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October 21, 1990

VIA COURIER

Mr. Paul Curl
Secretary
Washington Utilities
& Transportation Commission
1300 S. Evergreen Park Drive, SW
Olympia, Washington 98504-8002

RE: Docket No. UT-900726

Dear Mr. Curl:

On behalf of Intellicall, Inc. ("Intellicall"), we enclose for filing in the referenced proceeding an original and 19 copies of the Comments of Intellicall.

Also enclosed please find an extra copy of Intellicall's comments which we would appreciate your date stamping and returning to us in the enclosed self-addressed envelope.

Respectfully submitted,
INTELLICALL, INC.

By: ______________________
Donald M. Itzkoff

Its Attorneys

DMI:gt
Enclosures

BEFORE THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In re: Amending the Commission's Telecommunications Rules Relating to Telecommunications Glossary, Alternate Operator Services, Pay Telephones, and Form of Bills.	Docket No. UT-900726

COMMENTS OF INTELLICALL, INC.

Intellicall, Inc. ("Intellicall"), by its attorneys, hereby files its comments in response to the Commission's Proposed Rulemaking in the above-captioned proceeding. Intellicall's comments focus on the impact of the proposed rules on the use of "store and forward" technology by pay telephone providers to provide their own, automated alternative billing services.

Introduction

Intellicall is the leading provider of equipment and services to the non local exchange company ("LEC") owned pay telephone industry. It has manufactured and sold over 120,000 intelligent pay telephones for use in 46 states, and provides various ancillary services to its customers including access to suppliers of billing, collection and validation services necessary to the conduct of their business.[1]

In equipment manufactured by Intellicall and many other pay phone manufacturers, the technology to provide automated alternative billing services (such as calling card and collect call billing options) resides in the phone itself. Such advanced pay telephones offer the user public the benefits of distributed operator functionality.[2]

Intellicall does not contest that pay telephone providers using its automated products and other similar advanced pay telephone equipment may replicate certain services traditionally provided by local and toll carriers from centralized locations through use of live operators. As such, Intellicall believes that many rules appropriate for providers of traditional operator services, including certain consumer safeguards, should rightly be applied to all types of operator service providers ("OSPs").[3]

Some of the rules proposed by the Staff, however, do not contemplate the provision of operator services, per se, by pay telephone providers themselves, or do not recognize technical

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1 In 1988, Intellicall introduced its highly successful Intelli*Star product line, a third generation pay telephone which features what is commonly termed "store and forward" technology.

2 Under the current rules, these products fall within either the definition of coin operated, or coinless pay telephones, depending on whether the pay phones accept coin for payment, in addition to alternative billing methods. See WAC 480-120-138.

3 Proposed WAC 480-120-021 would except the LECs from complying with these provisions.

differences inherent in distributed technology, such as the store and forward products, as compared to centralized technology. In Intellicall's view, a number of the proposed rules cannot be appropriately applied as written. In addition, Intellicall believes that the Commission's Small Business Impact statement significantly understates the potential cost of implementing the proposed rules to the numerous pay telephone providers, including many small business, now providing pay telephone service to the consumers of Washington State.

Through these comments Intellicall intends to help the Commission to understand both the capabilities and limitations of store and forward technology. In so doing, Intellicall suggests revisions it believes consistent with the goals the Staff may have contemplated in proposing these rules, to the extent such goals can be reasonably ascertained. Intellicall addresses each rule section serriatum, concluding with an assessment of the Commission's proposed Small Business Impact Statement.

I. DESCRIPTION OF PAY TELEPHONE TECHNICAL OPERATIONS

Transient telephone users potentially have three options for placing calls from pay telephones. The first option is to pay by coin at the time the call is placed. Such calls are known as "sent-paid" calls. The second option is to pay by credit card, either a commercial card like Mastercard or Visa, or a calling card issued by a telephone company. The third option is to charge the call to a number other than the one from which the call is placed. Such calls may be charged to the called party (i.e., a

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collect call) or to a third party (i.e., third party billing). Credit card, calling card, collect and third party calls are known as "non-sent-paid" calls.

Pay telephone providers using Intellicall's equipment often provide these options to consumers in ways distinctly different -- and equally or more socially beneficial -- than employed by LECs and interexchange carriers ("IXCs"). Such benefits flow from the unique technological capabilities of Intellicall's products, which perform automated call completion functions through the use of circuit boards contained within the equipment itself. Circuit boards enable private pay phone providers to offer consumers a wide array of services and functions without the need or expense of "live" operators or the same degree of telephone network usage as that required by LEC pay phones.[4]

A brief discussion of how calls are handled by users of Intellicall's equipment, as compared to how those same calls are handled by other pay telephones (referred to for purposes of this example as "dumb phones") will illustrate these innovations, which ultimately inure to the benefit of all rate payers.

With a 0+ collect call placed from a dumb phone, the caller would dial 0 plus the telephone number of the called party. The

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4 Pay phones with such capability often are referred to as "store and forward" equipment because of their ability to store billing data in the phone for later forwarding to a centralized processing location. Although some LECs are beginning to deploy in their networks the technology to provide collect and third party calls without "live" operator intervention, deployment of such technology totally within the network does not generate the socially beneficial efficiencies of "store and forward" or distributed remote processing technology deployed largely outside the network.

call would be answered by a live operator who would ask the caller what type of billing option he/she desired. If the caller stated that he/she wished to place a collect call, the operator would ask for the caller's name. After the caller provided his or her name, the operator would request the number the caller wished to reach if the caller had not already input that information. Once both name and called number were obtained, the operator would proceed to call the called party to ask if he/she were willing to accept the charges. Upon such acceptance, the call would be completed. Note that this type of call ties up the network from the time the caller accesses the central office switch. If the caller merely dials 0, additional network time is consumed for the operator to obtain and dial the desired number.[5]

Intellicall's equipment does not require the same degree of labor or network resources as network-based, "live" operator systems. When a caller dials 0 or 0+, the telephone prompts the caller to input the called number, select the type of call the caller desires to place and, where appropriate, may record and verify the name of the calling party. With "store and forward" equipment, all of this occurs before the network is accessed. No "live" operator is required. This means that every collect call placed from a pay telephone using "store and forward" technology

5 It is interesting to note that AT&T on an interstate basis and in an increasing number of states attempts to discourage 0- calls by penalizing the billed party with an additional surcharge for not dialing the called number. This penalty explicitly demonstrates AT&T's desire to hold down its operator labor costs and further evidences the benefits of Intellicall's equipment.

is provided in a more efficient and lower-cost manner than through the total network approach employed by LECs and IXCs.

