

August 20, 2012

Mr. David Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket No. UT-120451

Dear Mr. Danner:

The Broadband Communications Association of Washington (BCAW) appreciates the opportunity to comment on the proposed changes to WAC 481-120-251. BCAW is a trade association whose membership includes over fifteen (15) cable companies providing service in Washington. The members of BCAW through their affiliates provide facilities-based competitive voice services to residential and business customers in WA.

The Broadband Communications Association of Washington (“BCAW”)¹ supports modifying WAC 481-120-251 in order to provide customers an option to receive printed directories. However, to ensure consumer choice and to protect against any competitive provider being disadvantaged in the marketplace, the Washington Utilities and Transportation Commission (the “Commission”) should add several brief provisions to the proposed rule. Such provisions have been established in Georgia and Missouri, and acknowledged elsewhere, as conditions supporting the revision of, or waivers from, state utility commission requirements regarding distribution of printed directories.²

Accordingly, and primarily based on specific language set forth in the Georgia Public Service Commission’s (the “Georgia PSC”) directory rule adopted in 2010,³ BCAW proposes the changes set forth in Attachment A to the proposed Commission rule. The reasons for BCAW’s proposed changes are as follows:

I. The proposed rule should provide that there must be no differentiation by an ILEC or its affiliate between its customers and the customers of competitive providers who request a printed directory.

The interconnection agreements entered into by competitive providers with incumbent local exchange carriers (“ILECs”) typically obligate ILECs, at no charge, to provide the subscribers of the competitive providers with white pages directories in the same manner and at the same time that

¹ BCAW is a trade association whose membership includes over fifteen (15) cable companies providing service in Washington. The members of BCAW through their affiliates provide facilities-based competitive voice services to residential and business customers in Washington.

² See, e.g., *Notice of Proposed Rulemaking to Amend Commission Rule 515-12-1-10(3), Directories*, Order Adopting Rule, Docket No. 30569-U (Ga.P.S.C. April 28, 2010); *Southwestern Bell Telephone Company, d/b/a AT&T Missouri’s Application for Waiver of the General Distribution Requirement of White Page Directories Under 4 CSR 240-32.050(4)(B)*, Order Approving Unanimous Stipulation and Agreement, Case No. IE-2009-0357 (Mo. P.S.C. July 24, 2009). In New York, Verizon informed the New York Public Service Commission that arrangements to satisfy the competitive providers’ concerns with regard to Verizon’s waiver would be established. See *Petition of Verizon New York Inc. for Waiver of New York Code of Rules and Regulations, Title 16, §602.10(b) Pertaining to the Distribution of Telephone Directories*, Order Granting Waiver With Conditions, Case 10-C-0215 (N.Y. P.S.C. Oct. 15, 2010).

³ See Georgia PSC rule 515-12-1-10 Directories, which may be viewed at: <http://rules.sos.state.ga.us/docs/515/12/1/10.pdf>

such directories are delivered to the ILECs' customers. The Commission should not assume, however, that the request by a customer for – as distinguished from the automatic delivery of – a printed directory will be treated the same way by an ILEC regardless of whether the customer is the ILEC's customer or the customer of a competitive provider. The Commission's proposed rule would obviously effect a significant change in the method of delivering directories and it is essential that the rule change should not be used in any way to influence a requesting customer to change service providers.

II. The proposed rule should be changed to allow end users to contact their own service providers to obtain a printed directory.

The rule as proposed by the Commission, if not modified as requested by BCAW, would have the effect of requiring end users of competitive providers to contact ILECs or their publishers to obtain a white pages directory, since that would be the same process that the ILECs' customers would follow to request printed directories. There must be a process that allows competitive providers' customers to contact their own service providers to request a directory. Competitive providers should have the opportunity to receive such requests directly from their customers in the same manner as such requests are received by ILECs, including through online access and toll-free calling. These arrangements would provide notification to customers and an option to competitive providers' customers. As discussed below, competitive providers may then provide the ILEC, or its publisher, if so instructed, an electronic file identifying those customers who have requested a white pages directory. This process can be facilitated by an ILEC by the use of neutral wording (*i.e.*, non-carrier specific language) on its website and the informational portion of its directories, advising customers to request a white pages directory from their providers.

III. The proposed rule should state that the ILEC and any publisher for the ILEC must refrain from marketing the ILEC's services to customers of other service providers.

It is essential that the Commission direct ILECs and their publisher to not directly or indirectly sell or market any ILEC services (other than the ILEC-branded telephone directories) to competitive providers' customers who contact the ILEC or the publisher regarding delivery of a white pages directory. Otherwise, the process for requesting directories could be unfairly leveraged to subject competitive providers' customers to the ILECs' telephone services marketing.

