

MAR 05 1990

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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| WASHINGTON UTILITIES AND |) | |
| TRANSPORTATION COMMISSION, |) | |
| |) | |
| Complainant, |) | |
| |) | DOCKET NO. UT-900148 |
| vs. |) | |
| |) | COMPLAINT AND ORDER TO |
| FONE AMERICA, INC., |) | SHOW CAUSE WHY PENALTIES |
| |) | SHOULD NOT BE ASSESSED |
| Respondent. |) | AND |
| |) | NOTICE OF HEARING |
| |) | (April 9, 1990) |
| |) | |

The Washington Utilities and Transportation Commission, complainant, alleges:

1. Complainant is an agency of the State of Washington authorized by and under the provisions of Title 80.36 RCW to regulate the rates, services, and practices of telecommunications companies in the State of Washington, including but not limited to contracts with customers.

2. Fone America Inc., is a telecommunications company offering alternative operator services, as defined in RCW 80.36.520. Respondent is registered in this state pursuant to Commission order in Docket No. 89-2685-AR, dated and effective March 23, 1989. At all times referred to herein, the respondent was and is now subject to the provisions of Title 80 RCW and chapter 480-120 WAC.

3. Pursuant to RCW 80.36.520, the Commission adopted WAC 480-120-141 effective March 3, 1989. From preliminary investigation made by the Commission, it appears, and the Commission therefore alleges that respondent has offered services without complying with the provisions of WAC 480-120-141.

4. Accordingly, the Commission believes and therefore alleges that respondent is providing alternative operator service (AOS) in contravention of WAC 480-120-141, in the following particulars:

(a) Respondent has failed to require by contract or has failed to enforce the requirement that its customers post information to alert consumers that rates for calls placed from that instrument may be higher than normal and providing alternative dialing instructions, all in contravention of WAC 480-120-141 (1)(a).

(b) Respondent has failed to require by contract or has failed to enforce the requirement that it post and maintain in a legible condition on or near the telephone its name as registered with the Commission, all in contravention of WAC 480-120-141(1)(b)(i).

(c) Respondent has failed to require by contract or has failed to enforce the requirement that information be posted and maintained on or near the telephone instrument informing consumers of the name of the AOS company, dialing directions to permit a consumer to reach the AOS operator so as to receive specific rate information, all in contravention of WAC 480-120-141(1)(b)(ii).

(d) Respondent has failed to require by contract or has failed to enforce the requirement that dialing instructions to allow the consumer to dial through to the local telephone company and make clear the availability of access to other providers be posted and maintained, all in contravention of WAC 480-120-141(1)(b)(iii).

(e) Respondent has failed to identify itself or its billing agent at the beginning of every call, all in contravention of WAC 480-120-141(2)(a).

5. In accordance with the foregoing, it is alleged that respondent, Fone America, Inc., has repeatedly violated chapter 80.36 RCW and the rules and regulations of the Washington Utilities and Transportation Commission, and it is further alleged that these violations have been continuing in nature from March 23, 1989, the date of registration.

ORDER
AND
NOTICE OF HEARING

Hearing in this matter will be held pursuant to Part IV of chapter 34.05 RCW pertaining to adjudicative proceedings, including but not limited to RCW 34.05.422, 34.05.440, 34.05.449 and RCW 34.05.452. The Commission has jurisdiction over this matter under Title 80 RCW, having legal authority to regulate the rates, services, and practices of telecommunications companies, including alternative operator service companies. Statutes involved are those within chapter 80.04 RCW and chapter 80.36 RCW, particularly RCW 80.04.010, RCW 80.36.520 and RCW 80.04.405. Rules involved are those within chapter 480-120 WAC relating to telecommunications companies, particularly WAC 480-120-141. The

issue involved is whether the operations conducted by Fone America, Inc., have been in violation of statutes and rules, and whether monetary penalties should be assessed.

NOTICE IS HEREBY GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET HEREIN, OR OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH THE TERMS OF RCW 34.05.440. THE PARTIES ARE FURTHER ADVISED THAT THE SANCTION PROVISIONS OF WAC 480-09-700(4) WILL BE SPECIFICALLY INVOKED.

An Administrative Law Judge from the Utilities and Transportation Subdivision of the Office of Administrative Hearings, 1212 Jefferson St. S.E., Suite 200, Mail Stop PG-21, Olympia, WA 98504, (206) 753-6403 will be designated to preside at the hearing.

The names and mailing addresses of all parties and their known representatives are as follows:

Washington Utilities and
Transportation Commission
Chandler Plaza Building
1300 S. Evergreen Park Drive S.W.
Olympia, Washington 98504

Representative:

Kenneth O. Eikenberry, Attorney General
Donald T. Trotter, Assistant Attorney General
Heritage Plaza Building
1400 S. Evergreen Park Drive S. W.
Mail Stop: FY-11
Olympia, Washington 98504
(206) 586-1146

Fone America, Inc.
12323 SW 66th Avenue
Portland, Oregon 97223

Representative:

Not known

The Commission will appear through the Office of the Attorney General, as listed above. The agency asserts upon

information and belief that the operations of Fone America, Inc., are being conducted in violation of the foregoing statutes and rules.

WHEREFORE, IT IS ORDERED That respondent shall, unless by notice of hearing issued by the secretary of the Commission a different time and place is specified, appear at a hearing before the Washington Utilities and Transportation Commission, at 9:30 a.m., Monday, April 9, 1990, in the Heritage Plaza Hearing Room, 1400 S. Evergreen Park Drive SW, Olympia, Washington, then and there to answer the complaint herein and show cause, if any it has, why monetary penalties should not be assessed in accordance with RCW 80.04.405. Notice is specifically given that in the case of a continuing violation, every day's continuance shall be and be deemed a separate and distinct violation.

IT IS FURTHER ORDERED, That respondent produce at said hearing verified copies of any and all contracts with customers in the State of Washington to whom it provides or purports to provide alternative operator services. In addition, respondent shall produce a complete list of all customers in the State of Washington to whom it provides alternative operator services, whether under written or oral contract, and shall identify in each instance the specific location of instruments utilized to provide such services.

DATED at Olympia, Washington, and effective this 5th day of March, 1990.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Sharon L. Nelson

SHARON L. NELSON, Chairman

R. D. Casad

RICHARD D. CASAD, Commissioner

A. J. Pardini

A. J. PARDINI, Commissioner