These efficiency gains and cost savings ultimately benefit both transient consumers and ratepayers. Moreover, the mere presence of this technology in the marketplace generates social benefits. LECs only recently began their own deployment of such automated technology in certain areas, notwithstanding its availability for many years. It is no coincidence that this deployment occurred only when private pay phone providers entered the marketplace. Competition by pay phone providers, as elsewhere, generates strong incentives for all market participants to innovate and operate efficiently.

The Commission should consider the unique attributes and social benefits of smart pay telephones as it formulates final rules in this proceeding. Pay phone providers and traditional IXCs clearly are taking different technological approaches to providing operator-assisted interexchange services. These distinctions define the capability of pay phone providers to comply with the Commission's proposed regulations. In certain instances, these distinctions generate substantially different compliance costs for such providers. Recognition of important differences between provision of operator services by pay phone providers and IXCs will heighten the Commission's ability to formulate rational and effective regulations.

II. ANALYSIS OF PROPOSED RULES

A. WAC 480-120-021 -- GLOSSARY

The proposed definition of "alternative operator service company," in Intellicall's view, should be revised in two respects. First, Intellicall sees no reason to exclude LECs from compliance with the consumer and other safeguards proposed by the Staff. In fact, if LECs are not required to brand calls, for example, consumers will have no way of knowing which OSP they have reached. There is certainly no longer any reason to believe consumers will assume they have reached the certificated LEC within a particular area given the diversity of service providers from virtually all locations within the state. For interLATA calls, presumably OSPs will brand, thus creating the situation where even from a single phone, only some calls will be branded. The consumer has no means to understand which calls are branded and why. Furthermore, failure to require LECs to brand and comply with other safeguards considered herein will give these LECs an unfair economic advantage for no apparent reason. [6]

Second, it may be helpful to clarify the proposed definition to indicate that alternative operator service companies are those companies providing intrastate or interstate long distance services, not merely providing a connection to those services. The Commission has recognized the validity of this approach; its

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6 Intellicall presumes that LECs, as aggregators, are required to post the requisite consumer notices and otherwise comply with rules applicable to pay phone providers.

statutory and regulatory certification scheme treats OSPs as carriers. Like traditional carriers, pay telephone providers using store and forward technology are resellers of local and long distance service, and thus provide a service, not merely a connection to services which the consumer may access.

B. WAC 480-120-106 -- FORM OF BILLS

Intellicall believes that consumers are entitled to full disclosure of the carrier carrying their calls, and supports consumer choice to choose whether or not to complete calls over a particular carrier. Intellicall also believes it beneficial for the name of the service provider to appear on each bill.

In formulating a fair and equitable rule governing bill format, however, Intellicall notes that OSPs are constrained by the capabilities which presently exist in the LEC billing network. Many OSPs, whether payone providers or IXCs, do not render individual bills, but rely on the billing services of LECs in part because these billing services are often the only economical way in which to bill for calls placed from non-presubscribed locations.

Nevertheless, Intellicall notes that billing systems which likely exist within Washington State do not provide the capability to have both the name of the service provider and the authorized billing agent clearly identified on the bill, as proposed by the amendments to WAC 480-120-106. It should be noted that when these systems were designed the use of billing or clearing house agents was not contemplated, resulting in bill format limitations.

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Accordingly, the extent to which LEC billing systems permit service provider identification controls the ability of OSPs to comply. Other states, including those which regulate US West, have recognized that not all LECs have the capability to identify both the service provider and the authorized billing agent on the bill. Those Commissions, such as Nevada, have the granted the LECs time to modify their systems in order to insure that there is no interruption of service provide by IXCs and pay phone providers using store and forward technology.

Adopting WAC 480-120-106 as written will result in the interruption of service to end users and economic harm to OSPs and pay phone providers using store and forward products. If LECs do not have the capability to provide sub-carrier billing, those carriers with call volumes too proportionately too small or LEC set-up charges too expensive to permit direct subscription to LEC billing services (thus needing the aggregation service offered by billing clearing houses) would be effectively prohibited from providing intrastate service.

If providers cannot bill for calls placed, it will no longer be economically viable for those carriers to continue providing service. This issue is especially important to pay phone providers using store and forward for confinement facilities where most traffic is local or intraLATA. These facilities would be prevented from using automated store and forward technology or any

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other small OSP to where LEC contracts for billing are unavailable.[7]

Given these imperatives, WAC 480-120-106 as proposed unconsciously discriminates against carriers using billing agents. While Intellicall agrees that end users should have notice of the service provider, interruption or cessation of service by smaller carriers is clearly not in the public interest. Therefore, the Commission should either propose rules which can be implemented by the LECs immediately and/or grant a waiver of the rule until such time as all Washington LECs can provide sub-carrier billing.