IV. The proposed rule should be changed to require ILECs to accept electronic files from competitive providers identifying customers that request a printed white pages directory.

Once again, without the revision requested by BCAW, the proposed rule would have the effect of requiring the end users of competitive providers to contact the ILEC to obtain a white pages directory. Only if the rule obligates ILECs and their publishers to accept electronic files from competitive providers identifying customers who request a directory may competitive providers be able to establish a process, including through amending interconnection agreements, for the exchange of such files.

V. The proposed rule should be changed to require ILECs and their affiliates to enter into arrangements with competitive carrier for the provision of directories to customers.

The requirement proposed by BCAW is straightforward and should not be onerous to ILECs and their affiliates. BCAW further suggests that if the Commission's decision results in a need to amend interconnection agreements, the Commission should require ILECs to: (a) obtain approval of the form of amendments, with an opportunity for competitive providers to review and comment prior to such approvals; and (b) make the amendments available to competitive providers before implementing changes in the Commission's directory delivery policy, to avoid the possibility that the amendment process will become bogged down in extraneous issues.

VI. Conclusion

BCAW thanks the Commission for the opportunity to comment and for the Commission's consideration of these comments and BCAW's specific proposed rule revisions set forth in Attachment A. BCAW looks forward to continued participation as this proceeding moves forward.

Sincerely,

Ron Main

Executive Director

ATTACHMENT A

BCAW's Revisions of the Proposed Rule

(Note: strikethroughs and underlines denote, respectively, deletions and additions by Commission Staff; double strikethroughs and double underlines denote, respectively, deletions and additions by BCAW)

WAC 480-120-251 Directory service.

(1) A local exchange company (LEC) must ensure that a telephone directory is regularly published for each local exchange it serves, listing the name, address (unless omission is requested), and primary telephone number for each customer who can be called in that local exchange and for whom subscriber list information has been provided.

(2) Any residential customer may request from the LEC a dual-name primary directory listing that contains, in addition to the customer's surname, the customer's given name or initials (or combination thereof) and either one other person with the same surname who resides at the same address or a second name, other than surname, by which the customer is also known, including the married name of a person whose spouse is deceased.

(3) A LEC must provide ~~((each customer))~~ a written copy of the directory for the customer's local exchange area to each customer who requests a directory. A LEC must not provide a written copy of the directory to any customer who does not request a copy.

(a) A LEC must establish reasonable ways by which a customer may request a directory including, but not limited to, making all of the following options available:

(i) Calling a toll-free telephone number;

(ii) Submitting a written request via e-mail or on-line registration; or

(iii) Mailing a written request to a specified address.

With respect to such requests an incumbent local exchange company and its affiliate distributing directories must not differentiate among customers based on the carrier serving the customer.

(b) A LEC must provide reasonable notice to customers describing the ways by which they may request a directory including, but not limited to, all of the following forms of notice:

(i) Providing the information in at least one bill insert each calendar year;

(ii) Maintaining the information in a prominent place on the LEC's web site; and

(iii) Including the information in the consumer information guide required in subsection (6) of this section.

With regard to an incumbent local exchange company, the notices described in (ii) and (iii) of this subsection must advise that the request may be made to the customer's service provider.

(c) An incumbent local exchange company and its affiliate distributing such directories must not market services to customers of other service providers requesting a directory, and must:

- (i) accept electronic files from competing carriers identifying such requesting customers; and
- (ii) arrange with competing carriers for the provision of directories to customers.

~~(e)~~(d) If the directory provided for in subsection (1) of this section does not include the published listing of all exchanges within the customer's local calling area, the LEC must, upon request, provide at no charge a copy of the directory or directories that contain the published listing for the entire local calling area.

(4) Telephone directories published at the direction of a LEC must be revised at least once every fifteen months, except when it is known that impending service changes require rescheduling of directory revision dates. To keep directories correct and up to date, companies may revise the directories more often than specified.

(5) Each LEC that publishes a directory, or contracts for the publication of a directory, must print an informational listing (LEC name and telephone number) when one is requested by any other LEC providing service in the area covered by the directory. The LEC to whom the request is made may impose reasonable requirements on the timing and format of informational listings, provided that these requirements do not discriminate between LECs.

(6) Telephone directories published at the direction of the LEC must include a consumer information guide that details the rights and responsibilities of its customer. The guide must describe the:

- (a) Process for establishing credit and determining the need and amount for deposits;
- (b) Procedure by which a bill becomes delinquent;
- (c) Steps that must be taken by the company to disconnect service;
- (d) Washington telephone assistance program (WTAP);
- (e) Federal enhanced tribal lifeline program, if applicable; and
- (f) Right of the customer to pursue any dispute with the company, including the appropriate procedures within the company and then to the commission by informal or formal complaint.