



# **PRELIMINARY INVESTIGATION REPORT**

**CORDIA COMMUNICATIONS CORP.**

and

**NORTHSTAR TELECOM, INC.**

**Prepared by:  
Sheri Hoyt  
Compliance Specialist  
Compliance Investigations  
April 2009**

## PURPOSE

The purpose of this preliminary investigation is to determine if there is a trend or pattern in consumer complaints received between January and December 2008 against Cordia Communications Corp. (Cordia). During the review of Cordia's complaints, it was brought to staff's attention that the complaint contact for Cordia is also the complaint contact for Northstar Telecom, Inc. (Northstar). A review of the complaints revealed not only the same commission complaint contact but similar complaints and company responses.

According to commission records, on May 22, 2007, Northstar filed a notice of transfer of control of Northstar, a subsidiary of Midwest Marketing Group, Inc., to My Tel Co., Inc. (My Tel), a subsidiary of Cordia Corporation. Commission complaint records for Cordia and Northstar indicate Keith Applewhite, Executive Escalations Analyst, is the primary commission complaint contact for both companies.

Because Northstar is owned by a subsidiary of Cordia, because the two companies seem to share complaint processing personnel, and because compliance problems at each company involve the same commission rules, staff combined the investigation findings into one report.

### Background for Cordia Communications Corp.

Cordia is a registered competitively classified telecommunications carrier providing local and long distance services as well as data services. Cordia was granted registration in Washington state by the commission on November 24, 2004. Annual reports filed with the commission reflect the following gross intrastate revenue:

Report Year	Gross Intrastate Revenue
2005 . . . . .	\$2,759
2006 . . . . .	\$17,670
2007 . . . . .	\$263,119

A review of Cordia's complaint history reveals a slight increase in the number of complaints the commission has received against the company in the last few years as indicated in the table on the left, below. The number of violations recorded per calendar year is indicated in the table on the right, below<sup>1</sup>.

---

<sup>1</sup> A breakdown of Cordia complaints and recorded violations is attached at Appendix A.

Year	Number of Complaints
2006	4
2007	3
2008	7

Year	Number of Violations
2006	1
2007	52
2008	30

**Background for Northstar Telecom, Inc.**

Northstar is a registered competitively classified telecommunications carrier providing local and long distance services as well as debit services. Northstar was granted registration in Washington state by the commission on November 29, 2004. Annual reports filed with the commission reflect the following gross intrastate revenue:

Report Year	Gross Intrastate Revenue
2005	\$571,658
2006	\$583,360
2007	\$1,099,898

A review of Northstar's complaint records reveals that there has been a significant increase in consumer complaints over the last several years as illustrated in the table on the left, below. The number of violations recorded per calendar year is indicated in the table on the right, below. There was a notable increase of recorded violations in 2008<sup>2</sup>.

Year	Number of Complaints
2005	3
2006	5
2007	2
2008	10

Year	Number of Violations
2005	6
2006	0
2007	5
2008	129

---

<sup>2</sup> A breakdown of Northstar complaints and recorded violations is attached at Appendix B.

## INVESTIGATION

This investigation was prompted by Consumer Protection staff's concern about Cordia's commission-referred complaints. Consumer Protection staff noted a lack of response to commission-referred consumer complaints by Cordia, specifically by company representative Keith Applewhite. Accordingly, Consumer Protection staff requested that Compliance Investigations staff review Cordia's complaint history. The initial investigation revealed similar responses and attitude by Mr. Applewhite in both Cordia and Northstar complaint records. A review of Northstar complaint history was added to this investigation as a result.

A review of complaints filed against both companies in 2008 indicates Mr. Applewhite is aware of the response requirements but fails, without explanation, to meet them. Responses are frequently late and staff has to request a response from Mr. Applewhite often more than once.

Washington Administrative Code (WAC) 480-120-166, Commission-referred complaints, requires:

(6) Unless another time is specified in this rule or unless commission staff specifies a later date, the company must report the results of its investigation of service-affecting informal complaints to commission staff within two business days from the date commission staff passes the complaint to the company. Service-affecting complaints include, but are not limited to, nonfunctioning or impaired services (i.e., disconnected services or those not functioning properly).

(7) Unless another time is specified in this rule or unless commission staff specifies a later date, the company must report the results of its investigation of nonservice-affecting informal complaints to commission staff within five business days from the date commission staff passes the complaint to the company. Nonservice-affecting complaints include, but are not limited to, billing disputes and rate quotes.

(8) Unless another time is specified in this rule or unless commission staff specifies a later date, the company must provide complete responses to requests from commission staff for additional information on pending informal complaints within three business days.

The other rules referenced in this investigation report are attached at Appendix C.

### **Complaint 103328**

In April 2008, in the course of processing Cordia complaint 103328, Sandra White of the commission's Consumer Protection office, provided Mr. Applewhite with technical assistance regarding asking for an extension of time to respond to commission-referred complaints should he require it. Ms. White's e-mail correspondence to Mr. Applewhite stated, in part:

öGoing forward, I would encourage you to ask clarifying questions. If you need an extension of time, then ask. There is no guarantee that the time extension will be granted, but it is better for you to ask than to incur response violations on each complaint passed from Washington. If you have questions about response times or procedures, you need only to ask and we will be happy to provide technical assistance.ö

In 2008, Mr. Applewhite did not ask Consumer Protection staff for an extension for any of his responses.

**Complaint 103880**

On June 13, 2008, Consumer Protection staff Lynda Johnson passed an urgent complaint to Northstar. The complainant alleged that his phone service had been disconnected with only one day's notice. Northstar's response to the urgent complaint was due June 17, 2008. Due to an error, the complaint was passed to Northstar personnel who no longer received complaints. On June 16, 2008, Keith Applewhite responded to Ms. Johnson that he had just received the complaint and would try to respond to it that same day. Mr. Applewhite responded on June 20, 2008, agreeing to restore the customer's service that same day while the customer's complaint was investigated. Ms. Johnson sent Mr. Applewhite a response e-mail the same day requesting additional information be provided by Northstar. In accordance with Washington Administrative Code (WAC) 480-120-166(8), a response to the request for additional information was due on June 25, 2008. Mr. Applewhite did not respond.

On June 27, 2008, Ms. Johnson contacted Mr. Applewhite by e-mail to notify him that daily violations would be recorded until such time as he provided the information requested by her on June 20, 2008. At the same time, Ms. Johnson notified Mr. Applewhite that the customer's service had been disconnected during the course of the complaint (a violation of WAC 480-120-172(12)) and requested the service be reconnected. The complainant reported to the commission on July 1, 2008, that his phone service was still disconnected. Ms. Johnson did not receive Mr. Applewhite's e-mail response to her June 27, 2008, communication until July 14, 2008. The response indicated that the complainant's bill history was attached. It was not. That same day, Ms. Johnson requested that the bill history be provided. Again, Mr. Applewhite did not respond.

On July 25, 2008, Ms. Johnson again requested by e-mail that Mr. Applewhite provide the missing bill history. It was provided the same day. Ms. Johnson recorded 19 violations of WAC 480-120-166(8) for Cordia's failure to provide the requested information. In addition, Ms. Johnson recorded a violation of WAC 480-120-172(12) for disconnecting the customer's service while a complaint was open and the customer was pursuing a remedy or appeal.

