandings, oral or written representations, statements, negotiations, proposals and undertakings with respect to the subject matter hereof. In the event that any provisions of this Agreement and the incorporated documents are inconsistent, the order of precedence shall be as follows: (1) this Agreement; (2) the Combined Proposal (except for USWC's response to Attachment B to the RFP; (3) the RFP and (4) the Department of Corrections General Terms and Conditions (Attachment B).

STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

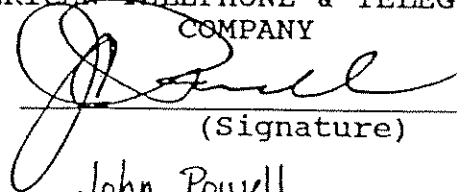
By:   
(Signature)

Chase Riveland  
(Typed or Printed Name)

Secretary  
(Title)

3/31/92  
(Date)

AMERICAN TELEPHONE & TELEGRAPH  
COMPANY

By:   
(Signature)

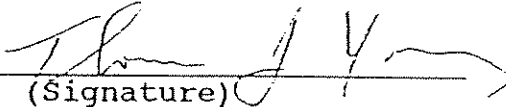
John Powell  
(Typed or Printed Name)

Sales V.P.  
(Title)

8/12/92  
(Date)

Approved as to Form:

OFFICE OF THE ATTORNEY GENERAL  
STATE OF WASHINGTON

By:   
(Signature)

Thomas J. Young  
(Typed or Printed Name)

Assistant Attorney General  
(Title)

3/30/92  
(Date)

COMMISSION SCHEDULE

1. AT&T: commission rate of 24% on billed revenues from operator-assisted intraLATA, interLATA and international calls carried by AT&T.
2. GTE: commission rate of 27% on billed revenues from operator-assisted local and intraLATA calls carried by GTE.
3. PTI: commission rate of 27% on billed revenues from operator-assisted local calls carried by PTI.
4. USWC: the following commission rates shall apply to billed revenues from operator-assisted local and intraLATA calls carried by USWC:

USWC agrees to pay the Department a commission rate of 35%. At the end of each calendar year of this Agreement, USWC shall review billed USWC revenues against the schedule shown below and increase the compensation, if appropriate, as follows:

| <u>Annual USWC Revenue</u> | <u>Adjustment Level &amp;<br/>New Commission Rate</u> |
|----------------------------|---|
| \$2.0 Million              | 35%   |
| \$3.0 Million              | 36%   |
| \$4.0 Million              | 37%   |

The USWC commission rate will not fall below 35%. Once a level of commission has been achieved, it will remain in place throughout the remaining years of this Agreement unless the next appropriate level is attained.

AMENDMENT NO. 1 TO CONTRACT AGREEMENT NO. CDOP2681

THIS AMENDMENT is made by the state of Washington, Department of Corrections, hereinafter referred to as "DOC", and American Telephone and Telegraph Company, hereinafter referred to as "Contractor", for the purpose of amending that document entitled Contract Agreement, bearing Contract No. CDOP2681, heretofore entered into between DOC and Contractor.

It is mutually agreed that the above-referenced Agreement is hereby amended as set forth below:

1. Section 4, Subcontractors, is amended, in part, as follows:

A. GTE. GTE shall install and maintain public telephone sets, all associated equipment, lines, Dictaphone recording/monitoring equipment and call timing and call blocking software at the following location:

- i. Washington State Reformatory, Monroe
- ii. Twin Rivers Corrections Center

GTE shall install and maintain public telephone sets, all associated equipment, lines, call timing and blocking software at the following locations:

- ~~((ii-)) ((Twin Rivers Corrections Center))~~
- iii. Indian Ridge Corrections Center, Arlington
- iv. Special Offender Center, Monroe

2. Section 5, Term, is amended, in part, as follows:

The term of this Agreement shall be five (5) years, commencing as of March 16, 1992 ("Effective Date"). Subcontractor GTE shall provide Dictaphone recording/monitoring equipment to Twin Rivers Corrections Center, in addition to the other services already being provided to Twin Rivers, commencing August 1, 1994 through the end of the remaining contract agreement. ....

3. Attachment 1, COMMISSION SCHEDULE, is amended, as follows:
  1. AT&T: commission rate of 24% on billed revenues from operator-assisted intraLATA, interLATA and international calls carried by AT&T.
  2. GTE: commission rate of 27% on billed revenues from operator-assisted local and intraLATA calls carried by GTE. For Twin Rivers Corrections Center only, commission rate of 23% on billed revenues for operator-assisted local and intraLATA calls carried by GTE from August 1, 1994 through the remainder of the contract term.