Finally, Intellicall believes the rule as drafted wrongly places the burden of compliance with the provision to have both the name of the carrier and any billing agent on the bill solely on the OSP. Rather, Intellicall believes that the rules should require that

> "each LEC shall modify its billing systems to include the capability to specify both the provider of any service, and the provider's authorized billing agent, if any. Those providers which subscribe to billing clearing houses through which they bill calls to the end user shall be required to assure that both their name and the name of their authorized billing agent appears on LEC bills, to the extent provision of such identification is within their control."

C. WAC 480-120-138 PAY TELEPHONES -- LOCAL AND INTRASTATE

New proposed WAC 480-120-138(4) would require pay telephone providers to charge no more for directory assistance than US West Communications (for intraLATA calls) or AT&T (for interLATA

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7 The Economic Impact Statement, discussed <u>infra</u> at Section III, fails to consider that cessation of service would result if subcarrier billing is required without the concomitant LEC ability to provide it.

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calls), in the absence of "persuasive contrary evidence." In contrast, the Commission's current rule permits the pay telephone provider to charge the end user no more than the charge the pay telephone provider is assessed today for those calls. The rule as enacted is reasonable. The rule as proposed is not.

In a very real sense, the pay telephone provider acts as a conduit between the LEC or AT&T and the consumer in allowing the consumer access to directory assistance from the provider's pay telephones. The pay telephone provider makes no money on those calls, but in fact incurs administrative expense as well as significant opportunity costs. The rule as proposed would require pay telephone providers to make directory assistance service available to consumers at a loss, while permitting the LECs and/or AT&T each to profit from their provision of the call to the pay phone provider, assuming these rates recover their costs.

The notice is silent on the why the Staff believes the proposed rule revisions necessary. Intellicall is not aware of any evidence which suggests that the rates charged by US West and/or AT&T for their directory assistance calls, and which are passed through to the end user by pay telephone providers, are inherently unreasonable. Given that these rates are contained in lawful tariffs on file with the Commission, the Commission should consider these rates reasonable in the absence of further investigation. These same rates are the very rates which pay phone providers pass through to end users today.

The proposed rule may simply reflect the Staff's recognition that consumers are charged for directory assistance at one rate from LEC and/or AT&T pay telephones, and at another rate from private pay telephones. Intellicall does not dispute that this disparity may exist, but does not believe the Staff proposal a fair solution. A reasonable way to eliminate a disparity (and thus remove any inference given the public that pay phone providers gouge the public for directory assistance calls) would be to require the LECs and AT&T to charge pay telephone providers, at a maximum, no more than they charge end users from their own pay telephones. [8]

The cost of directory assistance from pay telephones is generally subsidized by either the total universe of directory assistance users, or the total universe of rate payers. The proposed rule would require pay telephone providers to subsidize directory assistance from their own pay telephones while permitting the LECs and/or AT&T to offset their losses in providing this service from revenues derived from the rate payers. This clearly unreasonably discriminates against non-LEC or AT&T pay phone providers. Intellicall therefore urges the Commission maintain the rule in its present form.

D. WAC 480-120-138(12) WAC 480-120-141(5)(c) ACCESS, FRAUD AND REORIGINATION

WAC 480-120-138(12) would require that pay phone providers allow users, without charge, access to all available IXCs and

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8 Adoption of the proposed rule would also permit unscrupulous competitors to drive up the pay telephone providers' costs by making call from those locations.

"1-800" numbers. 480-120-141(5)(c) would require that all operator service providers, which as defined would include those pay telephone providers using store and forward technology to provide alternative billing services, to reoriginate calls to another carrier upon request and without charge.

1. **Carrier Access**

Access to 800 service from pay telephones is technically feasible, and is provided by most pay telephone providers today. Although not mentioned specifically in the proposed rules, most pay telephone providers also provide access to available IXCs through "950" access. Proposed WAC 480-120-138(12) also appears, however, to contemplate requiring access to IXCs through "10XXX-0", as does WAC 480-120-141(4)(c). This access means is not universally technically feasible, or economically practicable.

Pay telephone access capability is constricted by the memory contained in each product. Some manufacturers may be able to program up to 15 or so 10XXX codes, for example, but Intellicall is aware of no manufacturer which has the memory capability in either present or contemplated products to store all of the IXC codes available either in Washington, or interstate. [9] These technological limitations raise considerable concern about the discrimination that would occur were 10XXX-0 access mandated.

Adoption of the Staff's proposals relating to 10XXX-0 access would devastate the pay telephone industry. The cost of retrofitting old equipment and manufacturing new equipment to meet

9 The FCC has issued over 900 carrier access codes to date, and believes that number will exceed 1000 near term.

the proposed requirement is substantial. Many older products cannot be retrofitted and thus would be made obsolete by any requirement to provide 10XXX-0.[10] Moreover, even phones that can be upgraded to provide 10XXX-0 access will be able to provide such access only to a limited number of IXCs.

If 10XXX-0 access is required, the Commission must simultaneously grant waivers of the requirements or grandfather all existing equipment either in inventory or in the field. Although the grant of such a waiver or "grandfathering" would be fully warranted, the Notice gives no indication that either policy is under consideration. Finally, although not mentioned in the proposed rules, the Commission should establish a mechanism to compensate pay phone providers for revenue-producing 800, 950, and 10XXX-0 calls.

2. Fraud

Although pay phone fraud relating to 800 and 950 calls does not appear as widespread as fraud associated with 10XXX-0 calls, the issues underlying 800, 950, and 10XXX-0 fraud are similar.

In fashioning its proposals, the Staff appears to have given little weight to the possibility of fraud, perhaps because little "hard" data is available. Intellicall points out that pay phone providers and LECs have every incentive to husband such information because publicizing the means and extent of fraud in public proceedings runs the risk of exacerbating the problem.

10 The Staff's economic analysis does not recognize that significant numbers of pay telephones would be made obsolete by its proposal, even though its economic impact statement illustrates the enormous potential costs of compliance.

