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Item Number: A2

Docket: UT-210642
Company Name: Washington Exchange Carrier Association.

Staff: Rebecca Beaton, Infrastructure Analyst
Jing Roth, Assistant Director
Sean Bennett, Regulatory Analyst
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Recommendation

Allow the Washington Exchange Carrier Association tariff revision Section 2.2.2 (D) to go into effect by operation of law on September 22, 2021.

Background

On August 23, 2021, the Washington Exchange Telephone Association (WECA) filed with the Washington Utilities and Transportation Commission (Commission) a tariff revision containing descriptions and regulations applicable to the provision of regulated services. The tariff revision will allow call blocking of telecommunications traffic in compliance with the Federal Communications Commission's (FCC's) implementation of the Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act.¹

The proposed WECA tariff revision has an effective date of September 22, 2021.

On March 31, 2020, the Federal Communications Commission (FCC) began implementing the TRACED Act, which requires voice service providers to police their networks.² Call authentication is based on STIR (Secure Telephony Identity Revisited) and SHAKEN (Signature-based Handling of Asserted information using toKENS) technology standards that allow voice service providers to verify caller identification (ID). This information is transmitted with a call that matches the caller's phone number.³

¹ See *Call Authentication Trust Anchor*, WC Docket No. 17-97, [Second Report and Order](#), 36 FCC Rcd. 1859 (released Oct. 1, 2020); *Call Authentication Trust Anchor*, WC Docket No. 17-97, Final Rule; Announcement of Effective Date, 86 Fed. Reg. 29952 (June 4, 2021).

² *Call Authentication Trust Anchor, Implementation of TRACED Act Section 6(a)—Knowledge of Customers by Entities with Access to Numbering Resources*, WC Docket Nos. 17-97 and 20-67, 35 FCC Rcd. 3241, [Report and Order and Further Notice of Proposed Rulemaking](#), (released Mar. 31, 2020).

³ STIR (Secure Telephony Identity Revisited). SHAKEN and (Signature-based Handling of Asserted information using toKENS) development was completed at FCC direction through the Internet Engineering Task Force (IETF), Third Generation Partnership Project (3GPP), and Alliance for Telecommunications and Industry Solutions (ATIS) Session Initiation Protocol (SIP) Forum.

New federal standards and the Robocall Mitigation Database (RMD) are intended to combat scammers' caller ID spoofing and identity masking.⁴ The FCC requirements enhance detection, traceback, and blocking of fraudulent traffic. The STIR/SHAKEN premise is intended to confirm telephone calls and their telephone numbers originated in a service provider network that can be authorized by that service provider. This method assures information is verified as legitimate when received by the terminating service provider.

On September 28, 2021, service providers must refuse to accept traffic from providers not listed in the Robocall Mitigation Database.⁵

WECA is subject to the jurisdiction of the Utilities and Transportation Commission and subject to the telecommunications company provisions of Title 80 RCW and Title 480 WAC. Specifically, RCW 80.36.080 requires services to be modern, adequate, sufficient, and efficient.

Washington state law RCW 80.36.220 requires telecommunications companies to receive, exchange and transmit messages without delay or discrimination.⁶ WECA identifies this statute as a potential conflict with the FCC robocall requirements although the Commission has approved WECA tariff language allowing blocking of abusive traffic.

Discussion

Robocalls and unwanted telemarketing calls to consumers are a source of consumer complaints at the FCC and the FTC. Preventing such calling and ensuring consumers receive protections is important. The TRACED Act requires:

- 1) voice service providers to take steps to stop illegal traffic on their networks and assist the FCC, law enforcement, and the industry traceback consortium (Consortium) in tracking down callers that make such calls;
- 2) expansion of a safe harbor to include network-based blocking based on reasonable analytics that incorporate caller ID authentication information designed to identify calls

⁴ On April 20, 2021, the FCC launched the Robocall Mitigation Database. This database has a portal which voice providers must file certifications regarding their efforts to stop the origination of illegal robocalls on their networks. This requires voice providers to report on robocall reduction efforts and requires service providers to block calls from "non-filers" of call authentication certification.