Additions to the text of this Agreement are shown by underline, deletions by ~~((strikeout))~~.

All other terms and conditions of this Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have affixed their signatures in execution thereof.

CONTRACTOR

STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

|   |  |
|---|--|
| <p><u>Andy Garnick</u>      11-30-94</p> <p style="text-align: right;">Date</p> | <p><u>Gary Banning</u>      9/15/94</p> <p style="text-align: right;">Date</p> <p>Gary Banning<br/>Administrator<br/>Office of Contracts and Regulations</p> |
|---|--|

THIS AMENDMENT HAS BEEN APPROVED AS TO FORM BY THE OFFICE OF THE ATTORNEY GENERAL.

AMENDMENT NO. 2 TO AGREEMENT BETWEEN  
STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS  
AND AT&T CORP. FOR INSTALLATION AND OPERATION OF  
AN INMATE TELEPHONE SYSTEM AT STATE CORRECTIONAL  
INSTITUTIONS AND WORK FACILITIES

This Second Amendment is made and entered into effective June 16, 1995, by and between the State of Washington Department of Corrections ("Department") and AT&T Corp., previously known as American Telephone and Telegraph Company ("Contractor" or "AT&T").

WHEREAS, Department and Contractor entered into an Agreement on March 16, 1992 for the Installation and Operation of an Inmate Telephone System at State Correctional Institutions and Work Facilities, bearing Contract No. CDOP2681 (the "Agreement");

WHEREAS, Department and Contractor entered into an Amendment No. 1 to the Agreement on November 30, 1994 for the purpose of modifying certain terms and conditions relating to Contractor's subcontractor GTE Northwest Incorporated;

WHEREAS, the parties now wish to further amend the Agreement to provide for the addition of certain call control features for calls carried by Contractor and for an increase in commissions on calls carried by Contractor;

NOW THEREFORE, Department and Contractor do mutually agree as follows:

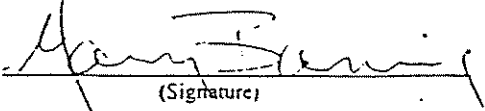
1. Department and Contractor agree that Contractor shall arrange for the installation of certain call control features for intraLATA, interLATA and international calls carried by AT&T. The State Correctional Institutions and Work Facilities to receive such call control features and the installation schedule shall be determined by agreement between Department and Contractor. Contractor shall install and operate such call control features through its subcontractor Tele-Matic Corporation in accordance with the terms and conditions set forth in Attachment B and Exhibit 1 hereto, which are incorporated herein by reference.
2. Commencing on the 16th day of the month following the signing of this Amendment by Department, the commission rate paid by AT&T under the Agreement shall increase to twenty-nine percent (29%) on billed revenues from operator-assisted intraLATA, interLATA and international calls carried by AT&T.

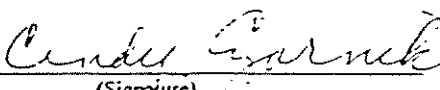
3. Except as set forth above and in Amendment No. 1, the Agreement remains unchanged and its terms and conditions in full force and effect.

STATE OF WASHINGTON

AT&T CORP.

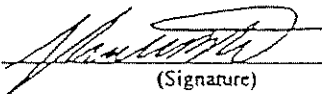
DEPARTMENT OF CORRECTIONS

By:   
(Signature)  
Gary Banning  
(Typed or Printed Name)  
Administrator  
(Title)  
Office of Contracts & Regulations  
(Title)  
7/24/85  
(Date)

By:   
(Signature)  
CINDY EARNIK  
(Typed or Printed Name)  
Sales Director  
(Title)  
8-15-85  
(Date)

Approved as to Form:

OFFICE OF THE ATTORNEY GENERAL  
STATE OF WASHINGTON

By:   
(Signature)  
John Scott Bevan  
(Typed or Printed Name)  
Sr. Ass't. Atty. Gen.  
(Title)  
6/14/85  
(Date)



# ATTACHMENT B AMENDMENT TO AT&T COMMISSION AGREEMENT

## INMATE CALLING SERVICE

The Agreement entered into on \_\_\_\_\_ 16, 199 \_\_\_\_ (hereinafter "Agreement") between AT&T Communications Inc. acting on behalf of the Interstate Division of the American Telephone and Telegraph Company and the AT&T Communications interexchange companies (hereinafter "AT&T") and \_\_\_\_\_ (hereinafter "Agent") is hereby amended to include the following:

FACILITY NAME

1. AT&T agrees that there will be no additional cost to Agent for AT&T's provision of AT&T Inmate Calling Services ("ICS") to Agent. This Amendment shall apply to all inmate telephones at the Locations, whether such telephones are provided by a LEC, by AT&T, or by AT&T's vendor. The customized ICS elements requested by Agent for each facility are specified in Exhibit 1 hereto.

