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August 20, 2012

VIA ELECTRONIC FILING & ABC/LMI

David Danner
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
P. O. Box 47250
Olympia, WA 98504-7250

RE: Rulemaking to Consider Modifications to, or Elimination of, The Requirement Related to
Distribution of Telephone Books in WAC 480-120-251

Docket No. UT-120451

Public Counsel's Comments

Dear Mr. Danner:

Enclosed please find an original copy of the Comments of Public Counsel for filing in the above-entitled docket. For confirmation of receipt, I have enclosed a copy to be date-stamped and sent back to us with the ABC Legal Messenger. A copy was also sent via e-mail on August 20, 2012. Thank you for your consideration.

Sincerely,

Simon J. Fitch
Assistant Attorney General
Public Counsel Division
(206) 389-2055

SFF:cjw
Enclosure

cc:

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RE: RULEMAKING TO CONSIDER
MODIFICATIONS TO, OR ELIMINATION
OF, THE REQUIREMENT RELATED TO
DISTRIBUTION OF TELEPHONE BOOKS
IN WAC 480-120-251

DOCKET NO. UT-120451

COMMENTS OF PUBLIC COUNSEL IN RESPONSE

**NOTICE OF OPPORTUNITY TO SUBMIT WRITTEN COMMENTS ON PROPOSED
RULE**

AUGUST 20, 2012

I. INTRODUCTION

1. Public Counsel appreciates the opportunity to participate in the Commission's rulemaking pertaining to the distribution of telephone book directories. In response to the Commission's Notice of Opportunity to Submit Written Comments on Proposed Rule dated July 20, 2012, regarding proposed changes to WAC 480-120-251, Public Counsel offers the following comments and suggested rule language.

II. COMMENTS

2. It is important to consider the proposed modifications to the rule regarding the distribution of telephone book directories in the context of national activity around this issue. In several states where telephone companies have sought to modify distribution requirements for printed White Pages directories, state commissions have required a number of important

consumer protections. In particular, state commissions have incorporated strong customer notification requirements that seek to ensure that consumers are properly notified of the elimination of or changes to the distribution of written white pages directories. For example, in response to a proposal made by Verizon to change its distribution of residential White Pages, The New Jersey Board of Public Utilities (“the Board”) required Verizon New Jersey to provide seven forms of customer notice, which included publication of notices in three publications with high senior subscription levels, a press release, bill inserts, and the following messages to be included with the final distribution of printed directories:

- A message on the bag that contains the directory;
- A message on the actual cover of the directory;
- A message on the 911 page in the directory (which is the front page);
- A blown-in card; and
- A letter from SuperMedia’s president describing the changes to the directory

3. In addition to the outreach and enhanced notification requirements, the Board required Verizon to report the following data to track the impact of the rule waiver on consumer behavior:

- (1) Verizon shall track the number of customers who request the printed white pages and report the results to the board on a quarterly basis for the first year of the waiver.
- (2) Verizon shall track the number of directory assistance calls and report the results, distinguishing between residential and business listings, to the Board on a quarterly basis for the first year of the waiver, commencing with October, 2010 data and quarterly thereafter.¹

¹ *In the Matter of Verizon New Jersey’s Petition for Waiver of New Jersey Administrative Code (N.J.A.C) Regulations 14:10:1A.5 Subsections (a) and (b) Pertaining to the Publishing and Distribution of Telephone Directories*, Docket No. TO10040255, Order of Approval (dated September 22, 2010).

Other states, including Ohio² and Delaware³, have imposed similar conditions. At a minimum, the Commission should incorporate a similar level of protections in Washington.

4. As discussed in our comments filed on May 21, 2012, in this docket, Public Counsel supports an opt-out approach over an opt-in approach to distribution of White Pages directories. However, considering the opt-in approach included in the proposed rule, Public Counsel recommends a number of important consumer protections that the Commission should adopt. The following sections provide specific comments and suggested rule language regarding the proposed rule that accompanied the Notice of Opportunity to Submit Written Comments.

A. WAC 480-120-251(3)(X): “BLUE PAGES.”

Comments:

5. The proposed rule does not include a provision that allows customers to receive written copies of emergency and government listings, sometimes referred to as “Blue Pages.” These numbers should continue to be provided to customers in printed form, either with yellow pages distribution or some other form of saturation distribution.