⁵ 47 C.F.R. §64.6305 Robocall mitigation and certification (c) *Intermediate provider and voice service provider obligations*. Beginning September 28, 2021, intermediate providers and voice service providers shall only accept calls directly from a voice service provider, including a foreign voice service provider that uses North American Numbering Plan resources that pertain to the United States to send voice traffic to residential or business subscribers in the United States, if that voice service provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (b) of this section.

⁶RCW 80.36.220. Telecommunications companies shall receive, exchange, and transmit each other's messages without delay or discrimination, and all telecommunications companies shall receive and transmit messages for any person. In case of the refusal or neglect of any telecommunications company to comply with the provisions of this section, the penalty for the same shall be a fine of not more than five hundred nor less than one hundred dollars for each offense.

that are highly likely to be illegal, if this blocking is managed with human oversight and network monitoring sufficient to ensure that blocking is working as intended, and;

- 3) voice service providers that block calls to disclose such blocking, establish a dispute resolution process to correct erroneous blocking, and promptly resolve disputes.

The WECA tariff revision is in response to the Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act.⁷ The tariff change will confirm that WECA may comply with implementing the call authentication framework known as STIR/SHAKEN.⁸ The TRACED Act requires implementation of an authentication framework, affirms the authority for a voice provider to block a call pursuant to this framework, and creates a safe harbor for the inadvertent blocking of legitimate calls.⁹

Washington state RCW 80.36.220 requires telecommunications companies to receive, exchange and transmit messages without delay or discrimination. WECA interprets the RCW to allow carriers to block fraudulent calls and states this is reinforced due to the Commission tariff provisions that permit carriers to deal with abusive traffic.¹⁰ WECA tariff Section 2.2.2(D) states that WECA's members may block abusive and other illegal traffic consistent with FCC rules and policies.¹¹

Commission Staff (Staff) contacted public utility staff members in Arizona, Colorado, Idaho, and New Mexico and further inquired at the NARUC Telecommunications Committee staff meeting in August about state statutes and service provider tariff filings related to call blocking.

⁷ Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act, Pub. L. No. 116-105 (2019).

⁸ Advanced Methods to Target and Eliminate Unlawful Robocalls, CG Docket No. 17-59, Public Notice (August 10, 2018).

⁹ RCW 80.36.220 Duty to transmit messages—Penalty for refusal or neglect. Telecommunications companies shall receive, exchange, and transmit each other's messages without delay or discrimination, and all telecommunications companies shall receive and transmit messages for any person. In case of the refusal or neglect of any telecommunications company to comply with the provisions of this section, the penalty for the same shall be a fine of not more than five hundred nor less than one hundred dollars for each offense.

[1985 c 450 § 35; 1961 c 14 § 80.36.220. Prior: (i) 1890 p 292 § 2; RRS § 11343. (ii) 1890 p 293 § 8; RRS § 11355.

¹⁰ WECA Tariff WN U-2 Section 2.2.2(A) at Sheet 41: Unlawful and Abusive Use (A) The service provided under this tariff shall not be used for an unlawful purpose or used in an abusive manner. Abusive use includes: (1) The use of the service of the Telephone Company for a call or calls, anonymous or otherwise, in a manner reasonably expected to frighten, abuse, torment, or harass another; (2) The use of the service in such a manner as to interfere unreasonably with the use of the service by one or more other customers.

¹¹ WECA Section 2.2.2 (D) In addition to any other remedies available to it, the Telephone Company may block calls that are likely to be abusive (*e.g.*, robocalls used for fraudulent or other illegal purposes) and traffic under 47 C.F.R. § 64.6305 (carriers not in the Robocall Mitigation Database) or as otherwise authorized by the Federal Communications Commission.

Currently, Staff is not aware of service providers in other states filing tariff revisions responding to FCC requirements related to call completion statutes although Arizona, Idaho, and Colorado have similar statutes to Washington.¹²

Staff confirmed that the proposed tariff change complies with FCC requirements. Given the impact to the public and consideration of the proposed tariff changes, Staff believes the tariff revisions appropriately respond to federal service provider robocalling requirements and are in the public interest. Staff recommends the WECA tariff revisions be allowed to go into effect.

Conclusion

Staff recommends the Commission allow the Washington Exchange Carrier Association tariff revision Section 2.2.2(D) to go into effect by operation of law on September 22, 2021.

¹² Arizona ARS 40-328, Colorado 40-15-105, Idaho 62-801.