There can be no doubt, however, that extensive losses from fraud from pay telephones are incurred by both private pay phone providers, LECs and IXCs. Anyone can walk up to a pay phone and place a telephone call. Yet, pay phones interconnect with the public switched network on the same basis as ordinary residential or business telephones. Pay phone owners are billed for calls originating from their phones in the same way as any other telephone subscriber.[11]

Intellicall believes that the Commission must know more about fraud before it can formulate rational and effective policies. This would include information about fraud controls in existence in the network, as well as a factual understanding of what fraud controls could be put in place to minimize fraud potential if 10XXX-0 dialing were permitted. Such information should address the unique problems associated with both domestic and international calls.

Only the Commission is in a position to secure from the LECs and IXCs the needed information on network operations and capabilities. As Attachment A, Intellicall has appended a letter from the Public Telecommunications Council (a trade association of equipment manufacturers) to the Federal Communications Commission ("FCC") in which it spells out the type of information necessary

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11 For this reason, private pay phones are significantly different from LEC pay phones, which do not have "billable" numbers. The premises owner who arranges for installation of a LEC pay telephone is not required to subscribe to the line and, therefore, is not responsible for calls placed over that line.

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in order to develop fully-informed proposals incorporating consideration of fraud in the operator service area.

An explanation of the billing process in network terms may prove illuminating. Every time a call is placed from a pay telephone via 10XXX-0+ access, the network automatically transmits the originating number to the IXC associated with the 10XXX access code. This "automatic number identification" ("ANI") makes it possible for the IXC to identify the line that should be billed for the call. If this ANI is not blocked or altered by the pay telephone provider, he or she will receive a bill for the call. The transient user who places the call will, of course, be long gone by the time the bill arrives.[12]

It must be noted in permitting access via 10XXX-0, customer premises equipment ("CPE") owners are exposed to consumers obtaining services through live IXC operators and having the charges for such services billed fraudulently to the originating line rather than their own account number. This type of fraud is especially prevalent in the pay phone environment with fraudulent charges mounting to thousands of dollars in a matter of days.

Concurrent with requiring 10XXX-0 access of CPE owners, the Commission must therefore require IXCs accessible via such access methods to indemnify CPE owners against fraudulent charges.

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12 LECs do not block 10XXX-0 access because they have instituted network control functions that permit them to maintain control of such calls and, thereby, reduce opportunities for fraud. Such network capabilities are not generally available to private pay phone providers.

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Further, LECs must not be permitted to terminate service for non-payment of such charges, at least pending the outcome of any resultant investigation. In finalizing these rules, the Commission must not require 10XXX-0 access without concurrently providing redress to CPE owners without their having to resort to long, arduous and expensive efforts to obtain relief from charges billed fraudulently (including LEC threats of disconnection for nonpayment of such charges) made possible by permitting access. A simple solution would be to require all IXCs to permit access via 950 or 1-800 codes where the potential for fraud is minimal.

3. Reorigination

Reorigination as contemplated by WAC 480-120-141(5)(c) is even more technically onerous, and simply cannot be achieved. "Reorigination" is generally understood to refer to a technical process whereby a call that reaches an operator service provider is sent back to the CPE from which the call originated in order to be rerouted to another IXC. It is accomplished, technically, in the following manner: on verbal request by the calling party, the OSP operator causes a unique tone to be sent back to the CPE (a pay phone or, in the hotel context, a PBX). The CPE is preprogrammed to recognize that upon receipt of this tone, the call in progress should be "reoriginated" by a predetermined access means (e.g., 800 or 950 access) to a particular IXC.

Reorgination requirements are themselves duplicative. The rules already require that pay phone providers offer IXC access through available access codes. See, e.g., WAC 480-120-138(10). There is no apparent reason, particularly in light of the

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technical limits discussed below, that the Commission should resort to reorigination concepts which have never previously existed.

Reorigination has several major shortcomings from the point of view of both OSPs and pay telephone providers. OSPs would have to design and adopt collectively a standard series of tones that would establish a unique tone for each IXC, and then incorporate a tone-generating capability into their stations. Intellicall is not aware of the existence of such a standardized series of IXC-identifying tones today or that sufficient tones exist to make such an arrangement technically possible.[13]

Reorigination is equally problematic from a pay telephone perspective. Even presubscribed LEC pay phones have no capability to recognize reorigination tones. Callers at these phones could not be transferred to their preferred carrier through reorigination. Such callers would have to hang up and redial.

Calls placed through "store and forward" technology cannot be used to reoriginate calls because the calls do not involve a live operator. Most, if not all, pay phone equipment in the field has only extremely limited reorigination capability. Some units can

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13 Even if tone-generation standards could be developed, the administration of such a standard would be a complicated and expensive undertaking. As the Commission is well aware, the number of IXCs in the marketplace is not constant, and all IXCs do not operate ubiquitously nationwide. Therefore, OSP and pay phone equipment would need to be reprogrammed in the field on a regular, ongoing, location-by-location basis in order to ensure the necessary alignment between tones and the IXCs actually operating in particular areas. None of these costs are included in the economic analysis prepared by the staff.

reoriginate only to the LEC in the area where the unit is located. A few, very specialized products can reoriginate, but to no more than four IXCs. The maximum capability that could be built into a pay phone of which Intellicall is aware is reorigination to fifteen IXCs, and this could be accomplished only after significant redesign and only on a small percentage of equipment (assuming the availability of uniform tones within the network). The cost of redesign and on-site retrofitting for this limited reorigination capability on the new products which are capable has been estimated by one manufacturer to be approximately $90 per telephone.

Providing unlimited reorigination capability in new equipment is theoretically possible in the opinion of certain manufacturers, but estimated costs increase by an order of magnitude. Of course, until OSPs evidence some commitment to standardized tone-generation, pay phone manufacturers have no ability to engage in any retrofit activity.