2. In order to provide ICS, AT&T will cause certain "control" equipment to be placed at either Agent's premises or an off-premises location; however, that to the extent such equipment is already in place at the Agent's premises and compatible with ICS, AT&T will use that existing equipment. The ICS equipment shall be maintained in proper working order to insure the functioning of the ICS features. If the equipment is placed at the Agent's premises, Agent shall provide necessary space, power, heat, air conditioning, and any other reasonable requirements necessary for the functioning of the equipment required to provide ICS. Agent shall permit AT&T or its vendor reasonable access to the equipment in order to maintain the equipment.

3. All equipment placed pursuant to paragraph 2 above to provide ICS shall remain the property of AT&T or its vendor, as the case may be, and at the termination or expiration of this agreement, AT&T shall have the right to enter the premises, under the supervision of Agent, and remove any said equipment placed thereon pursuant to paragraph 2 above. Upon removal of the equipment, neither AT&T nor its vendor shall be responsible for restoring the premises to their original condition, provided

however, that AT&T or its vendor shall be responsible for any extraordinary damage to the premises to the extent such damage is caused by the negligence of AT&T or its vendor.

4. In the event, AT&T is unable to provide ICS as of the effective date of this Agreement, as defined in Section 3 of the Agreement, then AT&T will provide its standard live operator services to connect the inmate's call to the called party until it is able to provide ICS.

5. The commission rate payable to Agent for each Location listed in Attachment A, is \_\_\_\_\_ Percent ( \_\_\_ %) of revenues from AT&T Non-Sent Paid Collect Calls placed from the Inmate Telephones, the total number of which is \_\_\_\_\_.

6. Except in the event of a material default by AT&T in its performance under the Agreement, if Agent terminates the Agreement at any time prior to the expiration of the term of the Agreement, in addition to any other remedies available to AT&T at law or in equity, Agent shall pay a termination charge to AT&T, within thirty (30) days of such termination, calculated in the following manner:

Twenty-six and one-half cents (\$.265) times (x) the average number of messages per month, times (x) the number of months remaining in the term of the Agreement at the time of termination.

7. In the event of any dispute or inconsistency between this Amendment and the Agreement, the terms of this Amendment shall prevail.

AGENT/FACILITY \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Typed or Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Federal Tax ID \_\_\_\_\_

AT&T COMMUNICATIONS, INC.

Authorized Signature \_\_\_\_\_

Typed or Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

# EXHIBIT 1 AT&T INMATE CALLING SERVICE COMMISSION AGREEMENT

## AGENT INFORMATION

Agent Name: \_\_\_\_\_

Date Contract Signed: \_\_\_\_\_

Expected Implementation Date: \_\_\_\_\_

| <u>Facility Name</u> | <u>Number of Inmates</u> |
|----------------------|--------------------------|
|                      |                          |
|                      |                          |
|                      |                          |
|                      |                          |
|                      |                          |
|                      |                          |
|                      |                          |
|                      |                          |
|                      |                          |
|                      |                          |

## CONTROLS REQUESTED

|                             | <u>Yes</u> | <u>No</u> | <u>Details</u>                             |
|-----------------------------|------------|-----------|--|
| ON-PREMISE                  | _____      | _____     |  |
| OFF PREMISE                 | _____      | _____     |  |
| PIN                         | _____      | _____     | IF YES: With list _____ Without list _____ |
| LOCAL TIME LIMITS           | _____      | _____     | IF YES: Length of time _____               |
| LOCAL DISTANCE TIME LIMITS  | _____      | _____     | IF YES: Length of time _____               |
| HOUR OF DAY RESTRICTIONS    | _____      | _____     | IF YES: Specify Hours _____                |
| TOTAL DURATION RESTRICTION  | _____      | _____     | IF YES: Specify _____                      |
| NUMBER OF CALLS RESTRICTION | _____      | _____     | IF YES: Specify _____                      |
| PASSIVE CALL ACCEPTANCE     | _____      | _____     |  |
| ACTIVE CALL ACCEPTANCE      | _____      | _____     |  |
| ADDITIONAL EQUIPMENT NEEDED | _____      |           |  |
|                             | _____      |           |  |
|                             | _____      |           |  |
|                             | _____      |           |  |
|                             | _____      |           |  |