On July 30, 2008, after completing her investigation, Ms. Johnson sent an e-mail to Mr. Applewhite notifying him of the violations recorded and informing him the complaint was closed. Mr. Applewhite responded on July 31, 2008, stating:

öPlease note that your customer now owes us \$936.53 while waiting for you to reach your decision. He has made no attempts to pay anything above \$55.55 per month, even though he knows he is racking up charges. Now that your decision is done, we will be sending him a suspension of service notice.ö

Mr. Applewhite's response appeared to blame commission staff for the time the complaint remained open, allowing the customer's debt to Northstar to increase; however, he took no responsibility for his continued non-responsiveness to staff's requests for information. Had Mr. Applewhite responded thoroughly and in accordance with commission rules, it is likely that staff's investigation of the customer's complaint would have been completed much earlier.

As a result of this investigation, on February 11, 2009, staff reopened complaint 103880 for the purpose of requesting information from Northstar that had not been provided previously. This investigation found that the bill history provided by Mr. Applewhite was not complete and staff could not do a thorough review of the account history in order to check for compliance with the applicable rules. Specifically, Ms. Johnson requested that Mr. Applewhite provide:

1. All disconnect notices (or narratives if customer was notified by phone) sent to the customer.
2. The dates the customer was connected to the company's service.
3. The dates the customer did not have service.

Further, on February 12, 2009, Ms. Johnson requested Mr. Applewhite provide her a detailed bill history showing itemized charges for the customer. On February 13, 2009, Ms. Johnson asked Mr. Applewhite to respond specifically to the customer's allegations that he was given only one day, instead of the five business days required by WAC 480-120-172(6), to provide a qualifying doctor's note to delay disconnection due to a medical emergency. The customer alleged he was not able to get the doctor's note within one day and his services were disconnected.

Mr. Applewhite responded to Ms. Johnson that same day, disputing that the customer was disconnected with one day's notice. Mr. Applewhite asserted that a suspension notice was mailed on May 30, 2008, with a suspension date of June 10, 2008. Mr. Applewhite informed Ms. Johnson that medical extensions are subject to review and the letter submitted by the customer showed no valid reason for service beyond E911 services to be maintained. This suspension notice, which was never provided to the commission, was in violation of WAC 480-120-172(7)(a)(i), as it did not provide a discontinuation date that was not less than eight business days after the date the notice is mailed, transmitted electronically, or personally delivered. The notice, as confirmed by the company, provided the customer only seven business days from the mailing date of the notice until the discontinuation date, in violation of the rule.

Despite the requests for additional information made by staff, Mr. Applewhite did not provide the requested copies of the bill history and disconnect notices, nor did he provide the dates of when the customer had service and when he did not. In fact, beyond Mr. Applewhite's February 13, 2009, denial that service was disconnected without proper notice, Mr. Applewhite failed to respond to Ms. Johnson's former and subsequent requests for additional information. The complaint was again closed on February 25, 2009, with no further acknowledgement from Mr. Applewhite. At closing, Ms. Johnson informed Mr. Applewhite via e-mail that she had recorded eight additional violations of WAC 480-120-166(8) for not providing the additional information requested and four violations of WAC 480-120-172(7), two violations for the June 13, 2008,

disconnection of the customer service and two violations recorded for the disconnection which took place on June 27, 2008, during the course of the complaint.

### **Complaint 104799**

Consumer Protection staff Rachel Stark passed an urgent complaint regarding a Cordia customer's disconnected service to Keith Applewhite on October 23, 2008. A response was due by October 27, 2008. On October 27, at 4:47pm, having yet to receive a response to the urgent complaint, Ms. Stark sent an e-mail to Anna Fernandes, Cordia Executive Escalations Analyst, requesting confirmation that Mr. Applewhite continued to be Cordia's contact for commission-referred consumer complaints. Further, Ms. Stark stated that Mr. Applewhite was not responsive to commission complaints and the commission would like to know why.

On October 29, 2008, Ms. Fernandes responded to Ms. Stark stating that Mr. Applewhite was the point of contact for commission-referred complaints and that she helped with complaints when necessary. Ms. Fernandes went on to say that since the complaint was marked urgent, she had attached Cordia's complaint response to her response e-mail.

Later that same day, Ms. Stark received an e-mail communication from Mr. Applewhite that stated he was still the primary point of contact for complaints. His e-mail went on to say:

“I try to respond in a timely manner to all complaints; however, with your state providing such a short response time, there will be occasions where the response will be late. We are aware of your citing practices. Other than that, there is no why.”

On November 13, 2008, Ms. Stark received an e-mail from Mr. Applewhite directing her to remove Ms. Fernandes as a company contact because Ms. Fernandes was no longer responsible for responding to commission-referred complaints. On November 19, 2008, Ms. Stark requested additional information regarding complaint 104799. Mr. Applewhite's response was due November 24, 2008. On November 25, 2008, Ms. Stark notified Mr. Applewhite that a violation of WAC 480-120-166(8) would be recorded daily until she received Cordia's response to her request. Mr. Applewhite did not provide the requested information until December 1, 2008.

The complainant alleged that Cordia charged at a rate higher than she was solicited for by the company. At the time the customer filed the complaint, service was disconnected for non-payment. Staff's investigation of the complaint found that the services were charged in accordance with the rates accepted by the customer; however, Cordia's disconnect notice and subsequent disconnection of service was out of compliance with the rules as the company did not provide enough time for the customer to pay the delinquent account between the date it mailed the disconnect notice until the date disconnection was due. Further, the company disconnected service in accordance with the notice; therefore, the disconnection itself was out of compliance with the rules. The complaint was closed with two violations of WAC 480-120-166(6), four violations of WAC 480-120-166(8), one violation of WAC 480-120-172(7)(i) and one violation of WAC 480-120-172(3).

### **Complaint 104277**

While the bulk of Cordia and Northstar's 2008 recorded violations are for untimely responses (or for failure to respond) to commission-referred complaints (WAC 480-120-166), there are other recorded violations that are troubling to staff. For example, in Northstar complaint 104277, the customer complained she was being billed a tax for the City of Ridgefield although she lives outside of the city limits. The customer alleged that she attempted to get Northstar to remove the tax, however, she was informed that because her phone line switches through the company's switchboard in Ridgefield, Washington, the charge was correct. Further, the customer alleged that when it rained her phone line became static-filled and she could hear other people's phone conversations. Calls to Northstar were unsuccessful in getting it repaired as the company claimed there was nothing it could do to fix the line.

In Mr. Applewhite's response to the complaint, he stated Northstar was pursuing the proper information regarding the proper tax base for the customer and would adjust the account accordingly; however, the matter of the static on the line was never brought to Northstar's attention and he stated it was not a subject for the complaint. Mr. Applewhite stated the customer would need to call the company when the problem was occurring and a repair ticket would be opened.

Consumer Protection staff Rachel Stark attempted to follow up with Mr. Applewhite on the company's plan to credit the customer the improperly charged city tax and to question the company's plan of action regarding the customer's service quality complaint on August 19, 2008. Northstar's response to the request for additional information was due August 22, 2008. Mr. Applewhite did not respond. Ms. Stark attempted to reach Mr. Applewhite, informing him daily violations of WAC 480-120-166(8) were being recorded, five times between August 28 and October 9, 2008, with no response from Mr. Applewhite.

On October 10, 2008, Ms. Stark contacted Anna Fernandes by phone at 11:36 a.m., in an attempt to get a response from Northstar to the request for information. Ms. Fernandes informed Ms. Stark that she would attempt to get a response to her that same day. Ms. Fernandes's response was received by the commission at 1:28 p.m. However, Ms. Stark requested additional information from Ms. Fernandes in an e-mail sent to her at 2:07 p.m. Northstar's response was due October 15, 2008, and was so noted in Ms. Stark's e-mail to Ms. Fernandes. Ms. Fernandes's response was not received until October 22, 2008, after Ms. Stark once again requested the company respond.