The technological limitation on the maximum number of IXCs to which calls could be reoriginated means that, under any circumstances, reorigination could only be deployed on a discriminatory basis. The FCC has estimated recently that there are hundreds of IXCs in operation today,[14] scores of which are certificated in Washington State. All of them could not be accommodated. Who would select the ones who would receive reoriginated calls? How would this process be managed? What

14 See Competition in the Interstate Interexchange Marketplace, Notice of Proposed Rulemaking, 5 FCC Rcd 2627 (1990).

public benefit could be obtained, from a customer's point of view, unless all carriers could be accommodated? How could rampant customer confusion be avoided if the number and identity of carriers to whom access was provided through reorigination differed from OSP to OSP or from location to location?

Concerns about discrimination and a lack of consumer benefits led the MFJ court to reject requests that it order Regional Bell Operating Companies to implement capabilities similar to reorigination.[15] The Commission should follow the same course in this proceeding. Instead, the Commission should satisfy its goal of promoting direct customer access to a customer's preferred carrier by requiring all carriers to implement either 800 or 950 access capabilities.

E. WAC 480-120-141 ALTERNATIVE OPERATOR SERVICES

1. Filing of Contracts

The Staff's proposed WAC 480-120-141(1) requiring OSPs to file copies of their contracts with call aggregators does not contemplate automated technology where the OSP (i.e. the automated pay phone provider) and the call aggregator are one and the same. In such a situation, there is no written agreement. Intellicall assumes under this scenario that the pay phone provider would not

15 The Court rejected the idea of ordering RBOCs to replace their pay telephones with phones equipped with carrier selection buttons. In so doing, the Court cited costs and technological limitations (i.e., a button could not be provided for each IXC) as the basis for its decision. See United States v. Western Electric Co., 698 F. Supp. 348, 363-64 (D.D.C. 1988).

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be subject to this reporting requirement, but would urge that this be stated explicitly in any rules the Commission may adopt.

Moreover, from an OSP's perspective, where such contracts do exist, they are likely to be considered proprietary by the OSP. For many providers their customer names and customer lists are the lifeblood of their operation. Disclosure of this information would allow competitors to target each other's customers and thereby threaten their respective competitive positions.

Should the Commission determine it appropriate to require the filing of such customer information, it should make clear that these contracts will be granted confidential treatment by the Commission. Even if appropriately shielded, however, such review would impose a significant administrative burden on the Commission. There are thousands of OSP contracts, all of which would require staff resources to review, and even filing of written contracts would not necessarily ensure compliance with the Commission's Rules. Intellicall suggests that the Commission consider instead requiring OSPs to file a sample contract, along with an affidavit if necessary averring that such contract is used for all customers.

2. Public Convenience And Advantage

The Staff's rules attempt to equate "public convenience and advantage" with services which equal or exceed "the industry standard." Proposed rule WAC 480-120-141(9)(a) states that the "industry standard shall be defined by services provided by U.S. West or AT&T for intraLATA and interLATA calls respectively." Intellicall believes this highly inappropriate.

In the first instance, Intellicall knows of no means by which OSPs are to discern technical quality and response time from competitive carriers. Presumably, the Staff wishes to use the response time on average, which cannot be ascertained in the absence of special studies which to Intellicall's knowledge have not been done, and have certainly not been made available to the industry. Furthermore, technical quality and response times of greater or lesser duration may well be reasonable as OSPs typically have little control over the many network factors which affect transmission quality and response time.

The real questions of most concern to this Commission with respect to quality and response time are those related to the provision of emergency services. The Commission's rules require OSPs providing emergency services to have specific, necessary capabilities without which they must route calls to a local exchange company operator or other entity fully capable of complying with these requirements. The Commission's emphasis should be to assure that consumers have adequate notice and a means of selecting alternative carriers should they choose not to use the carrier to whom the phone is presubscribed, not to set presumptions based on untested and unavailable criteria.

3. Consumer Information

The proposed rules require that operator service providers "brand" and that pay phone providers comply with extensive notification provisions. In concept, Intellicall supports both branding and notice requirements. Intellicall modified its store and forward pay telephones to provide the capability to orally identify the service provider well prior to any requirement by state or federal regulations that it do so, believing it in the public interest. Intellicall also has devised automated rate quote capability to offer consumers that option even when using automated, not live, operator services.

Certain of the proposed rules on consumer information, however could benefit from revision to reflect existing industry practice. In one instance, there is no means by which to comply. The most significant instance to which Intellicall refers arises from the possible treatment under existing rules of pay phone providers using store and forward technology to provide alternative billing service.

Rule 480-120-138 would require rate quotes be obtained by dialing "0." With automated technology in the field, however, automated rate quote capability varies among manufacturers, but in no instance of which Intellicall is aware are they able to be offered by dialing "0." "0" will reach either the LEC, or OSP to whom the pay phone provider is presubscribed, bypassing the automated services which should be accessed. Intellicall instructs the user to dial "*0" in order to receive a rate quote. It is aware that other manufacturers employ other, equally understandable methods. This rule should be revised to reflect that pay telephones employing store and forward technology to provide alternative billing options are permitted flexibility to provide rate quotes in a matter consistent with their own technological capabilities.

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Requiring branding by the OSP (or pay telephone provider) offering service is reasonable. Requiring branding of the billing agent in addition to the service provider, as proposed by WAC 480-120-141(5)(a)(ii) becomes technically difficult for existing product. Existing product incorporates sufficient memory in the speech file for current functions, but leaves no room for additional words or phrases to be added. This limitation would require Intellicall and other pay phone manufacturers to retrofit existing product only with new speech files, but significantly expanded memory, thus incurring additional development costs, product costs, and installation costs. Those costs are not included in the Staff's economic analysis. Intellicall has no precise estimate, but believes it would be in excess of $200.00 per phone.

Rule 480-121-4(9) also requires notice of "the right to <u>request</u> the carrier of your choice at no charge." As previously discussed in Section II(D)(3) <u>infra</u>, neither pay phone nor IXC OSPs can route calls to the OSP of the end user's choosing. The end user must instead dial an available access code. This provision should therefore be deleted.

4. Rates

A rate cap at AT&T and LEC rates, as proposed by WAC 480-120-141(a) may be reasonable so long as the Commission allows OSPs an opportunity to establish the reasonableness of different, higher rates in a hearing, based on that provider's cost of offering service, inclusive of a reasonable rate of return.

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5. Timing Of Compliance

The Notice is silent on the time frames in which the Commission considers these rules would take effect. Intellicall notes that, even where modifications envisioned by the rules are technically feasible, it will take some months in order to redesign product, manufacture chips, and distribute and install same. For example, Intellicall can accomplish its manufacturing tasks to achieve double branding within approximately 3-4 months. If required, it would take another 12-15 months to redesign speech files and add sufficient memory to accomplish billing agent branding. Intellicall has no basis on which to predict the time frames necessary for LECs to modify their own billing systems to put the billing agent's name on the bill, where appropriate. Intellicall also presumes that pay telephone providers will need time to reprint, and reinstall notices consistent with the proposed requirements. Thus, the Commission should include in any rules it does adopt time frames adequate to permit compliance in a reasonable fashion.

III. ASSESSMENT OF SMALL BUSINESS ECONOMIC IMPACT STATEMENT

Using the Staff's proposed economic impact statement as a basis, Intellicall attempted to calculate what it perceives the economic impact of the proposed rules. Like the Staff, Intellicall has been unable to complete a comprehensive economic impact analysis in the time permitted. In lieu of submitting same, Intellicall notes there are numerous assumptions which are either incorrect or cannot be applied consistently, as noted below.

In the first instance, the Small Business Analysis assumes that small businesses use automated technology, but that large businesses do not. See ¶ 2 at 2. In fact, both large and small businesses use automated, store and forward technology to provide automated alternative billing services. Furthermore, the analysis assumes that the two systems are mutually exclusive. They are not. Pay phone providers which use automated alternative billing systems for calling card and collect calls nonetheless use operator service providers for third party calls, person to person calls and those calls which an end user originates by dialing 0 plus the terminating number but no billing information.

Looking at the specific proposal for call branding, the Staff assumes that small companies will incur $300 per instrument to retrofit equipment. Recognizing that large businesses also use this technology, under the Staff's assumption a pay telephone provider with 1,000 phones would incur $300,000 in retrofit expense.[16]

The analysis with respect to branding also fails to recognize the network cost associated with call announce time. Network time represents a substantial expense to OSPs which cannot be ignored. Assuming only 10 extra seconds per call, a company handling 1 million calls per year would incur costs associated with 10

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16 Intellicall product can accommodate necessary branding for substantially less than the Staff estimate, with a fixed cost per pay phone provider and a per phone cost of approximately $10.00. See Attachment B.

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million additional call seconds, both for transmission and access. Of course, these estimates assume that all product can be retrofitted to provide this information, and does not contemplate that product which would be made obsolete by the Commission's proposal.

The obsolence factor is significantly greater with regard to reorigination. As discussed supra at Section II(D)(3), neither pay telephones using automated technology nor operator service providers can comply with this section even if all calls could be handed over to a live operator. The new product that can be retrofitted to provide very limited reorigination capability would cost at least $90 per phone. This estimate does not include network and update costs which Intellicall has no basis for estimating. Intellicall again emphasizes, however, that reorigination costs are speculative, and meaningless in light of the lack of network capability to handle reorigination to more than one carrier except in rare instances.

For OSPs the proposal also fails to include the cost of actual operator implementation of call branding. Although Intellicall does not dispute the need for call branding, it notes that live operator costs for branding, the provision of the billing agent's name, and carrier reorigination where technically feasible is significant.

The Small Business Analysis also fails to calculate revenue loss associated with the proposed cap on operator service surcharges, and the reduction in revenue generally resulting in rate reductions necessary to offer service at AT&T or US West rates.

Intellicall has attempted to calculate an economic impact statement, appended as Attachment B, which takes in account certain omissions in the Small Business Analysis. As noted previously, Intellicall does not believe this complete, but should provide the Commission a more informed basis on which to revise its original analysis.

Conclusion

Intellicall's comments attempt to address, primarily, the technical feasibility of implementing certain of the Staff's proposals. Intellicall continues to believe that rules must be adopted taking into consideration what is both technically and economically feasible to achieve. On balance, Intellicall believes the rule proposals, as modified by its comments herein, promote the public interest, and should be adopted.

Respectfully submitted,

INTELLICALL, INC.

By: Judith St. Ledger-Roty /ds

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October 21, 1990

ATTACHMENT A

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(202) 457-8656 June 7, 1990

Ms. Mary Beth Hess
Chief, Enforcement Division
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: Notice of Proposed Rulemaking to Consider Regulation of Operation Services

Dear Mary Beth:

In a recent meeting with you, on behalf of the Public Telecommunications Council, Mr. B. Reid Presson and I discussed the Commission's intent to consider, within the upcoming Notice of Proposed Rulemaking, the legitimacy of claims made by pay telephone and operator service providers that access to 10XXX-0 creates an unreasonable risk of fraud billed to the originating line.

As we stated at that meeting, we believe that the FCC needs further information about fraud controls in existence in the network, as well as a factual understanding of what fraud controls could be put in place to minimize fraud potential if 10XXX-0 dialing were permitted. We believe that any review must include both domestic and international calls, as there are unique problems associated with each. The following attachments set forth those questions which the Public Telecommunications Council believes necessary for LECs and IXCs to answer in order for the Commission and participating parties to fully understand the technical capabilities and/or limitations in the network. Furthermore, we believe that the inquiry should not be limited to regional Bell operating companies and large independent telephone companies if the Commission is considering generic rules applicable in all LECs' territories.