AMENDMENT NO. 3 TO AGREEMENT  
BETWEEN  
STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS  
AND  
AT&T CORPORATION

The AT&T Commission Agreement entered into as of March 16, 1992 ("Agreement"), between AT&T Communications, Inc. acting on behalf of the Interstate Division of AT&T Corp. (formerly American Telephone and Telegraph Company) and the AT&T Communications interexchange companies ("Contractor" or "AT&T") and State of Washington Department of Corrections ("Department") is amended, effective upon signing by both parties, as follows:

WHEREAS, Department and Contractor entered into an Agreement on March 16, 1992 for the Installation and Operation of an Inmate Telephone System at State Correctional Institutions and Work Facilities, bearing Contract No. CDOP2681 (the "Agreement");

WHEREAS, Department and Contractor entered into an Amendment No. 1 to the Agreement on November 30, 1994 for the purpose of modifying certain terms and conditions relating to Contractor's subcontractor GTE Northwest Incorporated (GTE);

WHEREAS, Department and Contractor entered into an Amendment No. 2 to the Agreement on August 15, 1995 for the purpose of providing for the addition of certain call control features for calls carried by Contractor and for an increase in commissions on calls carried by Contractor;

WHEREAS, the parties now wish to further amend the Agreement to change the expiration date of the Agreement, to increase the commissions, to delete Telephone Utilities of Washington, Inc. dba PTI Communications (PTI) as a subcontractor, and to include T-Netix Inc. as the station provider;

NOW, THEREFORE, Department and Contractor do mutually agree as follows:

1. Department and Contractor agree that the term of the Agreement is extended and will expire June 30, 1999.
2. Commencing on the 16th day of the month following the signing of this Amendment by Department, the monthly commission rate paid by Contractor under the Agreement shall increase to Forty-five percent (45%) on billed revenues from operator-assisted interLATA and international calls carried by Contractor from all locations. Also, Contractor shall pay Department a monthly commission rate of Forty-five percent (45%) on billed revenues from operator-assisted intraLATA calls from the following facilities only in PTI territory: Clallam Bay Corrections Center, Washington Correction Center for Women, Olympic Corrections Center, Pine Lodge Work Pre-Release, Coyote Ridge Corrections Center, and Larch Correctional Center.
3. Upon execution of this Amendment, U S WEST Communications, Inc. (USWC) shall pay to Department an increased monthly commission rate of Forty percent (40%) of billed revenues from operator-assisted local and intraLATA calls carried by USWC during the term of the Agreement.
4. Upon execution of this Amendment, GTE shall pay to Department an increased monthly commission rate of Thirty-five percent (35%) on all local and intraLATA GTE generated revenues for the term of the Agreement.
5. Upon execution of this Amendment, T-Netix, Inc. shall pay to Department a monthly commission rate of Twenty-seven percent (27%) on local calls only, for the term of the Agreement, from the facilities in PTI territory referred to in paragraph 2 above.
6. The Independent Contractor Agreement between AT&T and PTI entered into as of March 16, 1992, under which PTI agreed to act as subcontractor to Contractor for the provision of local service, inmate telephone equipment and recording and recording equipment to correctional facilities operated by the Department in PTI territory in the State of Washington, and in support of Contractor's obligations to the Department pursuant to the Agreement between the Department and AT&T for Installation and Operation of an Inmate Telephone System at State Correctional Institutions and Work Release Facilities, is hereby terminated in its entirety.
7. Any rate change will be effective beginning on the 16th day of the first calendar month of the renewal period.

8. In the event of an inconsistency between the terms of the Agreement and this Amendment, the terms of this Amendment shall prevail.

REVISED ATTACHMENT A:  YES  NO  
REVISED ATTACHMENT B:  YES  NO

STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

Gary Banning  
Authorized Signature

Gary Banning  
Typed or Printed Name

Contracts Administrator  
Title

2/3/97  
Date

360-753-5770  
Contract Telephone Number

AT&T COMMUNICATIONS, INC.

