

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of the Application for
Registration as a Telecommunications
Company and Classification as a
Competitive Telecommunications Company
of :

Intellicall Operator Services, Inc.
d/b/a ILD f/k/a Intellicall Operator
Services, Inc.

DOCKET NO. U-89-3123

ORDER RESCINDING REQUIREMENT
TO PROVIDE BOND SUFFICIENT TO
PROTECT CUSTOMER PREPAYMENTS
AND ADVANCE PAYMENTS OR
DEPOSIT CUSTOMER PREPAYMENTS
AND ADVANCE PAYMENTS IN
ESCROW OR TRUST ACCOUNT AND
RESCINDING REPORTING
REQUIREMENTS

BACKGROUND

- 1 On March 23, 1990, the Washington Utilities and Transportation Commission granted in its Order the petition for registration of Intellicall Operator Services, Inc. d/b/a ILD (Intellicall). On July 1, 1994, Intellicall submitted a tariff revision to incorporate prepaid services. Intellicall was required to post a performance bond sufficient to cover any customer prepayments or hold customer prepayments in escrow or trust. On April 21, 1998, Intellicall's authority was amended to provide local exchange telecommunications services and to collect advance payments from customers. Intellicall was required to post a bond for the advance payments. The bonding requirements for prepayments and advance payments was imposed pursuant to *former* WAC 480-120-058.
- 2 Effective June 17, 2002, the Commission repealed WAC 480-120-058, and enacted WAC 480-120-127, which removes the mandatory customer prepayment protections. Given the change in the Commission's regulations, the Commission finds that it is consistent with the public interest to rescind the requirement of the above-named companies to provide a bond sufficient to cover customer prepayments or hold such prepayments in escrow or trust. The Commission retains the jurisdiction to require any of the above-named companies to protect customer prepayments if the Commission finds such requirement to be in the public interest..

DISCUSSION

- 3 Intellicall petitioned for registration as a telecommunications company in the state of Washington pursuant to RCW 80.36.350. Intellicall proposed to offer prepaid telecommunications services and collect advance payments.
- 4 Under *former* WAC 480-120-058, all telecommunications companies collecting customer prepayments were required to show that they met one of the following criteria:

- (a) The company has a corporate debt rating, according to Standard and Poor's of BBB or higher, or according to Moody's of BAA or higher, with respect to outstanding debt obligation; or
- (b) The company has a performance bond satisfactory to the commission sufficient to cover any customer prepayments; or
- (c) The company has made provision for deposit of customer prepayments in a federally insured interest bearing trust account maintained by applicant solely for customer advances. . . .

5 Since Intellicall was required to post a performance bond and hold prepayments and advance payments in escrow or trust accounts, Intellicall was required to file quarterly reports with the Commission.

6 On May 14, 2002, in Docket No. UT-991922, the Commission entered an order amending, repealing, and adopting rules permanently. In that order, the Commission repealed WAC 480-120-058.

7 Also on May 14, 2002, in Docket No. UT-991922, the Commission adopted WAC 480-120-127, which provides that the Commission, as a precondition to registration, may require a telecommunications company to file a performance bond sufficient to cover any prepayments the company collects from its customers or order that such prepayments be held in escrow or trust, as stated in RCW 80.36.350.

8 Because WAC 480-120-058 is repealed, there is no longer a rule that mandates such protection of customer prepayments or advance payments. Blanket performance bond and trust agreement requirements have afforded minimal consumer protection. The blanket requirements and the Commission's corresponding review for compliance have been costly and burdensome for the registered companies and the Commission. It is consistent with the public interest to remove the requirement that Intellicall provide a performance bond sufficient to cover customer prepayments and advance payments or deposit such prepayments and advance payments in escrow or trust. For the same reasons, it is consistent with the public interest to remove the reporting requirements of Intellicall regarding customer prepayments and advance payments.

9 The Commission retains jurisdiction under RCW 80.01.040 to require Intellicall to provide a performance bond sufficient to cover any customer prepayments and advance payments or to deposit such prepayments and advance payments in escrow or trust if the Commission determines that such requirement would be in the public interest.

10 This matter was brought before the Commission at its regularly scheduled open meeting on September 25, 2002. The Commissioners, having determined this action to be consistent with the public interest, directed the Secretary to enter this order.

FINDINGS OF FACT

- 11 Having considered the prior orders relating to Intellicall and based on the foregoing
discussion, the Commission now makes the following summary findings of fact. Those
portions of the above discussion that include findings pertaining to the ultimate decisions
of the Commission are incorporated by reference.
- 12 (1) The Washington Utilities and Transportation Commission is an agency of the
State of Washington vested by statute with the authority to regulate
telecommunications companies.
- 13 (2) Intellicall is registered to provide telecommunications services for hire to the
public in the state of Washington.
- 14 (3) Rescinding the requirement Intellicall provide a performance bond sufficient to
cover any customer prepayments and advance payments collected from customers
or deposit such prepayments or advance payments in escrow or trust is consistent
with the public interest.
- 15 (4) Rescinding the customer prepayment and advance payment reporting
requirements imposed on Intellicall is consistent with the public interest.
- 16 (5) By removing the requirements regarding protection of customer prepayments and
advance payments required by *former* WAC 480-120-058, the Commission in no
way endorses the financial viability of Intellicall nor the investment quality of any
securities it may issue.

CONCLUSIONS OF LAW

- 17 Having discussed above in detail all matters material to our decision, and having stated
general findings and conclusions, the Commission now makes the following summary
conclusions of law. Those portions of the preceding detailed discussion that state
conclusions pertaining to the ultimate decisions of the Commission are incorporated by
this reference.
- 18 (1) The Washington Utilities and Transportation Commission has jurisdiction over
the parties and subject matter of this proceeding under RCW 80.01, RCW 80.04,
RCW 80.36, WAC 480-120, and WAC 480-121.
- 19 (2) Pursuant to RCW 80.04.210, the Commission's prior orders regarding Intellicall
should be changed to rescind the requirement that Intellicall either provide a
performance bond sufficient to cover any customer prepayments and advance
payments or deposit such prepayments and advance payments in escrow or trust.
- 20 (3) Pursuant to RCW 80.04.210, the Commission's prior orders regarding Intellicall
should be changed to rescind the reporting requirements regarding customer
prepayments and advance payments.

- 21 (4) The Commission retains jurisdiction under RCW 80.01.040 to require Intellicall to provide a performance bond sufficient to cover any customer prepayments and advance payments or require Intellicall to deposit such prepayments and advance payments in escrow or trust if the Commission determines that such requirement would be in the public interest.

ORDER

THE COMMISSION ORDERS:

- 22 (1) The Commission's prior orders regarding Intellicall Operator Services, Inc. d/b/a ILD are changed to rescind the requirement that Intellicall provide a bond sufficient to cover any customer prepayments and advance payments or deposit such prepayments and advance payments in escrow or trust.
- 23 (2) The Commission's prior orders regarding Intellicall Operator Services, Inc. d/b/a ILD are changed to rescind the reporting requirements regarding customer prepayments and advance payments.

DATED at Olympia, Washington, and effective this 25th day of September, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary