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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

USWEST
COMMUNICATIONS 

October 19, 1990

Mr. Paul Curl
Acting Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P. O. Box 9022
Olympia, WA 98504

Re: In the Matter of Amending the Commission's
Telecommunications Rules Relating to
Telecommunications Glossary, Alternative Operative
Services, Pay Telephones and Form of Bills
Cause No. UT-900726 and UT-900733

Dear Mr. Curl:

Enclosed for filing please find an original and nineteen
copies of U S WEST Communications' Comments in each of the
above-referenced cause numbers.

Very truly yours,


MARK ROELLIG

Enclosure
cc: Service List

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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Amending)	DOCKET NO. UT-900726
the Commission's)	UT-900733
Telecommunications Rules)	
Relating to Telecommunications))	COMMENTS OF PACIFIC NORTHWEST
Glossary, Alternative)	BELL TELEPHONE COMPANY, d/b/a
Operative Services, Pay)	U S WEST COMMUNICATIONS
Telephones and Form of Bills)	

I. INTRODUCTION

COMES NOW Pacific Northwest Bell Telephone Company, d/b/a U S WEST Communications (hereinafter "USWC"), and pursuant to RCW 34.05.325 submits its comments to the proposal of the Washington Utilities and Transportation Commission (hereinafter "WUTC") to amend its rules relating to telecommunications glossary, alternative operator services, pay telephones and form of bills.

USWC's major objection to the proposed amendments is that the WUTC attempts to place USWC in a position where it will police the WUTC's rules. Since the WUTC's rules make alternative operator services (hereinafter "AOS") companies subject to the rules of the WUTC (WAC 480-120-144), then the WUTC should take the steps necessary to ensure compliance by these regulated entities. The WUTC has at its disposal an arsenal of remedies to ensure compliance with its rules. See, RCW 80.04.380, et seq. The proposed rules repeatedly require a local exchange company (hereinafter "LEC"), such as USWC, to deny service to an AOS if the AOS violates a rule. See, proposed WAC 480-120-106, 480-120-138(12), 480-120-142(a)(iii).

1 This often places USWC in an untenable situation. First, USWC
2 must ensure that in fact a violation of a rule has occurred
3 (often a heated dispute occurs regarding whether a violation
4 occurred with the Commission Staff advising USWC that it has and
5 the AOS company adamantly denying that it has). Second, USWC
6 acts at its peril in taking action which may at a later date be
7 found to be inappropriate. Finally, AOS companies contend that
8 their due process rights are violated to the extent that USWC is
9 forced to police compliance with the WUTC's rules as compared to
10 the direct approach by the WUTC. Unlike when interacting with
11 USWC, when dealing with the WUTC, the AOS companies have the due
12 process protections of the Washington Administrative Procedure
13 Act if they believe the WUTC has acted inappropriately. The
14 foregoing concern is not of minor significance. It is very
15 possible that an AOS located in some remote location, for
16 example, Georgia, may contend that it is not subject to the
17 jurisdiction and rules of the WUTC. To the extent that the WUTC
18 contends the rules are effective, and attempts to require the
19 LEC enforce them on its behalf, the LEC is placed in a difficult
20 position. When it complies with the desires of the WUTC, it may
21 subject itself to litigation, including potential large damages
22 in the event that the AOS prevails in its argument that the WUTC
23 does not have the authority to regulate its services.¹ If the
24 LEC concludes that the AOS has the better side of the argument
25 and is correct that the WUTC does not have jurisdiction over its
26 services, then it is likely the WUTC will enforce its sanctions
27 against the LEC directly. A LEC should not be placed in this
28 "Catch 22" position.

29 It should be recognized that congress has recently passed
30 new legislation to deal with standards for telephone operator
31 services. See, Exhibit A attached hereto. President Bush
32

33
34 ¹The AOS is likely to also argue that the new federal
statute and upcoming FCC regulations preempt the WUTC's
authority.

1 signed this legislation into law on October 17, 1990. The
2 sections to become effective within thirty days of enactment
3 will be operative on November 16, 1990. In addition to
4 specifically creating requirements for the provision of operator
5 services, the federal legislation requires the FCC to establish
6 rules for access, compensation and monitoring of the rates for
7 an AOS. This rulemaking must be completed within two hundred
8 and ten days after enactment. Since the federal statute deals
9 with equal access, splashing, branding, billing and connection
10 with emergency services, numerous of the proposed rules of the
11 state of Washington become redundant and may be preempted.

12 USWC recommends that the WUTC in its proposed rule deal
13 specifically with the registration of an AOS. With respect to
14 all the specific requirements for the provision of AOS service
15 set forth in proposed WAC 480-120-141, USWC recommends the WUTC
16 await the implementation of the federal statute and rules.
17 There is no reason to create conflicting federal and state rules
18 unless necessary to specifically protect citizens of the state
19 of Washington.² USWC's concern is particularly acute since
20 through its proposed rule the WUTC may force USWC to enforce its
21 rules which conflict with the federal rules.

22 USWC's general objections as set forth above will be more
23 specifically identified with respect to various portions of the
24 rules discussed below.

25 26 II. SPECIFIC COMMENTS ON REVISED RULES

27 A. Proposed WAC 480-120-021 - Glossary.

28 The WUTC's definition of an AOS as being one "other than a
29 local exchange company" is absolutely necessary. As the WUTC is
30

31
32 ²It can be argued for example that the notice to be placed
33 on the pay telephone required by Sec. 236(c)(1)(A) in the
34 federal statute may not be "substantially the same" as that set
forth in proposed WAC 480-120-141(4)(a). This would result in a
federal and state requirement to place duplicative and confusing
notices on pay telephones.

1 well aware, a LEC is pervasively regulated with respect to the
2 statutes and rules relating to its operation, together with
3 tariffs on file which establish the methods by which it offers
4 services to the public. Therefore, it is not necessary to
5 include LECs in the specific requirements relating to an AOS.
6 In fact, if the WUTC did so it would create conflicts for USWC.
7 For example, if USWC were deemed "call aggregator" the rule
8 would conflict with the WUTC's contract rule since USWC does not
9 provide its services to AOS under contract, but does so under
10 tariff. See, proposed WAC 480-120-141 and WAC 480-80-330.

11
12 B. Proposed WAC 480-120-106.

13 The second full paragraph of this provision requires that
14 if USWC is billing for an AOS, it must list the AOS on its bill
15 to a customer. Currently, USWC is unable to provide this
16 service to carriers who bill through a bill clearing house. It
17 is anticipated that this service will be available
18 technologically by February 1991. Therefore, USWC would
19 recommend that the first full sentence of the second paragraph
20 remain in its present form which allows a LEC to specify either
21 the provider of the underlying service or its authorized billing
22 agent on the bill. USWC can and currently does provide that
23 service. After early 1991, to the extent the WUTC desires to
24 amend its rules, USWC would not object. It should be noted that
25 in USWC's billing and collection contracts there is a section
26 that states USWC's clients must make commercially reasonable
27 efforts at all times to give prompt, courteous and effective
28 service to end users, and shall be governed in all dealings with
29 end users by the highest standards of honesty, integrity and
30 fair dealing, including compliance with all applicable laws,
31 ordinances and regulations.

32 The third full paragraph requires that a LEC cannot provide
33 billing and collection service to an AOS which fails to be
34 properly registered or comply with the certification

1 requirements. The WUTC has within its power the ability to
2 police entities which do not register or fail to comply with its
3 rules. The WUTC should not require that USWC interject itself
4 in such a policing function. See, Introduction.

5
6 C. Proposed WAC 480-120-138 - Pay Telephone/Local and
7 Intrastate.

8 It has been recognized and accepted practice for inmate
9 service that pay telephones are not necessarily connected to
10 public access lines in accordance with rules provided in the
11 Washington administrative Code or approved tariffs. These
12 variations from pay telephone rules have been necessary, in this
13 unique environment, to minimize the potential fraudulent billing
14 or harassing telephone calls by inmates to legislators, judges,
15 witnesses, or other persons outside the facility. Therefore,
16 USWC would recommend that an exception be carved out for inmate
17 service that allows vendors to provide coinless service at
18 inmate facilities without meeting all the conditions set forth
19 in WAC 480-120-138. Such an exception would encompass proposed
20 subparagraph (12), which requires pay telephones be connected to
21 the public access in lines in accordance with the approved
22 tariffs of the LECs.

23 The following are paragraphs or subparagraph that create
24 potential fraudulent calling and/or harassing calls and
25 compliance to these rules should be waived for inmate service.

- 26 Paragraph (2) - "assure emergency access"
27 Paragraph (3) - "access to 911 where available"
28 Paragraph (4) - "access to Directory Assistance"
29 Paragraph (5) - "Emergency numbers (e.g. operator
30 services and 911) must be clearly posted on
31 each telephone"
32 Paragraph (6) - "Information consisting of the
33 owner, or the name of the owner and a toll
34 free telephone number where a caller can obtain
assistance in the event of the pay telephone
malfunctions in any way, and procedures for
obtaining a refund from the subscriber must
be displayed on the front on the pay telephone."
Paragraph (6) (i) - "The notice required by

1 WAC 480-120-141 (1)"
2 Paragraph (7) - "The telephone number of the
3 pay telephone must be displayed on each
4 instrument."
5 Paragraph (10) - "All pay telephones must be
6 capable of providing access to all inter-
7 exchange carriers where such access is
8 available."
9 Paragraph (13) - "A subscriber must order a
10 separate pay telephone access line for each
11 pay telephone installed.

12 Subparagraph (12) requires that the LEC shall not maintain
13 a connection to a public access line for pay telephones that do
14 not conform with certain requirements. As stated previously,
15 the WUTC should regulate AOS directly and not through USWC.
16 See, Introduction. The rule should simply state directly what
17 pay telephones require and the WUTC should police any non-
18 compliance. To the extent the WUTC attempts to use USWC as its
19 enforcement arm, USWC states that the rules should be
20 specifically drafted to allow the LEC to cover the costs of its
21 field visit if a complaint is received by an LEC that an AOS is
22 violating the WUTC's rules.

23 D. Proposed WAC 480-120-141 - Alternative Operator Services.

24 Paragraph (3) defines "call aggregator." A definition
25 should be created based upon functionality, not based upon
26 example. Otherwise, this creates a "grey area" within the rule.
27 In addition, it is very important that prior to the words "pay
28 telephone," the words "non local exchange company" be inserted.
29 If LEC pay telephones are included as call aggregators, then the
30 LEC would be defined as a "customer" pursuant to proposed WAC
31 480-120-141(3). Then under proposed WAC 480-120-141(4), a
32 contract would be required containing the numerous requirements
33 of that section. As stated supra at II.A., this would be
34 inappropriate for a LEC and cause many conflicts.

1 Paragraph 4(a) requires certain print be placed on a
2 telephone instrument to which access to an AOS can occur. The
3 specific language set forth in proposed WAC 480-120-141(4)(a) is
4 incorporated in the pay telephone rule through WAC 480-120-
5 138(b)(6)(a). Therefore, any entity providing a pay telephone
6 must comply with the notice requirements of the amended WAC 480-
7 120-141(4)(a). USWC operators do not have the ability to
8 directly connect a user of its pay telephones to all carriers.
9 It is USWC's policy to advise a user of its pay telephones as to
10 how they can connect with the carrier of their choice free of
11 charge. However, the physical connection simply is not always
12 technologically feasible. Therefore, USWC recommends that this
13 section not be amended and be maintained in its current form. A
14 reasonable alternative may be to apply the language contained in
15 the federal legislation for consistency and in order not to
16 result in duplicative confusing notices. To the extent that it
17 is amended, as proposed, USWC would request a waiver from the
18 requirements of this section.

19 With respect to Subparagraph 4(b)(i), USWC questions the
20 need for posting the required information relating to billing at
21 the station. Billing inquiries generally are not generated from
22 the station, but occur when a bill is received. It is unlikely
23 that a customer is going to revisit a station to obtain billing
24 inquiry information. Billing inquiry information should be
25 provided as part of the bill if it is required by the rules. To
26 add this requirement to the information at the station location
27 simply adds confusion and makes the massive information provided
28 at the station more difficult to understand.

29

30 E. Proposed WAC 480-120-141(5) and (7).

31 USWC would have numerous comments regarding proposed WAC
32 480-120-141(5) and (7) if those sections were to be applied to
33 it. Since USWC is exempted from the definition of an AOS
34 pursuant to proposed WAC 480-120-021 it will not make any

1 comments at this time. In the event this definition were to
2 change, USWC would request the opportunity to submit additional
3 comments.

4
5 F. Proposed WAC 480-120-142.