The complaint was closed on October 29, 2008, via e-mail from Ms. Stark to Ms. Fernandes. However, after staff review of the complaint, the complaint was reopened on November 17, 2008, so that staff could gather information specific to how long the customer was misbilled for the city tax and whether the company could determine if other customers were being erroneously charged the city tax while not residing in city limits. In Ms. Stark's e-mail to Ms. Fernandes, the due date for Northstar's response was clearly stated as November 20, 2008.

On November 25, 2008, having not received a response from Northstar, Ms. Stark contacted Mr. Applewhite to inform him daily violations of WAC 480-120-166 would be recorded until such time as her request for information was answered. Mr. Applewhite did not provide his response until January 6, 2009, after two additional attempts were made by Ms. Stark to get a response



from him, on December 1, 2008, and January 5, 2009. Mr. Applewhite was less concerned with erroneous billings than staff would wish. His response stated, in part:

“As far as how many other customers may be in the same position, I couldn’t tell you. However, if you have other customers with similar complaints, I will address them as they may come up, but as far as I’m concerned, this is an isolated incident with a customer who’s [sic] address is on the border.”

Certainly a telecommunications company misapplying a city tax to a customer not in city limits is not rare. However, staff finds the company’s lack of concern regarding other customers possibly being billed erroneously troubling. Mr. Applewhite did not offer to take any other steps to investigate whether this was an isolated incident or whether possibly the error was made on other customers’ bills.

#### **Complaint 102704**

In this complaint, filed February 5, 2008, the complainant alleged she switched services from Qwest Corporation (Qwest) to Northstar in mid-November 2007. After receiving her first Northstar bill statement, she switched back to Qwest’s service on December 20, 2007. However, she continued to receive bill statements from Northstar.

During investigation of the complaint by Consumer Protection staff Mike Meeks, it appeared that service may have been switched again to Northstar after December 20, 2007, without the customer’s consent. Because information provided by Qwest and Northstar was conflicting, Mr. Meeks requested the companies coordinate with each other to resolve the dispute in accordance with WAC 480-120-167. Specifically, Mr. Meeks requested that Mr. Applewhite speak with Qwest representative Alesia Graham to facilitate the resolution. Mr. Meeks provided Ms. Graham’s phone number.

Mr. Applewhite stated to Mr. Meeks in an e-mail received March 13, 2008, that there was no resolution needed, he was removing the remaining charges. Mr. Meeks responded to Mr. Applewhite that there was still a discrepancy in the amount the customer was disputing. The charges Mr. Applewhite agreed to remove left a \$36.41 balance still in dispute.

Mr. Applewhite responded, in part, stating his final comments on the matter were:

“The issue of double-billing lies with the improper porting, which is not our issue. Our billing was done properly and will stand. If you feel a need to proceed further, then that is your option. I have forwarded the information to Legal.”

In the interest of customer service and satisfying their customer’s complaint, Qwest credited the customer \$36.41, the amount of the Northstar charges remaining in dispute. Mr. Meeks recorded a violation of WAC 480-120-167 for Mr. Applewhite’s refusal to confer with Qwest to resolve the customer’s dispute. Upon notice to Mr. Applewhite that the violation had been recorded, Mr. Applewhite stated the violation was duly noted and the violations would be contested. No further response was received from Northstar.

**Complaint 104560**

On September 15, 2008, Consumer Protection staff Sandra White passed a complaint to Northstar regarding a billing dispute. A response was due by September 22, 2008. The complainant alleged that she switched her service from Northstar to Qwest Corporation on May 15, 2008; however, Northstar continued to bill her for services. The customer alleged that Northstar had informed her that Washington mandated it charge her a data usage fee of \$29.00. The disputed bill of \$54.91 had been sent to collections.

On the morning of September 22, 2008, having received no response to the complaint from Northstar, Ms. White sent a reminder notice to Northstar via e-mail that a response was due by close of business that day or violations would be recorded for every day a response was not received. Still, Northstar did not respond. On September 29, 2008, Ms. White recorded five violations of WAC 480-120-166(7) and then attempted to contact Mr. Applewhite by phone. He was not in the office. Ms. White contacted Matt O'Flaherty of Northstar by telephone to request Northstar respond to the complaint. Mr. O'Flaherty assured Ms. White that he would speak directly with Mr. Applewhite and request that Mr. Applewhite return Ms. White's call that same day. Ms. White followed up that conversation with an e-mail to Mr. Applewhite and Mr. O'Flaherty, requesting a response to the complaint and notifying Northstar, again, that violations of WAC 480-120-166(7) were being recorded. Still, Ms. White did not receive a response from Northstar to the consumer complaint.

On October 10, 2008, as Northstar still had not responded to the complaint, Ms. White recorded an additional 10 violations of WAC 480-120-166(7) and notified Northstar via e-mail that the complaint was closed. Ms. White reiterated in her e-mail that a total of 15 violations of the rule had been recorded.

**Violations Recorded**

Consumer Protection staff recorded a total of 32 violations in complaints received against Cordia in the year 2008. The breakdown of the violations is as follows:

<b>Cordia Communications Corp.</b>	
<b>WAC or RCW</b>	<b>Total Violations Recorded</b>
WAC 480-120-147(1)(c)	3
WAC 480-120-166(6)	2
WAC 480-120-166(7)	18
WAC 480-120-166(8)	7
WAC 480-120-172(3)	1
WAC 480-120-172(7)(i)	1
<b>Total</b>	<b>32</b>

Consumer Protection staff recorded a total of 206 violations in complaints received against Northstar in the year 2008. The breakdown of the violations is as follows:

<b>Northstar Telecom, Inc.</b>	
<b>WAC or RCW</b>	<b>Total Violations Recorded</b>
WAC 480-120-147(1)(c)	1
WAC 480-120-165(2)	3
WAC 480-120-166(6)	4
WAC 480-120-166(7)	65
WAC 480-120-166(8)	111
WAC 480-120-167	1
WAC 480-120-172(7)	4
WAC 480-120-172(12)	1
RCW 80.36.130(1)	16
<b>Total</b>	<b>206</b>

## CONCLUSIONS

Commission staff recorded numerous violations of WAC 480-120-166 against Cordia and Northstar in consumer complaints filed against both companies in 2008. Keith Applewhite is the complaint contact for both Cordia and Northstar. In April 2008, Mr. Applewhite was given technical assistance regarding responding timely to commission-referred consumer complaints and the option of requesting an extension for his responses. Mr. Applewhite continued to provide late responses, or no response at all, to complaints passed to him for both Cordia and Northstar.

### **Recommendation**

Under RCW 80.04.405, telecommunications companies are subject to penalties of \$100 for each and every violation of commission rule.

Staff recommends the commission penalize Cordia Communications Corp., \$2,700 for 27 total violations of WAC 480-120-166. This total includes two violations of WAC 480-120-166(6), 18 violations of WAC 480-120-166(7), and seven violations of WAC 480-120-166(8).

Staff recommends the commission penalize Northstar Telecom, Inc., \$18,000 for 180 total violations of WAC 480-120-166. This total includes four violations of WAC 480-120-166(6), 65 violations of WAC 480-120-166(7), and 111 violations of WAC 480-120-166(8).

In addition, this investigation revealed several violations of WAC 480-120-172 by Cordia and Northstar. Although the information staff has does not show a clear pattern of non-compliance regarding disconnections, staff is concerned that the companies' disconnect procedures and notices are out of compliance with applicable rules, specifically by failing to allow the proper amount of days for a customer to pay the bill before disconnection of service. Staff advises Cordia and Northstar to review their disconnect notices and procedures to assure that they are providing notice in accordance with the rules. Should staff identify further violations of WAC 480-120-172 after having provided both Cordia and Northstar with this technical assistance, further enforcement action, including penalties, could be warranted.