² In Ohio, by Order entered February, 11, 2009, the Public Utilities Commission of Ohio (“PUCO”) addressed a request made by AT&T Ohio regarding modifying distribution of White Page directories. The PUCO adopted a number of customer notification provisions including the following: (1) a full page information notice placed in the section of the printed directory containing the customer guide, the business white pages and the AT&T Real Yellow Pages that will continue to be delivered annually to customers; (2) a “ride along” card or letter containing the same information detailing the directory options; and (3) specific information provided to new customers in their welcome letter indicating that they have to request a printed copy of the white pages directory. *See: In the Matter of the Application of AT&T Ohio for Waiver of Certain Minimum Telephone Service Standards as Set Forth in Chapter 4901:1-5, Ohio Administrative Code, Case No. 09-42-TP-WVR, Finding and Order (entered Feb. 11, 2009).*

³ In Delaware, the Delaware Public Service Commission granted Verizon Delaware’s petition of waiver requirements to automatically distribute a residential white pages telephone directory to each of its customers. In its Petition, Verizon Delaware indicated its plans to inform customers of their ability to obtain a print copy of the white pages by: (1) bill inserts; (2) by a conspicuous notice on the cover of its yellow page directory, which will still be mailed to customers; (3) a conspicuous notice on two separate pages within the yellow page directory; and (4) in a notice to be published in The News Journal and the Delaware State News. *See: In the Matter of the Petition of Verizon Delaware LLC for Waiver of Delaware Administrative Code 4003.5.1 Pertaining to the Distribution of Residential Telephone Directories, PSC Docket No. 10-002, Order No. 7844 (filed August 26th, 2010) at 2.*

Suggested Rule Language:

(3)(X) A LEC must continue to provide a printed copy of emergency and government listings to all customers and provide clear notice to customers stating where this information will be provided.

B. WAC 480-120-251(X): ALTERNATIVE ACCESS TO DIRECTORIES.

Comments:

6. The proposed rule should require that a LEC provide, free of charge, alternative means to access directories which are easily accessible and available to all. At a minimum, under the proposed rule each LEC should be required to provide an online directory that is available through a link on the Company's national website.

Suggested Rule Language:

(X) A LEC must provide, free of charge, an online directory which is available through a web link on the Company's national website.

C. WAC 480-120-251(3): REQUESTED DIRECTORIES AT NO COST.

Comments:

7. The proposed rule does not clearly state that a LEC must provide a *free* written copy of the directory for the customer's local exchange area to each customer who opts in. Additional language should be added to clarify that any requested written copies will be provided free of charge to customers. In addition, the rule should clarify that all customers who opt-in should continue to receive a written copy of the directory until they affirmatively decline to receive a written copy.

Suggested Rule Language:

(3) A LEC must provide a written copy of the directory for the customer's local exchange area, at no cost, to each customer who requests a directory. Any customer who requests a written copy will continue to receive such distribution until the customer

affirmatively declines to receive a written copy. A LEC must not provide a written copy of the directory to any customer who does not request a copy.

D. WAC 480-120-251(3)(b)(i)-(x): REASONABLE NOTICE.

Comments:

8. "Reasonable notice" should be clarified to include a specific time period during which the LEC will be required to provide notice regarding any changes to its directory distribution. Public Counsel recommends a time period of one year to provide notice before changes occur to distribution. This will allow sufficient time for consumers to prepare and respond to the changes. The proposed rule includes three forms of customer notice. As discussed earlier in these comments, Public Counsel recommends that the proposed rule include additional forms of notice, similar to those required in other states that have addressed requests for modifying distribution of White Pages directories. Public Counsel recommends two additional forms of notice to the three listed in the proposed rule.

Suggested Rule Language:

(3)

(b) A LEC must provide reasonable notice to customers one year in advance of any changes to directory distribution 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;
- (iv) Including the information in at least one press release each calendar year;
- (v) Providing the information on the last printed directory a customer receives.

E. WAC 480-120-251(X): DATA REPORTING.

Comments:

9. In an effort to track the impact this proposed rule change may have on customers, Public Counsel recommends that the Commission require a LEC to track the number of customers who

request printed white pages and report the results to the Commission on a quarterly basis for the first year after any proposed changes to WAC 480-120-251 are implemented. In addition, Public Counsel recommends the Commission require a LEC to track the number of directory assistance calls and report the results, on a quarterly basis for the first year after any proposed changes to WAC 480-120-251 take effect.

Suggested Rule Language:

(X) A LEC must provide the following data for one year following any changes to its distribution of white pages directories:

(x) A LEC shall track the number of customers who request the printed white pages and report the results to the Commission on a quarterly basis;

(x) A LEC shall track the number of directory assistance calls and reports the results to the Commission on a quarterly basis.

F. WAC 480-120-251(5)-(6): UPDATING SUBSECTIONS (5) AND (6).

Comments:

10. Subsections (5) and (6) of the proposed rule need to be updated to ensure that information listing (LEC name and telephone number) and a consumer information guide are still provided in print to both other LECs and customers respectively.

Suggested Rule Language:

(5) Each LEC that publishes maintains a directory, or contracts for the publication development 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 developed 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

III. CONCLUSION

11. Public Counsel continues to support an opt-out approach for White Pages distribution.

However, if the Commission adopts the opt-in approach that appears in the proposed rule, the Commission should strengthen the rule by adopting the important consumer protections described above.

12. Public Counsel will be in attendance at the September 12, 2012, proposed rule adoption hearing and looks forward to participating further in this proceeding.