Anna Bowen (for)  
Authorized Signature

John Powell  
Typed or Printed Name

Sales VP  
Title

2/14/97  
Date

Contract # \_\_\_\_\_

Agent ID \_\_\_\_\_

Location # \_\_\_\_\_

Approved as to Form:

OFFICE OF THE ATTORNEY GENERAL  
STATE OF WASHINGTON

Thomas F. Young  
Authorized Signature

Thomas F. Young  
Typed or Printed Name

Assistant Attorney General  
Title

February 3, 1997  
Date





# Standard Delegation Of Authority

U874  
(7-87)

Note: Part A is used by the principal to appoint an in-charge during his/her absence;

Part B is used by the supervisor of the absentee to appoint an in-charge person to act on behalf of the absent principal.

Responsibility Code 1AX200000

Expires 2/14/97

## Part A

During my absence from 2/10/97 to 2/14/97 19 97 inclusive, Donna Bowen will be in charge of Consumer Sales Division and may exercise all authority delegated to me in the Schedule of Authorizations and appropriate Departmental Instructions.

Authority Delegated To:

Signature Donna Bowen

Name Donna Bowen

Title/Salary Grade SG-6 B Band

Social Security No. 14 48-9786

Responsibility Code 1AX 00010

Approved:

Signature John C. Powell

Name John C. Powell

Title/Salary Grade F-Band

Social Security No. 205-34-2385

Date February 10, 1997

## Part B

During the absence of \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_ 19 \_\_\_\_\_ inclusive,

\_\_\_\_\_ will be in charge of \_\_\_\_\_

and may exercise the authority delegated to \_\_\_\_\_

in the Schedule of Authorizations and appropriate Departmental Instructions.

Authority Delegated To:

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title/Salary Grade \_\_\_\_\_

Social Security No. \_\_\_\_\_

Responsibility Code \_\_\_\_\_

Approved:

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title/Salary Grade \_\_\_\_\_

Social Security No. \_\_\_\_\_

Date \_\_\_\_\_

AMENDMENT NO. 4 TO AGREEMENT  
BETWEEN  
STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS  
AND  
AT&T CORPORATION

The AT&T Commission Agreement entered into as of March 16, 1992 ("Agreement"), between AT&T Communications, Inc., acting on behalf of the Interstate Division of AT&T Corp., (formerly American Telephone and Telegraph Company and the AT&T Communications interexchange companies ("Contractor" or "AT&T") and State of Washington Department of Corrections ("Department") is amended, effective upon signature of both parties, as follows:

WHEREAS, Department and Contractor entered into an Agreement on March 16, 1992, for the installation and operation of an inmate system at state correctional institutions and work release facilities, bearing Contract No. CDOP2681 (the "Agreement");

WHEREAS, Department and Contractor entered into an Amendment No. 1 on November 30, 1994, for the purpose of modifying certain terms and conditions relating to Contractor's subcontractor GTE Northwest Incorporated (GTE);

WHEREAS, Department and Contractor entered into an Amendment No. 2 to the Agreement on August 15, 1995 for the purpose of providing for the addition of certain call control features for calls carried by Contractor and for an increase in commissions on calls carried by Contractor;

WHEREAS, Department and Contractor entered into an Amendment No. 3 to the Agreement on February 14, 1997 for the purpose of extending the date of the agreement, increasing the rate of commissions, and deleting Telephone Utilities of Washington, Inc. dba PTI Communications (PTI) as a subcontractor, and including T-Netix, Inc. as the station provider;

WHEREAS, the parties now wish to extend the current term of the Agreement, to: standardize the revenue percentage for all vendors and locations, to add caller ID to inmate telephone lines as well as legal telephone lines, to add a modified I-PIN system to the system, and to include other provisions as covered by this contract amendment.