**Total recommended penalties for Cordia: \$2,700**  
**Total recommended penalties for Northstar: \$18,000**

## **APPENDICES**

**APPENDIX A – Cordia Communications Corp.**

<b>Complaint Number</b>	<b>Description</b>	<b>Violations Recorded</b>
103063 Winter 2007-08	<b>Complaint:</b> The customer stated she was unaware that her service was switched from Qwest to Cordia. <b>Results:</b> The customer's husband authorized the switch.	The complaint was passed to Cordia on March 12, 2008. Cordia did not respond until April 2, 2008, after numerous attempts at contact by commission staff. <b>The complaint was closed with 12 violations of WAC 480-120-166(7) recorded.</b>
103328 Spring 2008	<b>Complaint:</b> The customer stated his service was switched from Qwest to Cordia without his authorization. <b>Results:</b> The customer authorized the switch.	The complaint was passed to Cordia on April 8, 2008. Cordia provided its initial response to the complaint on April 16, 2008. <b>The complaint was closed with two violations of WAC 480-120-166(7) recorded.</b>
103977 Summer 2008	<b>Complaint:</b> The customer alleged Cordia slammed his service, all services including dial-tone, long distance were not working. <b>Results:</b> An employee of the complainant authorized the switch to Cordia.	
104086 Summer 2008	<b>Complaint:</b> The customer claimed service was disconnected on March 3, 2008, without prior notice and that Cordia slammed her service. The customer alleged she requested a supervisor and was told one was not available to speak with her. <b>Results:</b> The company provided a valid TPV recording, however, customer maintained it was not her authorizing the switch. Service was out due to customer-owned equipment.	Staff made a request for additional information on August 7, 2008. Cordia did not respond. The complaint was closed on August 19, 2008. <b>The complaint was closed with one violation of WAC 480-120-166(8) recorded.</b>
104172 Summer 2008	<b>Complaint:</b> The customer alleged Cordia solicited her for service and later slammed her service although she did not give authorization. <b>Results:</b> The customer authorized the switch, however, she claims Cordia lied and misrepresented itself.	The complaint was passed to Cordia on July 24, 2008. Cordia responded on August 5, 2008. <b>The complaint was closed with two violations of WAC 480-120-166(7) and two violations of WAC 480-120-166(8) recorded.</b>

<b>Complaint Number</b>	<b>Description</b>	<b>Violations Recorded</b>
<p>104799</p> <p>Fall 2008</p>	<p><b>Complaint:</b> The customer claimed she switched to Cordia as a result of its claims that service would be less expensive than Qwest. Service was subsequently disconnected for past due charges. The customer canceled service stating charges were higher than she signed up to pay.</p> <p><b>Results:</b> The charges were determined to be accurate, disconnection of service was not in compliance with the rules.</p>	<p>The urgent complaint was passed to Cordia on October 23, 2008. Cordia did not respond until October 29, 2008.</p> <p><b>The complaint was closed with two violations of WAC 480-120-166(6), four violations of WAC 480-120-166(8), one violation of WAC 480-120-172(7)(i) and one violation of WAC 480-120-172(3).</b></p>
<p>104730</p> <p>Fall 2008</p>	<p><b>Complaint:</b> The customer claims he told Cordia representative that he did not want to switch to its service, however, the representative prompted him to answer "yes" to questions. The customer is elderly and suffers from dementia.</p> <p><b>Results:</b> TPV recording indicates the customer as not clear that he was switching phone providers. Cordia credited all charges and closed the account.</p>	<p>The complaint was passed to Cordia on October 13, 2008. Cordia did not respond until October 22, 2008.</p> <p><b>The complaint was closed with two violations of WAC 480-120-166(7) and three violation of WAC 480-120-147(1)(c).</b></p>

**APPENDIX B – Northstar Telecom, Inc.**

<b>Complaint Number</b>	<b>Description</b>	<b>Violations Recorded</b>
102704  Winter 2007-08	<p><b>Complaint:</b> The customer switched away from Northstar to Qwest on December 20, 2007. Northstar continued to bill for services.</p> <p><b>Results:</b> The customer's services were switched to Qwest and then it appears that Northstar slammed the service. Commission staff requested that Qwest and Northstar discuss the issue in accordance with WAC 480-120-167. Qwest was agreeable, but Northstar refused, stating the error was Qwest's. Qwest credited customer the amount of Northstar charges in dispute to resolve.</p>	<p>The complaint was passed to Northstar on February 19, 2008. Northstar did not respond until February 28, 2008.</p> <p><b>The complaint was closed with two violations of WAC 480-120-166(7) and one violation of WAC 480-120-167.</b></p>
102887  Winter 2008 [07-08?]	<p><b>Complaint:</b> The customer alleged she switched to Northstar's service on October 28, 2006, but had no service for three weeks. The customer disconnected Northstar's service on November 22, 2006. Northstar billed for charges which she refused to pay as she said she never had service. The charges were turned over to a collection service.</p> <p><b>Results:</b> Northstar refused to credit the charges, citing no calls from the customer regarding lack of service. In addition, the company provided local call logs for calls placed during the time the customer had service with Northstar.</p>	<p><b>No violations were recorded.</b></p>
102954  Winter 2008 ?	<p><b>Complaint:</b> The customer canceled service in July 2007 and was owed a refund from Northstar. The customer alleged the company kept making excuses as to why it was now February 2008 and still had not mailed the refund check.</p> <p><b>Results:</b> Northstar offered no explanation as to why it had not refunded the customer the monies owed. A check was mailed to the customer following staff contact with the company concerning the customer's complaint.</p>	<p><b>No violations were recorded.</b></p>



<b>Complaint Number</b>	<b>Description</b>	<b>Violations Recorded</b>
103151  Winter 2008 ?	<p><b>Complaint:</b> The customer alleged she was being billed a city tax although she does not live within city limits. Northstar refused to remove the charges.</p> <p><b>Results:</b> Northstar credited charges only after directed to do so by the commission.</p>	<p>The complaint was passed to Northstar on March 19, 2008. Northstar did not respond until April 3, 2008.</p> <p><b>The complaint was closed with five violations of WAC 480-120-166(7) and 16 violations of RCW 80.36.130 recorded.</b></p>
102975  Winter 2008 ?	<p><b>Complaint:</b> The customer alleged service was switched to Northstar from Qwest without her authorization.</p> <p><b>Results:</b> Northstar's response stated it has a valid TPV recording and the switch was authorized; however, it failed to provide the recording to the commission despite repeated requests to do so. The customer switched her service back to Qwest.</p>	<p>The complaint was passed to Northstar on March 18, 2008. Northstar did not respond until April 8, 2008.</p> <p><b>The complaint was closed with 11 violations of WAC 480-120-166(7), one violation of WAC 480-120-147(1)(c), and eight violations of WAC 480-120-166(8) recorded.</b></p>
103880  Summer 2008	<p><b>Complaint:</b> The customer alleged service was disconnected with only one day's notice, and that Northstar refused to credit disputed charges.</p> <p><b>Results:</b> The customer was previously informed the disputed charges were data calls and were billed appropriately. Northstar credited charges upon first dispute, but refused to credit any further. The customer's service was disconnected while the commission was still investigating the complaint.</p>	<p>A request for additional information from Northstar was made on June 20, 2008. Northstar did not respond until July 14, 2009.</p> <p><b>The complaint was closed with 27 violations of WAC 480-120-166(8), four violations of WAC 480-120-172(7) and one violation of WAC 480-120-172(12).</b></p>