Respectfully submitted,

Judith St. Ledger-RcK

Judith St. Ledger-Roty

cc: FCC Executive Secretary

Information Requests to Local
Exchange Carriers In Connection With AOS NPRM

1. Describe the Services (such as Originating Line Screening ("OLS"), Selective Class of Call Screening ("SCOCS") and Billed Number Screening ("BNS")) which you provide in order to permit a determination whether there are restrictions on billing options from the calling number or to the called number for "0-" ("0" without any terminating numbers) or "0+" ("0" plus terminating numbers) dialed calls. As part of your response, (a) describe the differences between each of the Services; (b) describe the types of originating entities (i.e., private pay telephone ("COCOT") owners or providers, members of the Hospitality industry, confinement facilities or hospitals) usually associated with each Service; (c) state whether each Service is offered as part of your basic service or as an optional service; (d) state whether each Service is offered pursuant to tariff; (e) for each tariffed Service, attach a copy of the relevant pages from the tariff, setting forth all terms and conditions including price.

2. Identify all information (i.e., automatic number identification ("ANI") and information digits ("II")) which is delivered to your central office when a caller dials either (a) "0-" or (b) "0+" (and the call reaches one of your serving offices) under each of the following situations: (i) None of your services described in response to question #1 has been subscribed and (ii) one of your services described in your response to question #1 has been subscribed to for that line or billing option. If your response

varies depending upon the type of equipment at the originating location (i.e., COCOT, Hospitality industry, confinement facility or hospital), respond to the question separately for each type of originating equipment/location. If your response is different for calls that are dialed "0-" or "0+" than calls dialed 10XXX "0-" or 10XXX "0+", respond separately for each of the situations.

3. Identify all information which is sent by you to AT&T when it is relaying an interstate "0-" or "0+" call under each of the following circumstances: (a) None of your services described in your response to question #1 has been subscribed; and (b) one of your services described in your response to question #1 has been subscribed to for that line or billing option. If your response varies depending upon the type of equipment at the originating location (i.e., COCOT, Hospitality industry, confinement facility or hospital), please respond to the question separately for each type of originating equipment/location. If your response is different for calls that are dialed "0-" or "0+" than calls dialed 10XXX "0-" or 10XXX "0+", please respond separately for each of the situations.

4. Identify all information sent by you to an interexchange carrier ("IXC") other than AT&T when it is relaying an interstate "0-" or "0+" call under each of the following circumstances: (a) None of your services described in your response to question #1 has been subscribed; or (b) one of your services described in your response to question #1 has been subscribed to for that line or billing option. If your response varies depending upon the type of equipment at the originating location (i.e., COCOT, Hospitality

industry, confinement facility or hospital), please respond to the question separately for each type of originating equipment/ location. If your response is different for calls that are dialed "0-" or "0+" than calls dialed 10XXX "0-" or 10XXX "0+", please respond separately for each of the situations.

5. Identify all information which is sent by you to AT&T when it is relaying an international "0-" or "0+" call under each of the following circumstances: (a) None of your services described in your response to question #1 has been subscribed; and (b) one of your services described in your response to question #1 has been subscribed to for that line or billing option. If your response varies depending upon the type of equipment at the originating location (i.e., COCOT, Hospitality industry, confinement facility or hospital), please respond to the question separately for each type of originating equipment/location. If your response is different for calls that are dialed "0-" or "0+" than calls dialed 10XXX "0-" or 10XXX "0+", please respond separately for each of the situations.

6. Identify all information sent by you to an interexchange carrier ("IXC") other than AT&T when it is relaying an international "0-" or "0+" call under each of the following circumstances: (a) None of your services described in your response to question #1 has been subscribed; or (b) one of your services described in your response to question #1 has been subscribed to for that line or billing option. If your response varies depending upon the type of equipment at the originating location (i.e., COCOT, Hospitality industry, confinement facility or

hospital), please respond to the question separately for each type of originating equipment/location. If your response is different for calls that are dialed "0-" or "0+" than calls dialed 10XXX "0-" or 10XXX "0+", please respond separately for each of the situations.

7. If there are differences in the type of information sent to AT&T from the type of information sent to IXCs, in response to questions #4 and #6, explain in detail why those differences exist.

8. Must an IXC request you to supply the information to it described in your response to questions #4(b) and #6(b)? If the answer is yes, describe the requesting process and all terms and conditions.

9. Identify the screening codes (i.e., "06-Hotel Quote Service"; "74-Inmate") that appear on your operator's screens as part of the ANI, under each of the circumstances described in response to question #2, that is, both with and without the services described in question #1 and for each of the different types of equipment/location. Your response should fully identify the meaning of each of the information digit codes and indicate which code is associated with which service.

10. Describe the procedures that an IXC, whether AT&T or another IXC, must follow in order to obtain the information described in your response to questions #3 through #6, including the average delay in fulfilling the IXC request in situations where the requested service is available from the requested location. State whether an IXC may request that calls

accompanied by specific codes or from specific equipment/location be blocked at your serving office or access tandem or routed in specific ways. Provide copies of all documents, including tariffs, instruction sheets and order forms that an IXC must use in order to obtain this information.

11. State the following for each of your states: (a) State the total number of exchanges and the number of exchanges where OLS is not available; (b) state the total number of access lines and the number of access lines where OLS is not available; (c) state the total number of exchanges and the number of exchanges where SCOCS is not available; (d) state the total number of access lines and the number of access lines where SCOCS is not available; (e) state the total number of exchanges and the number of exchanges where BNS is not available; (f) state the total number of access lines and the number of access lines where BNS is not available.

