

WAC		Page
480-120-X01	Definitions.	2
480-120-X02	Use of customer proprietary network information (CPNI) without customer approval.	3
480-120-X03	Approval required for use of customer proprietary network information (CPNI) .	4
480-120-X04	Notice required for use of customer proprietary network information (CPNI) .	5
480-120-X05	Safeguards required for use of customer proprietary network information (CPNI) .	8

WAC 480-120-X01 Definitions.

The definitions in this section apply to WAC 480-120-X02 through X05:

“Affiliate” has the same meaning given such term in section 3(1) of the Communications Act of 1934, as amended, 47 U.S.C. 153(1), in effect on [effective date of rules].

“Communications-related services” means telecommunications services, information services typically provided by telecommunications companies, and service related to the provision or maintenance of customer premises equipment.

“Customer” A customer of a telecommunications company is a person or entity to which the telecommunications company is currently providing service.

“Customer proprietary network information (CPNI)” has the same meaning given to such term in section 222(h)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(1), in effect on [effective date of rules].

“Customer premises equipment (CPE)” has the same meaning given to such term in section 3(14) of the Communications Act of 1934, as amended, 47 U.S.C. 153(14), in effect on [effective date of rules].

“Information services typically provided by telecommunications companies” means only those information services (as defined in section 3(20) of the Communications Act of 1934, as amended, 47 U.S.C. 153(2), in effect on [effective date of rules]) that are typically provided by telecommunications companies, such as Internet access or voice mail services. Such phrase “information services typically provided by telecommunications companies,” as used in PART VI, will not include retail consumer services provided using Internet websites such as travel reservation services or mortgage lending services), whether or not such services may otherwise be considered to be information services.

“Local exchange company (LEC)” has the same meaning given to such term in section 3(26) of the Communications Act of 1934, as amended, 47 U.S.C. 153(26), in effect on [effective date of rules].

“Opt-in approval” refers to a method for obtaining customer consent to use, disclose, or permit access to the customer’s CPNI. This approval method requires that the company obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the company’s request consistent with the requirements set forth in this subpart.

“Opt-out approval” refers to a method for obtaining customer consent to use, disclose, or permit access to the customer’s CPNI. Under this approval

method, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the waiting period described in WAC 480-120-xxx(d)(4) after the customer is provided appropriate notification of the company's request for consent consistent with the rules in PART VI.

"Subscriber list information (SLI)" has the same meaning given to such term in section 222(h)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(3), in effect on [effective date of rules].

"Telecommunications company" or "company" has the same meaning as set forth in RCW 80.04.010.

"Telecommunications service" has the same meaning given to such term in section 3(46) of the Communications Act of 1934, as amended, 47 U.S.C. 153(46), in effect on [effective date of rules].

WAC 480-120-X02 Use of customer proprietary network information (CPNI) without customer approval.

(1) Any telecommunications company may use, disclose, or permit access to customer proprietary network information (CPNI) for the purpose of providing or marketing service offerings among the categories of service (i.e., local, interexchange, and CMRS) to which the customer already subscribes from the same company, without customer approval.

(a) If a company provides different categories of service, and a customer subscribes to more than one category of service offered by the company, the company is permitted to share CPNI among the company's affiliated entities that provide a service offering to the customer.

(b) If a company provides different categories of service, but a customer does not subscribe to more than one offering by the company, the company is not permitted to share CPNI with its affiliates, except as provided WAC 480-120-X03(2).

(2) A company may not use, disclose, or permit access to CPNI to market to a customer service offerings that are within a category of service to which the subscriber does not already subscribe from that company, unless that company has customer approval to do so, except as described in subsection (3) of this section.

(a) A company may use, disclose or permit access to CPNI derived from its provision of local exchange service or interexchange service, without customer approval, for the provision of customer premises equipment (CPE) and

call answering, voice mail or messaging, voice storage and retrieval services, fax store and forward, and protocol conversion.

(b) A company may not use, disclose or permit access to CPNI to identify or track customers that call competing service providers. For example, a local exchange company may not use local service CPNI to track all customers that call local service competitors.

(3)(a) A company may use, disclose, or permit access to CPNI, without customer approval, in its provision of inside wiring installation, maintenance, and repair services.

(b) A local exchange company may use CPNI, without customer approval, to market services formerly known as adjunct-to-basic services, such as, but not limited to, speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain centrex features.

(4) A company may use, disclose, or permit access to CPNI to protect the rights or property of the company, or to protect users of those services and other companies from fraudulent, abusive, or unlawful use of, or subscription to, such services.