<b>Complaint Number</b>	<b>Description</b>	<b>Violations Recorded</b>
<p>104277</p> <p>Summer 2008</p>	<p><b>Complaint:</b> The customer alleged she was being billed a city tax although she does not live within city limits. Northstar refused to remove the charges, stating that the phone line switches through the company's switchboard in the city; therefore, the charge is appropriate. The customer also alleged when it rains she gets static on her phone line.</p> <p><b>Results:</b> Northstar corrected its records to reflect the customer is not in city limits and credited all city tax charges billed. The customer switched away to another telecommunications company. The company denied any previous reports of static on the line and stated it would not address it in this complaint.</p>	<p>A request for additional information from Northstar was made on August 19, 2008. Northstar did not respond until October 10, 2008. A request for additional information from Northstar was made on October 10, 2008. Northstar did not respond until October 22, 2008. A request for additional information from Northstar was made on October 22, 2008. Northstar did not respond until October 28, 2008. The complaint was reopened for additional information on November 17, 2008. Northstar did not respond until January 6, 2009.</p> <p><b>The complaint was closed with a total of 70 violations of WAC 480-120-166(8) recorded.</b></p>
<p>104560</p> <p>Fall 2008</p>	<p><b>Complaint:</b> The customer alleged she disconnected Northstar's service but that Northstar continued to bill.</p> <p><b>Results:</b> No findings.</p>	<p>The complaint was passed to Northstar on September 15, 2008. Northstar did not respond to the complaint.</p> <p><b>The complaint was closed on October 10, 2008, with 15 violations of WAC 480-120-166(7) recorded.</b></p>

Complaint Number	Description	Violations Recorded
<p>105034</p> <p>Winter 2008</p>	<p><b>Complaint:</b> The customer requested a refund three times that was owed to her since June 2007. The customer alleged the company would tell her the check was in the mail, or, alternatively, that she would need to wait until the next quarter to receive her refund. The customer requested to speak with a supervisor three times and was denied. Also, the customer claims when she was contacted by Northstar to switch her service to it that Northstar said it was affiliated with her local phone company.</p> <p><b>Results:</b> Northstar mailed the refund check to the customer. Northstar did not respond to allegations that it denied the customer access to a supervisor. Further, the company did not provide requested information to commission staff.</p>	<p>The complaint was passed to Northstar on November 24, 2008. Northstar did not respond until January 20, 2009.</p> <p><b>The complaint was closed with 32 violations of WAC 480-120-166(7), six violations of WAC 480-120-166(8) and three violations of WAC 480-120-165(2).</b></p>
<p>105209</p> <p>Winter 2008</p>	<p><b>Complaint:</b> The customer alleged he had been trying to port his phone number from Northstar to Qwest for approximately three weeks. The customer claimed Northstar provided misinformation as to why service was not porting several times.</p> <p><b>Results:</b> The delay was caused by another company, Clearwire, which had recently provided the customer with wireless and broadband service.</p>	<p>The urgent complaint was passed to Northstar on December 18, 2008. On December 18, 2008, Northstar responded only that a PIC freeze would be removed from the line if there was one. Northstar did not respond to staff's specific questions. It did not respond to staff's requests for a response to the complaint.</p> <p><b>The complaint was closed on December 30, 2008, with four violations of WAC 480-120-166(6).</b></p>

APPENDIX C

**RCW 80.36.130**

**Published rates to be charged — Exceptions.**

(1) Except as provided in RCW 80.04.130 and 80.36.150, no telecommunications company shall charge, demand, collect or receive different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file and in effect at that time, nor shall any telecommunications company refund or remit, directly or indirectly, any portion of the rate or charge so specified, nor extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are specified in its schedule filed and in effect at the time, and regularly and uniformly extended to all persons and corporations under like circumstances for like or substantially similar service.

(2) No telecommunications company subject to the provisions of this title shall, directly or indirectly, give any free or reduced service or any free pass or frank for the transmission of messages by telecommunications between points within this state, except to its officers, employees, agents, pensioners, surgeons, physicians, attorneys-at-law, and their families, and persons and corporations exclusively engaged in charitable and eleemosynary work, and ministers of religion, Young Men's Christian Associations, Young Women's Christian Associations; to indigent and destitute persons, and to officers and employees of other telecommunications companies, railroad companies, and street railroad companies.

(3) The commission may accept a tariff that gives free or reduced rate services for a temporary period of time in order to promote the use of the services.

[1992 c 68 § 2; 1989 c 101 § 11; 1985 c 450 § 27; 1961 c 14 § 80.36.130. Prior: 1911 c 117 § 40; RRS § 10376. FORMER PART OF SECTION: 1929 c 96 § 1, part now codified in RCW 81.28.080.]

**WAC 480-120-147**

**Changes in local exchange and intrastate toll services.**

For the purpose of this section "subscriber" is any one of the following: The party identified in the account records of a common carrier as responsible for payment of the telephone bill; any adult person authorized by such party to change telecommunications services or to charge services to the account; or any person contractually or otherwise lawfully authorized to represent such party.

(1) **Verification of orders.** A local exchange or intrastate toll company that requests on behalf of a subscriber that the subscriber's company be changed, and that seeks to provide retail services to the subscriber (submitting company), may not submit a change-order for local exchange or intrastate toll service until the order is confirmed in accordance with one of the procedures in (a) through (c) of this subsection:

(a) The company has obtained the subscriber's written or electronic authorization to submit the order (letter of agency). The letter of agency must be a separate electronic form, located on a separate screen or web page, or a separate written document (or easily separable document) containing only the authorizing language described in (a)(i) through (vi) of this subsection, having the sole purpose of authorizing a telecommunications company to initiate a preferred company change. The letter of agency, whether written or electronic, must be signed and dated by the subscriber of the telephone line(s) requesting the preferred company change. The letter of agency must not be combined on the same document or on the same screen or web page with inducements of any kind; however, it may be combined with checks that contain only the required letter of agency language as prescribed in (a)(i) through (vi) of this subsection, and the necessary information to make the check a negotiable instrument. The check may not contain any promotional language or material. It must contain, in easily readable, boldface type on the front of the check, a notice that the subscriber is authorizing a preferred company change by signing the check. Letter-of-agency language must be placed near the signature line on the back of the check. Any company designated in a letter of agency as a preferred company must be the company directly setting the rates for the subscriber. If any portion of a letter of agency is translated into another language, then all portions must be translated into that language, as well as any promotional materials, oral descriptions or instructions provided with the letter of agency. The letter of agency must confirm the following information from the subscriber:

(i) The subscriber billing name, billing telephone number and billing address and each telephone number to be covered by the change order;

(ii) The decision to change;

(iii) The subscriber's understanding of the change fee;

(iv) That the subscriber designates (name of company) to act as the subscriber's agent for the preferred company change;

(v) That the subscriber understands that only one telecommunications company may be designated as the subscriber's intraLATA preferred company; that only one telecommunications company may be designated as the subscriber's interLATA preferred company; and that only one telecommunications company may be designated as the subscriber's local exchange provider, for any one telephone number. The letter of agency must contain a separate statement regarding the subscriber's choice for each preferred company, although a separate letter of agency for each choice is not necessary; and

(vi) Letters of agency may not suggest or require that a subscriber take some action in order to retain the current preferred company.

(b) The submitting company has obtained the subscriber's authorization, as described in (a) of this subsection, electronically, by use of an automated, electronic telephone menu system. This authorization must be placed from the telephone number(s) for which the preferred company is to be changed and must confirm the information required in (a)(i) through (vi) of this subsection.

Telecommunications companies electing to confirm the preferred company change electronically must establish one or more toll free telephone numbers exclusively for that purpose.

Calls to the number(s) must connect a subscriber to a voice response unit, or similar device, that records the required information regarding the change, including recording the originating automatic number identification (ANI).

