

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

In the Matter of the Petition of)	DOCKET UT-082018
)	
LONG DISTANCE CONSOLIDATED)	ORDER 01
BILLING CO.,)	
)	
Petitioner,)	
)	
Seeking Exemption from the “Drop-Off” Requirement Set Forth in WAC 480-120-147 (1))	ORDER GRANTING EXEMPTION FROM RULE
.....)	

BACKGROUND

- 1 On November 3, 2008, Long Distance Consolidated Billing Co. (Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition for an exemption from the “drop-off” requirement set forth in WAC 480-120-147 (1). The Company asserts that it is unable to comply with the “drop-off” requirement due to prohibitively high cost of upgrading the equipment.
- 2 WAC 480-120-147 provides that a local exchange or intrastate toll company must obtain a telephone service subscriber’s authorization before it submits a change order to become the subscriber’s local exchange or intrastate toll service provider. The authorization may be obtained by one of the three procedures: (a) subscriber’s signed written or electronic letter of agency, (b) subscriber’s authorization by use of an automated, electronic telephone menu system, or (c) subscriber’s oral authorization to a qualified and independent third party verifier.
- 3 When the third-party oral verification procedure is used, the local exchange or intrastate toll company’s sales representative initiates a three-way conference call or a call through an automated verification system. WAC 480-120-147 (1) (c) provides that once the three-way connection with the third-party verifier has been established, the sales representative must drop off the call. The purpose of this “drop-off” requirement is to protect consumers from the potential of a sales representative imposing undue pressure when the prospective customer authorizes changing from their existing local exchange or intrastate toll service provider to the Company.

4 WAC 480-120-147 (1) (c) is consistent with the federal rule, 47 C.F.R. §64.1120 (c) (3). The Federal Communications Commission (FCC) established a mechanism in CC Docket No. 94-129 by which small telephone companies may be exempted from the rule for a period of two years if they certify to the FCC that they do not have the capability to comply with the “drop-off” requirement. The exemption may be extended at the end of each two-year period upon submission of a new certification. The Company has been exempted from the federal “drop-off” requirement.

5 The Company submitted a declaration to Commission Staff certifying that the technology used by the Company’s telemarketing contractors does not allow their sales representative to drop off the line without disconnecting the three-way call during the third-party verification process. The Company also asserts that the cost of upgrading the system in order to comply with the “drop-off” requirement is prohibitively high.

6 The Company stated that their current company policy requires its sales representatives to remain silent once a three-way connection with a third-party verifier has been established. This practice will minimize the effect of any undue pressure on the prospective customers from the Company’s sales representative. The third-party authorization is also recorded and can be examined in case of controversy. Pursuant to WAC 480-120-147 (3), the documentation regarding a subscriber’s authorization to change their local or intrastate toll company must be retained by the submitting company for a minimum of two years and made available to the subscriber and the Commission upon request.

DISCUSSION

7 Commission Staff reviewed the Company’s request and the supporting documents. Staff determined that the compliance cost is burdensome relative to the Company’s size and their customer base in Washington. The Company’s current marketing policy places sufficient safeguards against potential coercive behavior by the sales representative during the verification process. Staff believes the Company’s policy meets the intent of WAC 480-120-147. Staff recommends granting the Company’s request for exemption from the Washington State “drop-off” requirement on two conditions: (1) the Company’s telemarketing representatives must remain silent during the third-party verification process; and (2) the Company provides documentation of federal exemption from the “drop-off” requirement in 47 C.F.R. §64.1120 (c) (3) to the Commission on a bi-annual basis.

FINDINGS AND CONCLUSIONS

- 8 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate public service companies, including telecommunications companies. *RCW 80.01.040, RCW 80.04 and RCW 80.36.*
- 9 (2) Long Distance Consolidated Billing Co. is a registered telecommunications company and a public service company subject to Commission jurisdiction under the provisions of *RCW 80.36.*
- 10 (3) Long Distance Consolidated Billing Co. is subject to the “drop-off” requirement set forth in WAC 480-120-147 (1), which requires the Company’s sales representative to drop off the call once the three-way connection with the third-party verifier has been established, upon which a subscriber affirms the change of local exchange or intrastate toll service provider to the Company.
- 11 (4) Under WAC 480-120-015, the Commission may grant an exemption from any rule in WAC 480-120, if consistent with the public interest, the purposes underlying regulation and applicable statutes. *See also WAC 480-07-110.*
- 12 (5) The Company demonstrated that the costs of complying with the “drop-off” requirement are prohibitively expensive due to the small size of the Company and its telemarketing contractors. The exemption from the “drop-off” requirement will not have negative impact on telephone subscribers’ choice to change local exchange or intrastate toll service provider.
- 13 (6) The exemption from the state “drop-off” requirement is also consistent with the federal regulatory practice on this matter. The Company was granted an exemption from the federal “drop-off” requirement set forth in 47 C.F.R. §64.1120 (c) (3), which requirement is similar to the requirements of WAC 480-120-147 (1).
- 14 (7) This matter was brought before the Commission at its regularly scheduled meeting on January 29, 2009.

- 15 (8) After reviewing the petition filed in Docket UT-082018 by the Company and giving due consideration, the Commission finds that the exemption is reasonable and should be granted with conditions.

O R D E R

THE COMMISSION ORDERS:

- 16 (1) Long Distance Consolidated Billing Co. is granted an exemption from the “drop-off” requirement in WAC 480-120-147 (1).
- 17 (2) This exemption is subject to the following conditions: (1) the Company’s sales representatives must remain silent during the third-party verification process; and (2) the Company provides documentation of federal exemption from the “drop-off” requirement in 47 C.F.R. §64.1120 (c) (3) to the Commission on a bi-annual basis. Should the Company fail to comply with either of the two conditions, this exemption will automatically expire.
- 18 (2) The Commission retains jurisdiction over the subject matter and Long Distance Consolidated Billing Co. to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective January 29, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Executive Director and Secretary