WAC 480-120-X03 Approval required for use of customer proprietary network information (CPNI).

(1) A telecommunications company may obtain approval through written, oral or electronic methods.

(a) A company relying on oral approval must bear the burden of demonstrating that such approval has been given in compliance with the commission's rules in Part VI.

(b) Approval or disapproval to use, disclose, or permit access to a customer's proprietary network information (CPNI) obtained by a company must remain in effect until the customer revokes or limits such approval or disapproval.

(c) A company must maintain records of approval, whether oral, written or electronic, for at least one year.

(2) Use of Opt-Out and Opt-In Approval Processes. (a) A company may, subject to opt-out approval or opt-in approval, use its customer's individually identifiable CPNI for the purpose of marketing communications-related services to that customer. A company may, subject to opt-out approval or opt-in approval, disclose its customer's individually identifiable CPNI, for the purpose of marketing communications-related services to that customer, to its agents; its

affiliates that provide communications-related services; and its joint venture partners and independent contractors. A company may also permit such persons or entities to obtain access to such CPNI for such purposes. Any such disclosure to or access provided to joint venture partners and independent contractors will be subject to the safeguards set forth in subsection (2)(b) of this section.

(b) **Joint Venture/Contractor Safeguards.** A company that discloses or provides access to CPNI to its joint venture partners or independent contractors must enter into confidentiality agreements with independent contractors or joint venture partners that comply with the following requirements. The confidentiality agreement must:

(i) Require that the independent contractor or joint venture partner use the CPNI only for the purpose of marketing or providing the communications-related services for which that CPNI has been provided;

(ii) Disallow the independent contractor or joint venture partner from using, allowing access to, or disclosing the CPNI to any other party, unless required to make such disclosure under force of law; and

(iii) Require that the independent contractor or joint venture partner have appropriate protections in place to ensure the ongoing confidentiality of consumers' CPNI.

(c) Except for use and disclosure of CPNI that is permitted without customer approval under WAC 480-120-X02, or that is described in subsection (2)(a) of this section, or as otherwise provided in section 222 of the Communications Act of 1934, as amended, a company may only use, disclose, or permit access to its customer's individually identifiable CPNI subject to opt-in approval.

WAC 480-120-X04 Notice required for use of customer proprietary network information (CPNI).

(1) **Notification, Generally.** (a) Prior to any solicitation for customer approval, each telecommunications company must provide notification to the customer of the customer's right to restrict use of, disclosure of, and access to that customer's proprietary network information (CPNI).

(b) Each company must maintain records of notification, whether oral, written or electronic, for at least one year.

(2) Each company must provide individual notice to customers when soliciting approval to use, disclose, or permit access to customers' CPNI.

(3) **Content of Notice.** Customer notification must provide sufficient information to enable the customer to make an informed decision as to whether to permit a company to use, disclose, or permit access to, the customer's CPNI.

(a) The notification must state that the customer has a right, and the company has a duty, under state and federal law, to protect the confidentiality of CPNI.

(b) The notification must specify the types of information that constitute CPNI and the specific entities that will receive the CPNI, describe the purposes for which CPNI will be used, and inform the customer of his or her right to disapprove those uses, and deny or withdraw access to CPNI at any time.

(c) The notification must advise the customer of the precise steps the customer must take in order to grant or deny access to CPNI, and must clearly state that a denial of approval will not affect the provision of any services to which the customer subscribes. However, the company may provide a brief statement, in clear and neutral language, describing consequences directly resulting from the lack of access to CPNI.

(d) The notification must be comprehensible and must not be misleading.

(e) If written notification is provided, the notice must be clearly legible, use sufficiently large type, and be placed in an area so as to be readily apparent to a customer.

(f) If any portion of a notification is translated into another language, then all portions of the notification must be translated into that language.

(g) The company may state in the notification that the customer's approval to use CPNI may enhance the company's ability to offer products and services tailored to the customer's needs. The company also may state in the notification that it may be compelled to disclose CPNI to any person upon affirmative written request by the customer.

(h) The company may not include in the notification any statement attempting to encourage a customer to freeze third-party access to CPNI.

(i) The notification must state that any approval, or denial of approval for the use of CPNI outside of the service to which the customer already subscribes from that company is valid until the customer affirmatively revokes or limits such approval or denial.

(j) The company's solicitation for approval must be proximate to the notification of a customer's CPNI rights.

(4) **Notice Requirements Specific to Opt-Out.** Each company must provide notification to obtain opt-out approval through electronic or written methods, but not by oral communication (except as provided in subsection (6) of

this section). The contents of any such notification must comply with the requirements of subsection (3) of this section.

