

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending)	
)	DOCKET UT-100148
WAC 480-120-264)	
)	GENERAL ORDER R-560
Relating to Prepaid Calling Services)	
)	ORDER AMENDING AND
)	ADOPTING RULE
)	PERMANENTLY
.....)	

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 10-10-080, filed with the Code Reviser on May 3, 2010. The Commission initiated this proceeding pursuant to RCW 80.01.040 and RCW 80.04.160.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).

3 **DATE OF ADOPTION:** The Commission adopts this rule on the date this Order is entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the Commission’s reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the Commission’s responses to the comments reflecting the Commission’s consideration of them.

OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED DATE: July 08, 2010 TIME: 8:12 AM WSR 10-15-009
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5 To avoid unnecessary duplication in the record of this docket, the Commission
designates the discussion in this Order, including Appendix A (*i.e.*, the rule adopted
by this Order), as its concise explanatory statement. Together, these documents
provide a complete but concise explanation of the agency actions and its reasons for
taking those actions.

6 **REFERENCE TO AFFECTED RULES:** This Order amends Washington
Administrative Code (WAC) 480-120-264 entitled, "Prepaid calling services."

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry
(CR-101) on February 17, 2010, at WSR # 10-05-107. The statement advised
interested persons that the Commission was considering initiating a rulemaking to
implement additional consumer protection disclosures regarding prepaid calling
services. The Commission concluded that such additions may be necessary to ensure
that both the advertising for prepaid calling services as well as the disclosure of
components of the service, such as the value of the service, are presented to potential
consumers in the same language. The Commission further concluded that additional
consumer disclosure requirements may be needed to better enable consumers to make
choices between competitively-offered telecommunications services.

8 On February 19, 2010, the Commission issued a Notice of Opportunity to File
Written Comments informing persons of this inquiry by providing notice of the
subject and the CR-101 to everyone on the Commission's list of persons requesting
such information pursuant to RCW 34.05.320(3) and by sending notice to all
regulated telecommunications companies and the Commission's list of
telecommunications attorneys. The Commission posted the relevant rulemaking
information on its Internet website at <http://www.utc.wa.gov/100148>.

9 The Commission invited interested persons to file comments by March 22, 2010.
Pursuant to the notice, the Commission received three written comments which
helped to guide the process. The written comments received pursuant to the CR-101
were filed by MCI Communications Services Inc., d/b/a Verizon Business Services
(Verizon-MCI), Paracom, Inc. (Paracom), and AT&T Communications of the Pacific
Northwest, Inc. (AT&T).

10 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a Notice of Proposed Rulemaking (CR-102) on May 3, 2010, at WSR # 10-10-080. The Commission scheduled this matter for oral comment and adoption under Notice WSR # 10-10-080 at 1:30 p.m., Monday, June 28, 2010, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice also provided interested persons the opportunity to submit written comments to the Commission, by June 7, 2010.

11 **WRITTEN COMMENTS:** The Commission received written comments in response to the CR-102 from Verizon-MCI and AT&T. The parties identified two issues:

- a) The effective disclosure of international prepaid calling rates and minutes.
- b) The need for clarification regarding whether the rule applies only to a prepaid calling "card," or, to regulated telecommunications prepaid "services" in general.

Commission Staff conferred with Verizon-MCI and AT&T regarding their written comments and developed consensus language that addressed their concerns regarding international prepaid calling rates and minutes.

12 The consensus language regarding international prepaid calling rates and minutes is contained in Appendix A.

13 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on Monday, June 28, 2010, before Chairman Jeffrey D. Goltz, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. The Commission heard oral comments from Mr. Tim Zawislak representing Commission Staff. No other interested person made oral comments.

14 **SUGGESTIONS FOR CHANGE THAT ARE ACCEPTED:** Verizon-MCI and AT&T submitted written comments suggesting changes to the proposed rule. Verizon-MCI and AT&T both raise concerns about the new requirement that all applicable rates for international calls, must be disclosed on the card or its packaging as proposed in WAC 480-120-264(5)(a)(iii). The concerns are that: (1) there is not enough space on the card or its packaging to disclose the rates for each of over 200

countries and all applicable international call combinations (United States to a foreign county, foreign country to the United Stated and calls to or from a cell phone) and; (2) international rates change frequently so publishing country-specific rates is impractical because the applicable rate may have changed in the time between when the card was purchased and when the call is actually placed.

- 15 Both Verizon-MCI and AT&T offer similar solutions regarding the disclosure of international rates. However, they differ regarding which subsection of the rule should be modified. Verizon-MCI recommends that WAC 480-120-264(5)(a)(iii) be revised to allow disclosure for international rates via a toll-free customer service number instead of printing the rates on the card or its packaging. AT&T, recommends that WAC 480-120-264(5)(d) be revised to allow for disclosure of international rates via a toll-free number and via a website where the provider has a website.
- 16 The Commission accepts, in principle, the intent of the changes described above. However, the Commission chooses to rely on its own wording that incorporates solutions offered by Verizon-MCI and AT&T. The Commission opts for including language in WAC 480-120-264(5)(d) as is shown in bold below:
- (d) If the PPCS provider issues a card, all information contained in this subsection **with the exception of international rates** must be disclosed on the card or its packaging. **International rates must be disclosed on the card, on its packaging, or via a without-charge telephone number.** Disclosures required in (a)(i) and (vi), (b)(i) and (ii) of this subsection must be on the card.*
- 17 The Commission finds that the wording described above and contained in Appendix A, which modifies the text in the CR-102 proposed rule text, is appropriate, and adopts the language in this rulemaking process.
- 18 **SUGGESTIONS FOR CHANGE THAT ARE REJECTED:** AT&T submitted written comments suggesting a requirement for disclosure of international rates via a website where the company has a website. This revision is rejected because many potential customers will not have readily available access to the Internet at the time of purchase. Although the use of a website is not prohibited, the toll-free number is the

only other option acceptable for the disclosure of international rates other than disclosing this information on the card or its packaging.

19 AT&T also submitted written comments suggesting that the proposed revisions to WAC 480-120-264(5)(a)(vi) that change the term “card” to the term “service” are unnecessary. The Commission also rejects this suggestion because the rule does not exclusively address prepaid calling cards; it encompasses other prepaid calling services. The proposed use of the word “service” enables more comprehensive consumer protection, aligns the subsection with the remainder of the rule, and essentially corrects a typographical error in the current rule. Additionally, some services provided via a card can also be recharged without the issuance of a brand new card upon expiration of the term of service. Furthermore, the use of the word “service” is consistent with WAC 480-120-264(5)(a)(vii) and is congruent with the rule as a whole.

20 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should adopt the rule as proposed in the CR-102 at WSR # 10-10-080 and as modified by the clarification described in paragraph 15 of this Order.

21 **CHANGES FROM PROPOSAL:** The Commission addressed the written comments submitted by Verizon-MCI and AT&T earlier in this Order. The suggested changes and the Commission’s reason for accepting or rejecting the suggested changes are discussed in paragraphs 15 through 18 of this Order.

22 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-120-264 should be amended to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

ORDER

THE COMMISSION ORDERS:

- 23 The Commission amends WAC 480-120-264 to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).
- 24 This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, July 8, 2010.


WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION



JEFFREY D. GOLTZ, Chairman



PATRICK J. OSHIE, Commissioner



PHILIP B. JONES, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 1, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

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

Appendix A