12. Supply the following information for each instance in which you have concluded, or have been informed by either the owner of the equipment/location or an IXC, that toll fraud has occurred on access lines supplied to a COCOT, a member of the hospitality industry, a hospital, or a confinement facility: (a) The average number of such occurrences on either a monthly or annual basis; (b) the average dollar amounts involved; (c) the number of instances in which OLS, SCOCS and/or BNS was subscribed; (d) the disposition of the toll charges in each instance of fraud (i.e., written off as uncollectible by yourself, paid by the IXC or paid by the COCOT, Hospitality industry member, confinement

facility or hospital). In your response to these questions, please answer separately for international calls.

Information Requests to Interexchange
Carriers In Connection With AOS NPRM

1. Describe the Services (such as Originating Line Screening ("OLS"), Selective Class of Call Screening ("SCOCS") and Billed Number Screening ("BNS")) which are offered to you by each of the local exchange carriers ("LECs") with which you are connected for the purpose of determining whether there are restrictions on billing options from the calling number or to the called number for "0-" ("0" without any terminating numbers) or "0+" ("0" plus terminating numbers) dialed calls. As a response, (a) describe the differences between each of the Services; (b) describe the types of originating entities (i.e., private pay telephone ("COCOT") owners or providers, members of the Hospitality industry, confinement facilities or hospitals) usually associated with each Service; (c) state whether each Service is offered as part of your basic service or as an optional service; (d) state whether each Service is offered pursuant to tariff.

2. Identify all information (i.e., automatic number identification ("ANI") and information digits ("II")) which is delivered to you from the LEC when a caller dials either (a) "0-" or (b) "0+" under each of the following situations: (i) None of your services described in response to question #1 has been subscribed and (ii) one of your services described in your response to question #1 has been subscribed to for that line or billing option. If your response varies depending upon the type of equipment at the originating location (i.e., COCOT, Hospitality industry, confinement facility or hospital), respond to the

question separately for each type of originating equipment/ location. If your response is different for calls that are dialed "0-" or "0+" than calls dialed 10XXX "0-" or 10XXX "0+", respond separately for each of the situations. If your response is different for international calls, respond separately.

3. State whether you are equipped to process screening codes received from LECs. If the answer is no, fully describe your plans, if any, including your timetable for equipping yourself to process such information. If the answer is yes, identify the screening codes (i.e., "06-Hotel Quote Service"; "74-Inmate") that appear on your operator's screens as part of the ANI, under each of the circumstances described in response to question #2, that is, both with and without the services described in question #1 and for each of the different types of equipment/ location. Your response should fully identify your understanding of the meaning of each of the information digit codes and indicate which code is associated with which service.

4. Describe the procedures that you must follow with each of your serving LECs in order to obtain the information described in your response to question #2, including the average delay in fulfilling your request in situations where the requested service is available from the requested location. State whether the LEC allows you to request that calls accompanied by specific codes or from specific equipment/location be blocked at your serving office or access tandem or routed in specific ways. Provide copies of all documents, including tariffs, instruction sheets and order forms that you must use in order to obtain this information.

5. Supply the following information for each instance in which you have concluded, or have been informed by either the owner of the equipment/location or an LEC, that toll fraud has occurred on access lines supplied to a COCOT, a member of the hospitality industry, a hospital, or a confinement facility: (a) The average number of such occurrences on either a monthly or annual basis; (b) the average dollar amounts involved; (c) the number of instances in which OLS, SCOCS and/or BNS was subscribed; (d) the disposition of the toll charges in each instance of fraud (i.e., written off as uncollectible by the LEC, paid by yourself or paid by the COCOT, Hospitality industry member, confinement facility or hospital). In your response to these questions, please answer separately for international calls and state your understanding of whether and why toll fraud problems are greater for international calls than domestic toll calls.

ATTACHMENT B

Small Business Analysis

	Small	Medium	Large
1. Master Contract	$ 13	$ 13	$ 13
2. Retrofitting for Branding * $10/phone	500	2,500	10,000
3. Retrofitting for billing agent ($200 per phone, not including obsolence, R&D and installation costs potentially in excess of $500 per phone)	10,000	50,000	200,000
4. Reorigination **	4,500(?)	22,500(?)	900,000(?)
5. Non-blocking	500	2,500	10,000
6. Notices - Setup	500	500	500
Notices ($1.50/phone)	75	375	1,500
Installation ($31.25/phone) (reprint notice; replace old notice with new)	1,560	7,813	31,250
7. Both names on bill ***	(?)	(?)	(?)
8. Surcharge price cap (Revenue loss)	27,000	135,000	540,000
9. DA Price Cap (Revenue loss)	3,780	18,900	75,000
Total Cost First Year	$50,328	$242,001	$1,770,763

* Intellicall costs. Industry average may be substantially higher, per Staff estimate. Includes carrier name only.

** Included for illustrative purposes only.

*** No basis for estimating until LEC costs to upgrade billing systems ascertained and determination made as to reasonable means to allocate those costs among callers.

<u>Assumptions</u>

1.	Small Payphone Company	-	50 phones
2.	Medium Size Payphone Company	-	250 phones
3.	Large Payphone Company	-	1000 phones
4.	One (1) local/intraLATA directory assistance call per day/phone		(probably conservative)
5.	Three (3) completed non-sent paid calls per day per store and forward phone		(on average, based on industry standards)
6.	DA revenue loss (staff estimate) (IntraLATA only)	=	$0.35/call
7.	Surcharge revenue loss (Staff estimates)	=	$0.50/call
8.	Estimates exclude product made obsolete by proposed rules.		
9.	Notice costs extrapolated from actual Intellicall costs for pay phone route it maintains in Dallas, Texas, taking into consideration geographic dispersion.		
10.	Does not include cost of money.		

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