(c) An appropriately qualified and independent third party operating in a location physically separate from the telemarketing representative has obtained the subscriber's oral authorization to submit the change order that confirms and includes appropriate verification data (e.g., the subscriber's date of birth). A company or a company's sales representative initiating a three-way conference call or a call through an automated verification system must drop off the call once the three-way connection with the third-party verifier has been established. The independent third party must not be owned, managed, controlled or directed by the company or the company's marketing agent; and must not have any financial incentive to confirm preferred company change orders for the company or the company's marketing agent. The content of the verification must include clear and unambiguous confirmation that the subscriber has authorized a preferred company change.

(2) Where a telecommunications company is selling more than one type of telecommunications service (e.g., local exchange, intraLATA toll, and interLATA toll) that company must obtain separate authorization, and separate verification, from the subscriber for each service sold, although the authorizations may be made within the same solicitation.

(3) The documentation regarding a subscriber's authorization for a preferred company change must be retained by the submitting company, at a minimum, for two years to serve as verification of the subscriber's authorization to change his or her telecommunications company. The documentation must be made available to the subscriber and to the commission upon request and at no charge. Documentation includes, but is not limited to, entire third-party-verification conversations and, for written verifications, the entire verification document.

(4) **Implementing order changes.** An executing company may not verify directly with the subscriber the submission of a change in a subscriber's selection of a provider received from a submitting company. The executing company must comply promptly, without any unreasonable delay, with a requested change that is complete and received from a submitting company. An executing company is any telecommunications company that affects a request that a subscriber's company be changed. Except as provided by contract, a telecommunications company must submit a preferred company change order on behalf of a subscriber within no more than sixty days of obtaining authorization.

This section does not prohibit any company from investigating and responding to any subscriber-initiated inquiry or complaint.

(5) **Preferred carrier freezes.** A preferred carrier freeze prevents a change in a subscriber's

preferred company selection unless the subscriber gives the company from whom the freeze was requested express consent. Express consent means direct, written, electronic, or oral direction by the subscriber. All local exchange companies (LECs) must offer preferred carrier freezes. Such freezes must be offered on a nondiscriminatory basis to all subscribers. Offers or solicitations for such freezes must clearly distinguish among telecommunications services subject to a freeze (e.g., local exchange, intraLATA toll, and interLATA toll). The carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested. Separate authorizations may be contained within a single document.

(a) All LECs must notify all subscribers of the availability of a preferred carrier freeze, no later than the subscriber's first telephone bill, and once per year must notify all local exchange service subscribers of such availability on an individual subscriber basis (e.g., bill insert, bill message, or direct mailing).

(b) All company-provided solicitation and other materials regarding freezes must include an explanation, in clear and neutral language, of what a preferred carrier freeze is, and what services may be subject to a freeze; a description of the specific procedures to lift a preferred carrier freeze; an explanation that the subscriber will be unable to make a change in company selection unless he or she lifts the freeze; and an explanation of any charges incurred for implementing or lifting a preferred carrier freeze.

(c) No local exchange company may implement a preferred carrier freeze unless the subscriber's request to impose a freeze has first been confirmed in accordance with the procedures outlined for confirming a change in preferred company, as described in subsections (1) and (2) of this section.

(d) All LECs must offer subscribers, at a minimum, the following procedures for lifting a preferred carrier freeze:

(i) A subscriber's written or electronic authorization stating the subscriber's intent to lift the freeze;

(ii) A subscriber's oral authorization to lift the freeze. This option must include a mechanism that allows a submitting company to conduct a three-way conference call with the executing company and the subscriber in order to lift the freeze. When engaged in oral authorization to lift a freeze, the executing company must confirm appropriate verification data (e.g., the subscriber's date of birth), and the subscriber's intent to lift the freeze.

(iii) The LEC must lift the freeze within three business days of the subscriber request.

(e) A LEC may not change a subscriber's preferred company if the subscriber has a freeze in place, unless the subscriber has lifted the freeze in accordance with this subsection.

(6) **Remedies.** In addition to any other penalties provided by law, a submitting company that requests a change in a subscriber's company without proper verification as described in this rule must receive no payment for service provided as a result of the unauthorized change and must

promptly refund any amounts collected as a result of the unauthorized change. The subscriber may be charged, after receipt of the refund, for such service at a rate no greater than what would have been charged by its authorized telecommunications company, and any such payment must be remitted to the subscriber's authorized telecommunications company.

(7) **Exceptions.** Companies transferring subscribers as a result of a merger, purchase of the company, or purchase of a specific subscriber base are exempt from subsections (1) through (6) of this section if the companies comply with the following conditions and procedures:

(a) The acquiring company must provide a notice to each affected subscriber at least thirty days before the date of transfer. Such notice must include the following information:

(i) The date on which the acquiring company will become the subscriber's new provider;

(ii) The rates, terms, and conditions of the service(s) to be provided upon transfer, and the means by which the acquiring company will notify the subscriber of any change(s) to those rates, terms, and conditions;

(iii) That the acquiring company will be responsible for any company change charges associated with the transfer;

(iv) The subscriber's right to select a different company to provide the service(s);

(v) That the subscriber will be transferred even if the subscriber has selected a "freeze" on his/her company choices, unless the subscriber chooses another company before the transfer date;

(vi) That, if the subscriber has a "freeze" on company choices, the freeze will be lifted at the time of transfer and the subscriber must "refreeze" company choices;

(vii) How the subscriber may make a complaint prior to or during the transfer; and

(viii) The toll-free customer service telephone number of the acquiring company.

(b) The acquiring company must provide a notice to the commission at least thirty days before the date of the transfer. Such notice must include the following information:

(i) The names of the parties to the transaction;

(ii) The types of services affected;

(iii) The date of the transfer; and

(iv) That the company has provided advance notice to affected subscribers, including a copy of such notice.



(c) If after filing notice with the commission any material changes develop, the acquiring company must file written notice of those changes with the commission no more than ten days after the transfer date announced in the prior notice. The commission may, at that time, require the company to provide additional notice to affected subscribers regarding such changes.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 05-03-031 (Docket No. UT 040015, General Order No. R-516), § 480-120-147, filed 1/10/05, effective 2/10/05. Statutory Authority: RCW 80.01.040, 80.04.160, 81.04.160, and 34.05.353. 03-22-046 (Docket No. A-030832, General Order No. R-509), § 480-120-147, filed 10/29/03, effective 11/29/03. Statutory Authority: RCW 80.01.040 and 80.04.160. 03-01-065 (Docket No. UT-990146, General Order No. R-507), § 480-120-147, filed 12/12/02, effective 7/1/03.]

**WAC 480-120-165**  
**Customer complaints.**

(1) Each company must have adequate personnel available during regular business days to address customer complaints.

(2) When a company receives an oral or written complaint from an applicant or customer regarding its service or regarding another company's service for which it provides billing, collection, or responses to inquiries, the company must acknowledge the complaint as follows:

(a) Provide the name of the company's contact to the complainant;

(b) Investigate the complaint promptly;

(c) Report the results of the investigation to the complainant;

(d) Take corrective action, if warranted, as soon as appropriate under the circumstances;

(e) Inform the complainant that the decision may be appealed to a supervisor at the company; and

(f) Inform the complainant, if still dissatisfied after speaking to a supervisor, of the right to file a complaint with the commission and provide the commission address and toll-free telephone number.

(2) When a company receives a complaint from an applicant or customer regarding another company's service for which it provides only billing service, the company must provide the complainant a toll-free number to reach the appropriate office for the other company that is authorized to investigate and take corrective action to resolve the dispute or complaint.

(3) The company must insure that records and information about complaints and disputes are used only for the purposes of resolving the complaint or dispute and improving service and

practices.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 03-01-065 (Docket No. UT-990146, General Order No. R-507), § 480-120-165, filed 12/12/02, effective 7/1/03.]