(a) Each company must wait a thirty-day minimum period of time after giving customers notice and an opportunity to opt-out before assuming customer approval to use, disclose, or permit access to CPNI. The company may, in its discretion, provide for a longer period. The company must notify customers as to the applicable waiting period for a response before approval is assumed.

(i) In the case of an electronic form of notification, the waiting period must begin to run from the date on which the notification was sent; and

(ii) In the case of notification by mail, the waiting period must begin to run on the third day following the date that the notification was mailed.

(b) Each company that uses the opt-out mechanism must provide notices to its customers every two years.

(c) In addition to the requirements generally applicable to notification, each company that uses e-mail to provide opt-out notices must:

(i) Obtain express, verifiable, prior approval from customers to send notices via e-mail regarding their service in general, or CPNI in particular;

(ii) Allow customers to reply directly to e-mails containing CPNI notices in order to opt-out;

(iii) Send any opt-out e-mail notices that are returned to the company as undeliverable to the customer in another form before the company may consider the customer to have received notice;

(iv) Ensure that the subject line of the message clearly and accurately identifies the subject matter of the e-mail; and

(v) Make available to every customer a method to opt-out that is of no additional cost to the customer and that is available 24 hours a day, seven days a week. The company may satisfy this requirement through a combination of methods, so long as all customers have the ability to opt-out at no cost and are able to effectuate that choice whenever they choose.

(5) **Notice Requirements Specific to Opt-In.** A company may provide notification to obtain opt-in approval through oral, written, or electronic methods. The contents of any such notification must comply with the requirements of subsection (3) of this section.

(6) **Notice Requirements Specific to One-Time Use of CPNI.** (a) A company may use oral notice to obtain limited, one-time use of CPNI for inbound and outbound customer telephone contacts for the duration of the call, regardless of whether the company uses opt-out or opt-in approval based on the nature of the contact.

(b) The contents of any oral notification must comply with the requirements of subsection (3) of this section, except for any of the following notice provisions not relevant to the limited use for which the company seeks CPNI:

(i) The company need not advise customers that if they have opted-out previously, no action is needed to maintain the opt-out election;

(ii) The company need not advise customers that the company may share CPNI with its affiliates or third parties and need not name those entities, if the limited CPNI usage will not result in use by, or disclosure to, an affiliate or third party;

(iii) The company need not disclose the means by which a customer can deny or withdraw future access to CPNI, so long as the company explains to customers that the scope of the approval the company seeks is limited to one-time use; and

(iv) The company may omit disclosure of the precise steps a customer must take in order to grant or deny access to CPNI, as long as the company clearly communicates that the customer can deny access to his CPNI for the call.

WAC 480-120-X05 Safeguards required for use of customer proprietary network information (CPNI). (1) Each telecommunications company must implement a system by which the status of a customer's proprietary network information (CPNI) approval can be clearly established prior to the use of CPNI.

(2) Each company must train its personnel as to when they are and are not authorized to use CPNI, and the company must have an express disciplinary process in place.

(3) Each company must maintain a record, electronically or in some other manner, of its own and its affiliates' sales and marketing campaigns that use its customers' CPNI. Each company must maintain a record of all instances where CPNI was disclosed or provided to third parties, or where third parties were allowed access to CPNI. The record must include a description of each campaign, the specific CPNI that was used in the campaign, and what products and services were offered as a part of the campaign. Each company must retain the record for a minimum of one year.

(4) Each company must establish a supervisory review process regarding company compliance with the rules in PART VI for outbound marketing situations and maintain records of company compliance for a minimum period of one year. Specifically, sales personnel must obtain supervisory approval of any proposed outbound marketing request for customer approval.

(5) Each company must have an officer, as an agent of the company, sign a compliance certificate on an annual basis stating that the officer has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the rules in PART VI. The company must provide a statement accompanying the certificate explaining how its operating procedures ensure that it is or is not in compliance with the rules in PART VI.

(6) The company must provide written notice within five business days to the commission of any instance where the opt-out mechanisms do not work properly, to such a degree that customers' inability to opt-out is more than an anomaly.

(a) The notice must be in the form of a letter, and must include the company's name, a description of the opt-out mechanism(s) used, the problem(s) experienced, the remedy proposed and when it was or will be implemented, whether the commission has been notified and whether it has taken any action, a copy of the notice provided to customers, and contact information.

(b) The company must submit such notice even if the company offers other methods by which customers may opt-out.