

broadband
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Serving the Cable Industry in Washington State Since 1972

May 23, 2012

Mr. David Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket No. UT-120451

Dear Mr. Danner:

The Broadband Communications Association of Washington (BCAW) appreciates the opportunity to comment on the proposed changes to WAC 481-120-251. BCaw is a trade association whose membership includes over fifteen (15) cable companies providing service in Washington. The members of BCaw through their affiliates provide facilities-based competitive voice services to residential and business customers in WA.

The Commission's current Directory Service Rules require, among other things, that all LECs "ensure that a telephone directory is regularly published for each local exchange it serves," and that "each customer" is provided "a copy of the directory for the customer's local exchange area." WAC 480-120-251(1), (3) (copy attached as Exhibit A.) The Rules are an important component of the Commission's current "unified directory" policy, which aims to provide all Washington consumers access to complete directories that contain the listings of all consumers receiving service from "any type of service provider." *Amending, Adopting and Repealing Chapter 480-120 WAC Relating to Telephone Companies*, Order Amending, Adopting and Repealing Rules Permanently, Docket No. UT-990146, Gen. Order No. R-507, ¶ 114 (WUTC Dec. 16, 2002).

In recent years, our members have found that the processes of obtaining directory listings have changed dramatically and, as a result, tons of unwanted directories litter the streets each year, end up in landfills or are needlessly recycled. Indeed, many carriers around the country are replacing paper directories with on-line directories, a November 2010 USA Today article explains: http://www.usatoday.com/money/industries/telecom/2010-11-14-white-pages-dropped_N.htm. Today, eighteen months later, it is BCAW's understanding that carriers in approximately 20 states no longer issue paper directories. Accordingly, BCAW supports the Commission modifying or repealing WAC 481-120-251 as it currently exists as a requirement applicable to all carriers within the Commission's jurisdiction.

Eliminating or modifying the requirement for each company to provide printed telephone directories is not so much a money saving measure as it is an environment-saving measure. It has been reported that nearly 5 million trees are cut down annually in order to create white pages, at a time when more and more people would rather not receive a printed directory. See <http://www.banthephonebook.org>. Most recently, a federal court upheld a City of Seattle ordinance that attempts to reduce the distribution of paper directories due, in part to the waste of natural resources associated with paper directories. See *Dex Media West, Inc. v. City of Seattle*, No. C10-1857JLR, 2011 WL 4352121 (W.D. Wash., Sept. 16, 2011). Not only do on-line directories reduce waste, they can be superior to paper directories to the extent they provide accurate and ubiquitous directory information that can be dynamically updated at any time, unlike static paper directories. While regional directories contain only listing information from a geographically limited area, on-line directories are not limited by community boundaries.

The Commission noted in its notice that comments responding to following questions would be useful:

1. Do all telephone company customers need printed directories of telephone numbers? If not, which types of customers continue to need such directories?

Response: No. Experience in recent years has suggested that many and perhaps most customers do not need printed directories delivered to their doorstep; put simply, they don't want them and may find them to be an irritant. Those customers without Internet access -- or those who like to use a printed directory -- should have the option to pick up a printed directory at newsstands, libraries, retail stores and community centers.

2. If all customers do not need printed directories, should the Commission continue to require telephone companies to provide them?

Response: No. BCAW is not opposed to modification or repeal of WAC 481-120-251 (3) provided, however, that, if an ILEC chooses to not distribute printed directories, the Commission directs that the following arrangements are made to address the concerns of competitive providers and consumers. Such arrangements have been established in Georgia, Missouri and New York as conditions, for example, for granting waivers to ILECs of or otherwise revising state utility commission requirements to distribute printed directories.¹

(a) The ILECs, without differentiating between the carriers serving the subscriber, must provide a printed directory at no charge to all subscribers who may call and make such a request.

In some instances, the distribution of white pages directories is handled by affiliates of ILECs or contracted by ILECs to third-party publishers. In the event a competitive provider's customer contacts the ILEC or its publisher for a white pages directory, the same process for responding to a similar request from the ILEC's customers must be used.