**WAC 480-120-166**

**Commission-referred complaints.**

(1) Each company must keep a record of all complaints concerning service or rates for at least two years and, on request, make them readily available for commission review. The records must contain complainant's name and address, date and the nature of the complaint, action taken, and final result.

(2) Each company must have personnel available during regular business days to respond to commission staff.

(3) Applicants, customers, or their authorized representatives, may file with the commission an informal complaint as described in WAC 480-07-910 (Informal complaints) or a formal complaint against a company when there are alleged violations of statutes, administrative rules, or tariffs as provided by WAC 480-07-370 (Pleadings -- General).

(4) When the commission staff refers an informal complaint to a company, the company must:

(a) Stop any pending action involving the issues raised in the complaint provided any amounts not in dispute are paid when due (e.g., if the complaint involves a disconnect threat or collection action, the disconnect or collection must be stopped);

(b) Thoroughly investigate all issues raised in the complaint and provide a complete report of the results of its investigation to the commission, including, if applicable, information that demonstrates that the company's action was in compliance with commission rules; and

(c) Take corrective action, if warranted, as soon as appropriate under the circumstances.

(5) Commission staff will ask the customer filing the informal complaint whether the customer wishes to speak directly to the company during the course of the complaint, and will relay the customer's preference to the company at the time staff opens the complaint.

(6) Unless another time is specified in this rule or unless commission staff specifies a later date, the company must report the results of its investigation of service-affecting informal complaints to commission staff within two business days from the date commission staff passes the complaint to the company. Service-affecting complaints include, but are not limited to, nonfunctioning or impaired services (i.e., disconnected services or those not functioning properly).

(7) Unless another time is specified in this rule or unless commission staff specifies a later date, the company must report the results of its investigation of nonservice-affecting informal complaints to commission staff within five business days from the date commission staff passes the complaint to the company. Nonservice-affecting complaints include, but are not limited to, billing disputes and rate quotes.

(8) Unless another time is specified in this rule or unless commission staff specifies a later date, the company must provide complete responses to requests from commission staff for additional information on pending informal complaints within three business days.

(9) The company must keep commission staff informed when relevant changes occur in what has been previously communicated to the commission and when there is final resolution of the informal complaint.

(10) An informal complaint opened with the company by commission staff may not be considered closed until commission staff informs the company that the complaint is closed.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 05-03-031 (Docket No. UT 040015, General Order No. R-516), § 480-120-166, filed 1/10/05, effective 2/10/05; 03-24-028 (General Order R-510, Docket No. A-010648), § 480-120-166, filed 11/24/03, effective 1/1/04; 03-01-065 (Docket No. UT-990146, General Order No. R-507), § 480-120-166, filed 12/12/02, effective 7/1/03.]

#### **WAC 480-120-167**

##### **Company responsibility.**

When a customer informs the commission that the customer has identified a problem with service or billing or other matters and the customer has been told by two or more companies that the problem is not the responding company's responsibility but another company's responsibility, commission staff will inform the companies.

Once the commission has contacted the companies, the companies must confer with each other within three business days and determine which company will take the lead responsibility to resolve the customer's problem. The company accepting lead responsibility must contact the commission and begin resolution of the problem on the first business day following the three business days allotted by this subsection for a conference between the companies.

Companies must confer, allocate responsibility between the companies, and the company with lead responsibility must contact the commission, as required by this section. After conferring, if the companies cannot resolve the matter and neither one will accept the lead, each company must contact the commission and report the status of the dispute within five days of the date commission staff contacted the companies. The report must contain detailed explanations of the company's position.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 03-01-065 (Docket No. UT-990146,

General Order No. R-507), § 480-120-167, filed 12/12/02, effective 7/1/03.]

**WAC 480-120-172**

**Discontinuing service — Company initiated.**

(1) A company may discontinue service without notice or without further notice when after conducting a thorough investigation, it finds the customer has used deceptive means to initiate or continue service including, but not limited to:

- (a) Tampering with the company's property;
- (b) Using service through an illegal connection; or
- (c) Unlawfully using service or using service for unlawful purposes.

(2)(a) A company may discontinue service without notice or without further notice when after conducting a thorough investigation, it determines the customer has:

- (i) Vacated the premises without informing the company;
  - (ii) Paid a delinquent balance in response to a delinquency notice as described in subsection (7) of this section with a check or electronic payment that is subsequently dishonored by the bank or other financial institution; or
  - (iii) Failed to keep payment arrangements agreed upon in response to a delinquency notice as described in subsection (7) of this section.
- (b) The company must restore service once the customer has corrected the reason for discontinuance as described in subsection (2)(a) of this section.
- (c) The company may require a deposit from a customer that it has disconnected due to the reasons described in subsection (2)(a) of this section.

(3) A company may discontinue service after providing proper notice, or may issue a discontinuation notice, if, and only if:

- (a) The company determines the customer has violated a rule, statute, service agreement, filed tariff, or rates, terms and conditions of competitively classified services;
- (b) The company determines the customer has used customer-owned equipment that adversely affects the company's service to its other customers;
- (c) The company determines the customer has not paid regulated charges or has not paid a deposit as provided in the tariff or rates, terms and conditions of competitively classified services

of the company or another company with which it has a billing and collection agreement, except for nonpayment of charges incurred from information delivery services as provided for in WAC 480-120-254 (Telephone solicitation) or disputed third party-billed charges;

(d) The company is unable to substantiate the identity of the individual requesting service:

(i) Companies must allow the applicant to substantiate identity with one piece of identification chosen from a list, provided by the company, of at least four sources of identification. The list must include a current driver's license or other picture identification;

(ii) Company business offices and payment agencies, required under WAC 480-120-132 (Business offices) and 480-120-162 (Cash and urgent payments), must provide a means for applicants to provide identification at no charge to the applicant;

(e) The company determines the customer has received service from the company by providing false information, including false statements of credit references or employment, false statement of premises address, use of an alias or false name with intent to deceive, or rotation of service among roommates or persons living together for the purpose of avoiding the debts of one or more persons; or

(f) The company determines the customer is receiving service at an address where a former customer is known to reside with an overdue, unpaid prior obligation to the same company for the same class of service at that address and there is evidence that the applicant lived at the address while the overdue, unpaid prior obligation was incurred and helped incur the obligations. However, a company may not deny service if a former customer with an overdue, unpaid prior obligation has permanently vacated the address.

(4) Except as provided in subsections (1), (2), and (3) of this section, a company may discontinue:

(a) Basic service only for nonpayment of basic service charges;

(b) Ancillary services only for nonpayment of ancillary charges or if the company properly discontinues basic service;

(c) Interexchange access only for nonpayment of interexchange charges or if the company properly discontinues basic service:

(i) At its discretion, the company may permit access to toll-free numbers while a customer's interexchange access service is discontinued or restricted;

(ii) The company may not charge fees for toll restriction when it has discontinued or restricted the customer's interexchange access service under this section;

(d) A company must not shift a rate plan as a discontinuation method.

(5) When a company discontinues service to a customer, it must also discontinue billing for service as of the date of the discontinuation.

**(6) Medical emergencies.**

(a) When a local exchange company (LEC) has cause to discontinue residential basic service or has discontinued service, it must postpone total service discontinuation or reinstate toll-restricted basic service that permits both making and receiving calls and access to E911 for a grace period of five business days after receiving either oral or written notice of the existence of a medical emergency, as described in (b) of this subsection. The LEC must reinstate service during the same day if the customer contacts the LEC prior to the close of the business day and requests a same-day reconnection. Otherwise, the LEC must restore service by 12:00 p.m. the next business day. When service is reinstated, the LEC cannot require payment of a reconnection charge or deposit before reinstating service but may bill the charges at a later date.