1. Department and Contractor agree that the term of the Agreement is extended and will expire June 30, 2004.

2. Commencing on the 16<sup>th</sup> day of the month following the signing of this Agreement by Department, the monthly commission rate paid by Contractor under the Agreement shall remain at forty-five percent (45%) on billed revenues from operator-assisted interLATA and international calls carried by Contractor from all locations. Also, Contractor shall pay Department a monthly commission rate of forty-five percent (45%) on billed revenues from operator-assisted intraLATA and interLATA calls from the following facilities only in Century Telephone (formerly PTI) territory: Clallam Bay Corrections Center, Washington Corrections Center for Women, Olympic Corrections Center, Pine Lodge Pre-Release, Coyote Ridge Corrections Center, and Larch Correction Center.
3. Upon execution of this Amendment, US WEST Communications, Inc. (USWC) shall pay to Department a monthly commission rate of forty percent (40%) of billed revenues from operator-assisted local and intraLATA calls carried by USWC during the term of the Agreement.
4. Upon execution of this Amendment, GTE shall pay to Department a monthly commission rate of thirty-five percent (35%) on all local and intraLATA GTE billed revenues for the term of the Agreement.
5. Upon execution of this agreement, T-Netix, Inc. shall pay to Department a monthly commission rate of twenty-seven percent (27%) on all local call billed revenues only, for the terms of the Agreement, from the facilities in Century Telephone territory referred to in paragraph 2 above.
6. Any rate (commission) change will be effective beginning on the 16<sup>th</sup> day of the first calendar month of the renewal period.
7. Eighty percent (80%) of the anticipated year's commissions will be pre-paid annually by each vendor, in advance to DOC. These revenues are to be based on last year's, year-end billed revenues. The payments will be made in January of each year, no later than the last business day of the month. Revenues will be broken down site by site and paid according to each site's figures. Payment may be made in the form of one check, which should be sent to the Administrative Planning Manager at DOC headquarters, in Olympia Washington, along with a complete breakdown of all figures showing fixed revenue and percentage paid as commission to the Department.

Address: MARY LOU KENNEDY  
ADMINISTRATIVE PLANNING/MANAGER  
PO BOX 41110  
OLYMPIA, WA 98504-1110

8. There will be an annual "true up", conducted during the month of January of each year. This "true up" will be completed no later than the last business day of February. Any adjustment to be made, on DOC's behalf will be deducted from the current year's revenue check before it is issued to DOC.
9. Beginning April 15, 1999, caller ID will be added to each line, and maintained by the contractor and its vendors at no additional cost to DOC. The ID will be on all telephone lines including legal telephone lines.
10. Beginning April 15, 1999, a modified I-PIN system will be in place and operational, or as per any other agreement on scheduling as determined by DOC and its vendors. All costs for installation, administrative staffing, and other operational functions needed to support the system will be borne by Contractor and its vendors. The administrative "staffing" for supporting this system will be provided by T-Netix. Contractor shall provide an I-PIN system training program for both inmates and DOC staff, an accounting system, and all other operational functions. The modified I-PIN system will consist of a pin number, a revised announcement pre-recorded by T-Netix, updated and or upgraded software, and hardware systems and maintenance.
11. Time limits on calls may be imposed at the discretion of DOC personnel at DOHeadquarters only.
12. Beginning March 16, 1999, AT&T and its vendors (US West, GTE, and T-Netix) shall generate a monthly report showing site specific information. The information will include inmate use per telephone (on both inmate and legal lines), the minutes of use, amount of billed revenue, amount of commission paid, and revenue totals per institution. The report will be forwarded to the DOC headquarters' Telecommunications Manager, on a monthly basis, with an annual report at the years' end. The current AT&T report shall be used as a template for creating the monthly report.
13. In the event of an inconsistency between the terms of the Agreement and this Amendment, the terms of this Amendment shall prevail.
14. Contractor shall not recommend any hardware or software under this amendment and any other amendments without documenting that such hardware and /or software is warranted by its manufacturer/owner to be Year 2000 compliant. Year 2000 compliant shall mean that the product performs accurately and reliably before, or/and after January 1, 2000, in the processing of date and date-related data regardless of whether the dates are in the 20<sup>th</sup> or 21<sup>st</sup> centuries, and whether or not the date data is affected by leap years. Furthermore, Year 2000 compliant hardware/software, when used in combination with other information technology, shall accurately process date/time data if the other information technology properly exchanges date/time data with it.



IN WITNESS WHEREOF, the undersigned have affixed their signatures in execution thereof.

STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

  
Authorized Signature

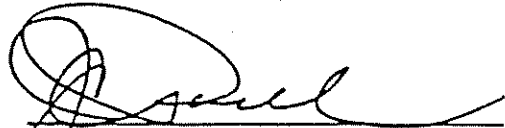
Gary Banning  
Typed or Printed Name

Contracts Administrator  
Title

3/1/99  
Date

(360) 753-5770  
Contract Telephone Number

AT&T COMMUNICATIONS, INC.

  
Authorized Signature

John C. Powell  
Typed or Printed Name

Sales Vice President (Consumer Sales)  
Title

3/17/99  
Date

Contract # \_\_\_\_\_

Agent ID \_\_\_\_\_

Location # \_\_\_\_\_

Approved as to Form:

OFFICE OF THE ATTORNEY GENERAL  
STATE OF WASHINGTON

  
Authorized Signature

Thomas J. Young  
Typed or Printed Name

Assistant Attorney General  
Title

2/26/99  
Date