6 Under Subpart (iii) of this provision, a LEC is required
7 not to provide service to an AOS company whose registration is
8 suspended. Again, the WUTC has within its authority the power
9 to deal with AOS companies who are operating without
10 registration or a suspended registration. A LEC should not be
11 required to police the WUTC's rules. This is particularly true
12 since to the extent the AOS is handling interstate traffic, the
13 failure to provide access could be deemed to be a violation of
14 the equal access provisions of the MFJ. If this rule is kept in
15 its current form, it should be amended to require the WUTC to
16 notify all LECs of any suspensions or reinstatements of
17 registrations. In no event should it be a requirement of a LEC
18 to constantly monitor registration, suspension and reinstatement
19 dockets to ensure their current status at its peril. Finally,
20 to the extent a LEC is required to monitor these activities, a
21 LEC should be allowed to recover the costs of the provision of
22 these services. See, also II.C.

23
24 III. CONCLUSION

25 Based upon the foregoing, USWC respectfully requests that
26 the WUTC carefully consider its comments related to the AOS
27 rules and revise its rules in accordance with these comments.

28 DATED this 19th day of October, 1990.

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31 
32 _____
33 MARK ROELLIG, Of Attorneys for
34 U S WEST Communications

TELEPHONE OPERATOR CONSUMER SERVICES IMPROVEMENT ACT OF 1990

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 971) to require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.
The Clerk read the Senate amendment, as follows:

Senate amendment:
Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.
This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.
The Congress finds that—
(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those services providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) The Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SECTION 2. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"SEC. 224. TELEPHONE OPERATOR SERVICES.

"(a) **DEFINITIONS.**—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent

provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator located that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(b) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) **IN GENERAL.**—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

EXHIBIT A

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider,

unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) ADDITIONAL REQUIREMENTS FOR FIRST 3 YEARS.—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) REQUIREMENTS FOR AGGREGATORS.—

"(1) IN GENERAL.—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) port on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services; and

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(2) EFFECT OF STATE LAW OR REGULATION.—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

"(d) GENERAL RULEMAKING REQUIRED.—

"(1) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of

operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) DEADLINES.—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 210 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) CONTENTS OF REGULATIONS.—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (e) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) ADDITIONAL REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.—The regulations prescribed under this section, shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) SEPARATE RULEMAKING ON ACCESS AND COMPENSATION.—

"(1) ACCESS.—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "950" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) COMPENSATION.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) TECHNOLOGICAL CAPABILITY OF EQUIPMENT.—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) FRAUD.—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) DETERMINATIONS OF RATE COMPLIANCE.—

"(1) FILING OF INFORMATIONAL TARIFF.—

"(A) IN GENERAL.—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) WAIVER AUTHORITY.—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1)(A) and (B) and have been achieved; and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) REVIEW OF INFORMATIONAL TARIFFS.—If the rates and charges filed by any provider of operator services under paragraph (1) appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable, and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) PROCEEDING REQUIRED.—

"(A) IN GENERAL.—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1) (A) and (B) are being achieved. The proceeding shall—

"(i) monitor operator service rates;

"(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

"(iii) report on (in the aggregate and by individual provider) operator service rates, incidence of service complaints, and service offerings;

"(iv) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) REPORTS.—(i) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after the commencement of such proceeding, the Commission shall submit a final report to the Congress on its findings and conclusions.

"(4) IMPLEMENTING REGULATIONS.—

"(A) IN GENERAL.—Unless the Commission makes the determination described in subparagraph (B), the Commission shall,

within 180 days after submission of the report required under paragraph (3)(B)(iii), complete a rulemaking proceeding pursuant to this title to establish regulations for implementing the requirements of this title (and paragraphs (1) and (2) of this subsection) that rates and charges for operator services be just and reasonable. Such regulations shall include limitations on the amount of commissions or any other compensation given to aggregators by providers of operator service.

"(B) LIMITATION.—The requirement of subparagraph (A) shall not apply if, on the basis of the proceeding under paragraph (3)(A), the Commission makes (and includes in the report required by paragraph (3)(B)(iii)) a factual determination that market forces are securing rates and charges that are just and reasonable, as evidenced by rate levels, costs, complaints, service quality, and other relevant factors.

"(1) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this Act."

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Massachusetts [Mr. MARKEY]?