(b) The LEC may require that the customer submit written certification from a qualified medical professional, within five business days, stating that the discontinuation of basic service or restricted basic service would endanger the physical health of a resident of the household. "Qualified medical professional" means a licensed physician, nurse practitioner, or physician's assistant authorized to diagnose and treat the medical condition without supervision of a physician. Nothing in this subsection precludes a company from accepting other forms of certification, but the maximum the company can require is written certification. If the company requires written certification, it may require only:

(i) The address of the residence;

(ii) An explanation of how discontinuation of basic service or restricted basic service would endanger the physical health of the resident;

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

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

(c) The medical certification is valid only for the length of time the medical professional certifies the resident's health would be endangered, but no longer than ninety days unless renewed.

(d) A medical emergency does not excuse a customer from paying delinquent and ongoing charges. The company may require that, within the five-day grace period, the customer pay a minimum of twenty-five percent of the delinquent basic service balance or ten dollars, whichever is greater, and enter into an agreement to pay the remaining delinquent basic service balance within ninety days, and agree to pay subsequent bills when due.

Nothing in this subsection precludes the company from agreeing to an alternate payment plan, but the company must not require the customer to pay more than this section prescribes and must

send a notice to the customer confirming the payment arrangements within two business days.

(e) The company may discontinue basic service or restrict basic service without further notice if, within the five-day grace period, the customer fails to provide an acceptable medical certificate or pay the amount required under (d) of this subsection. The company may discontinue basic service or restrict basic service, without further notice, if the customer fails to abide by the terms of the payment agreement.

(f) The company must ensure that the records of medical emergencies are used or disclosed only for the purposes provided for in this section.

(7) **Discontinuation notice requirements.** The company must provide the customer notice before discontinuing service in accordance with (a) through (c) of this subsection, except as provided in subsection (1) of this section, and except as provided in WAC 480-120-122(8).

(a) Each company must provide a written discontinuation notice to the customer either by first class mail, personal delivery to the customer's service address, or electronically delivered when the company has the technical capability and the customer consents to this delivery method. A company must provide delivered notice by handing the notice to a person of apparent competence in the residence; to a person employed at the place of business of the customer if it is a business account; or attached to the primary door of the residential unit or business office where service is provided if no person is available to receive notice. The discontinuation notice must include, at a minimum:

(i) A discontinuation date that is not less than eight business days after the date the notice is mailed, transmitted electronically, or personally delivered;

(ii) The amount(s) owing for the service(s) that is subject to discontinuation or restriction;

(iii) A statement that clearly indicates the amount a customer must pay to maintain basic service or restricted basic service, regardless of the full amount owed by the customer;

(iv) Instructions on how to correct the problem to avoid the discontinuation;

(v) Information about any discontinuation or restoration charges that may be assessed;

(vi) Information about how a customer can avoid disconnection under the medical emergency rules described in subsection (6) of this section; and

(vii) The company's name, address, toll-free number, and TTY number where the customer may contact the company to discuss the pending discontinuation of service.

(b) If the company discovers that the information provided on the notice failed to meet the requirements of (a) of this subsection, or if the company discovers it provided incorrect information on the notice, the company must restore service and issue a second notice with accurate information as described in this section.

(c) If the company has not discontinued service within ten business days of the first day the discontinuation may be implemented, the discontinuation notice is void, unless the customer and the company have entered into a mutually acceptable payment agreement with payment dates that exceed the ten-day period. Upon a void notice, the company must provide a new discontinuation notice to the customer if the company intends to discontinue service at a later date.

(8) In addition to the notice required in subsection (7) of this section, a company must attempt to make personal contact with a customer prior to discontinuing service. Any of the following methods will satisfy the personal contact requirement:

(a) **Delivered notice.** A company must provide delivered notice handing the notice to a person of apparent competence in the residence; to a person employed at the place of business of the customer if it is a business account; or attached to the primary door of the residential unit or business office where service is provided if no person is available to receive notice. The notice must state a scheduled discontinuation date that is not earlier than 5:00 p.m. of the next business day after the date of delivery;

(b) **Electronically issued notice.** If the company has the technical capability to provide electronic notice and the customer has agreed to receive notice in electronic form, the notice sent by the company must state a scheduled discontinuation date that is not earlier than 5:00 p.m. of the second business day after the date of delivery;

(c) **Mailed notice.** The notice mailed by the company may not include a scheduled discontinuation date that is earlier than 5:00 p.m. of the third business day after the date of mailing. The date of mailing is not the first day of the notice period; or

(d) **Telephone notice.** The company must attempt at least two times to contact the customer during regular business hours. If the company is unable to reach the customer on the first attempt, the company must attempt to contact the customer using any business or message number provided by the customer as a contact number. The company must keep a log or record of the calls for a minimum of ninety calendar days showing the telephone number called, the time of the call, and details of the results of each attempted call. The disconnection must not take place before 5:00 p.m. of the next business day after the phone calls or attempts.

(e) A company need not attempt personal contact as provided for in (a) through (d) of this subsection when the company has had cause, in any two previous billing periods during a consecutive twelve-month period, to attempt such contact and the company has notified the customer in writing that such contact will not be attempted in the future before effecting a discontinuation of services.

(9) Except in case of danger to life or property, companies may not discontinue service on days that it is not fully staffed to discuss discontinuation and reestablish service to the customer on the same or the following day.



(10) When the company has reasonable grounds to believe that service is to other than the party of record, the company must make reasonable efforts to inform the occupants at the service address of the impending discontinuation. Upon request of one or more service users, the company must allow a minimum period of five business days to permit the service user to arrange for continued service.

The company is not required to allow the additional five days when a thorough investigation indicates there is deceptive activity at the service address.

(11) LECs must provide notice of pending local service discontinuation to the secretary, Washington state department of social and health services, and to the customer, where it provides service to a facility with resident patients including, but not limited to, hospitals, medical clinics, or nursing homes. Upon request from the secretary or a designee, the company must allow a delay in discontinuation of no less than five business days from the date of notice so that the department may take whatever steps are necessary in its view to protect the interests of patients living within the facilities.

(12) **Remedy and appeals.** The company must not discontinue or restrict service while a customer is pursuing any remedy or appeal provided for by these rules, if the customer pays any amounts not in dispute when due and the customer corrects any conditions posing a danger to health, safety, or property. The company must inform the customer of these provisions when the customer is referred to a company's supervisor or the commission.

During a dispute a company may, upon authorization from commission staff, discontinue service when a customer's toll charges substantially exceed the amount of any deposit or customary use and it appears the customer may incur excessive, uncollectible toll charges while an appeal is being pursued. A customer whose service is subject to discontinuation may maintain service pending resolution of any dispute upon payment of outstanding toll charges subject to refund if the dispute is resolved in the customer's favor.

(13) **Payment at a payment agency.** Payment of any past-due amounts to a designated payment agency of the company constitutes payment to the company when the customer informs the company of the payment and the company verifies the payment.

[Statutory Authority: RCW 80.36.010, 80.36.110, 80.36.320, 80.36.330, 80.36.333, 80.36.338, 80.01.040 and 80.04.160. 07-08-027 (Docket UT-060676, General Order R-540), § 480-120-172, filed 3/27/07, effective 4/27/07. Statutory Authority: RCW 80.01.040 and 80.04.160. 05-03-031 (Docket No. UT 040015, General Order No. R-516), § 480-120-172, filed 1/10/05, effective 2/10/05; 03-01-065 (Docket No. UT-990146, General Order No. R-507), § 480-120-172, filed 12/12/02, effective 7/1/03.]