(b) The ILEC must accept electronic files from competitive providers identifying customers that request a printed white pages directory; otherwise, the end users of competitive providers will have no choice but to contact the ILEC to obtain a white pages directory (*i.e.*, if the rule is merely changed to allow or require printed directory distribution other than through mass market delivery).

If the Commission's decision results in a need to amend interconnection agreements, ILECs must: (i) obtain approval of the form of amendments, with an opportunity for competitive providers to review and comment prior to such approvals; and (ii) make the amendments available to competitive providers before implementing changes in the Commission's directory delivery policy, to avoid the possibility that the amendment process will become bogged down in extraneous issues.

(c) The ILEC and any publisher for the ILEC must refrain from marketing the ILEC's services. If the rule is modified, it is essential that the Commission direct that the ILEC and its publisher will not directly or indirectly sell or market any ILEC services (other than the ILEC-branded telephone directories) to competitive providers' customers who contact the ILEC or the publisher regarding delivery of a white pages directory. Otherwise, the process for

¹ See, e.g., *Notice of Proposed Rulemaking to Amend Commission Rule 515-12-1-10(3), Directories*, Order Adopting Rule, Docket No. 30569-U (Ga.P.S.C. April 28, 2010); *Southwestern Bell Telephone Company, d/b/a AT&T Missouri's Application for Waiver of the General Distribution Requirement of White Page Directories Under 4 CSR 240-32.050(4)(B)*, Order Approving Unanimous Stipulation and Agreement, Case No. IE-2009-0357 (Mo. P.S.C. July 24, 2009). In New York, Verizon informed the New York Public Service Commission that arrangements to satisfy the competitive providers' concerns with regard to Verizon's waiver would be established. See *Petition of Verizon New York Inc. for Waiver of New York Code of Rules and Regulations, Title 16, §602.10(b) Pertaining to the Distribution of Telephone Directories*, Order Granting Waiver With Conditions, Case 10-C-0215 (N.Y. P.S.C. Oct. 15, 2010).

requesting directories could be unfairly leveraged to subject competitive providers' customers to the ILECs' telephone services marketing.

3. Should telephone companies give their customers the option to receive a printed directory?
 - a. If so, should customers be given the option not to receive a printed directory (opt out) or should customers be required to affirmatively request a directory (opt in)?
 - b. What costs would a telephone company incur to implement optional distribution of printed directories?
 - c. If any such costs would be significant, how should the company recover those costs?

Response: If WAC 480-120-251(3) is modified or repealed, customers in the circumstances discussed above should have the option to receive printed directories. AT&T's and Verizon's requests for waiver of directory distribution rules in the cases referenced herein implied or stated that those companies would save substantial costs by implementing processes for optional distribution of printed directories, in comparison with the universal distribution of printed directories. AT&T's and Verizon's requests for waiver of directory distribution rules did not seek cost recovery, and BCAW does not believe that any ILEC's costs in such regard should be recovered from other carriers or other carriers' customers.

4. Should the rule explicitly allow a telephone company to seek an exemption from the rule to relieve it of the obligation to print and/or deliver printed directories to customers? If so, what standard should the Commission consider?

Response: A waiver or exemption process would be acceptable, similar to that granted in Missouri, where AT&T's waiver was effectively conditioned on a simultaneously-approved stipulation that protected the rights of, and granted simultaneous waivers to, competitive providers. If a waiver is granted to an ILEC the Commission should simultaneously grant a waiver to competitive providers.

5. Should the Commission give the companies the option to provide online directories of telephone numbers instead of printed directories?

Response: Other than in the circumstances discussed above, the Commission should simply give companies the option to provide online directories in lieu of printed directories. In a competitive marketplace a consumer will subscribe to

the company that provides a suite of services that fit the customer's individual needs.

Thank you for the opportunity to comment and for your consideration. BCAW looks forward to continued participation as this proceeding moves forward.

Sincerely,

Ron Main

Ron Main
Executive Director