Mr. RINALDO. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the Subcommittee on Telecommunications and Finance, for the purpose of explaining H.R. 971 and the Senate amendment thereto.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

The Senate amendment to H.R. 971 represents a compromise between H.R. 971, which passed the House on September 25, 1989, and S. 1660 as it was passed by the other body. The differences between the two bills are minimal and in most regards are technical drafting changes. The most significant change in the legislation is that it now establishes specific statutory requirements for operator service providers and "aggregators," hotels and other intuitions who make telephones available to the public, rather than initiating an FCC rulemaking procedure to impose the same requirements as H.R. 971. In addition, to ensure that the FCC has the full administrative authority embodied in the Communications Act, the legislation is redrafted as an amendment to title II of the Communications Act of 1934.

There has been a litany of consumer complaints about overcharges and unacceptable business practices in the operator services industry. This bill will ensure that consumers are protected from the unfair prices and practices of the fast-buck artists without

jeopardizing the legitimate business interests of many in this infant industry.

Since the breakup of AT&T, new and unregulated companies, have entered the marketplace to provide service. In many cases, the new providers have charged their customers substantially higher prices—sometimes as much as 400 percent more than AT&T.

Alternative operator services, or [AOS] providers, are new companies that lease telephone lines from major carriers, such as AT&T and MCI, and then utilize those lines to sell "Dial O" services to businesses and institutions such as airports, hospitals, and universities. This legislation is a comprehensive package which addresses the abuses that have occurred in some segments of the operator services industry.

This legislation will ensure that those who use public telephones have unblocked access to the long-distance carrier of their choice and adequate information for making informed decisions regarding those carriers. In addition to unblocking access and providing adequate information, the compromise contained in H.R. 971 addresses and combats the excessive rates charged by some less-scrupulous operator service providers.

Under the legislation, the FCC must review the rates filed by each operator service provider and if they appear unjust or unreasonable, require that the operator service provider either justify its rates or announce the availability of its rates to the consumer at the beginning of each call. In addition, if the FCC finds after a full proceeding, that an operator service provider's rates are unjust and unreasonable, it must then regulate the operator service companies' rates including imposing limits on the compensation paid by operator service companies to hotels and pay phones.

This legislation provides the FCC with the full administrative authority necessary to correct the unprincipled elements in the operator services industry. Ultimately, it will create lower prices in a truly competitive marketplace.

Mr. Speaker, this bill is the result of a bipartisan effort on the part of committee members to ensure that we move forward to prevent these unfair and unresolved abuses in the industry. The gentleman from New Jersey [Mr. RINALDO], the ranking minority member of our subcommittee has made it possible for us to construct a bill that will adequately resolve this issue, one which has become increasingly onerous to consumers.

I would like to commend the gentleman from Tennessee [Mr. COOPER] for his leadership in introducing this legislation and for bringing national attention to this issue. I would also like to applaud the constructive efforts of the gentlemen from Texas, Mr. BRYANT and Mr. FIELDS and other subcommit-

tee colleagues who have worked diligently in drafting this legislation.

Mr. RINALDO. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MARKEY]. I strongly support the legislation.

Mr. Speaker, I yield to the gentleman from Tennessee [Mr. COOPER].

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Mr. COOPER. I would just like to thank the chairman of the subcommittee, the gentleman from Massachusetts [Mr. MARKEY], and the ranking member, the gentleman from New Jersey [Mr. RINALDO], for their outstanding leadership and hard work on this measure. I feel that as a result of this legislation we will be able to protect countless consumers across this country who have been upset and frustrated with the way the public pay telephones and telephones in hotel rooms have been sometimes taken over by unscrupulous alternative operator service operators.

So I thank the gentleman for their hard work.

Mr. RINALDO. I thank the gentleman for his contribution.

Further reserving the right to object, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman for yielding. I would just like to say that this is the bill of the gentleman from Tennessee [Mr. COOPER]. He initiated it. He was the driving force, and he deserves the compliments that attach to passage of a successful piece of legislation, as this is.

Mr. RINALDO. Further reserving the right to object, Mr. Speaker, I just want to acknowledge what the gentleman is saying. All of us worked hard, the gentleman from Massachusetts, the gentleman from Tennessee, and myself. I feel that it is a good piece of legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

CERTIFICATE OF SERVICE
COUNSEL OF RECORD

File No. UT-900726 and UT-900733

I hereby certify that I have this day caused to be served one copy of the foregoing document upon the following parties of record by person or by mailing a copy thereof, properly addressed with postage prepaid:

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DATED this 19th day of October, 1990.



LEE ANNETTE FORTIER

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