

January 14, 2002

**NOTICE OF OPPORTUNITY TO FILE WRITTEN, E-MAIL AND
TELEPHONE COMMENTS ON TELECOMMUNICATIONS
CARRIERS' USE OF CUSTOMER INFORMATION
(January 31, 2002)**

RE: Docket No. UT-990146
Chapter 480-120 WAC Telecommunications: Use of Customer Information by
Telecommunications Carriers for Marketing
WAC 480-120-151, 152, 153 and 154

TO ALL INTERESTED PERSONS:

Verizon Northwest Incorporated asked the Commission (WUTC) in November, 2001¹ to revise our customer proprietary network information (CPNI) rules and to make them consistent with Federal Communications Commission (FCC) rules published September 7, 2001.² In particular, Verizon asked that we alter our rules and permit telecommunications carriers to obtain customer approval for the use of CPNI through either an "opt-in" or an "opt-out" mechanism. *CPNI includes, among other things, information about who customers call, who calls them, and how long they talk.*

- "Opt-in" means that a customer's private information is protected unless the customer gives permission for the company to sell, share, trade, or use it.
- "Opt-out" means that a customer's private information is **not** protected unless the customer contacts the company and objects..

Regardless of the method used, if there is customer "approval," federal law and our rules permit companies to sell, share, trade, or use CPNI.

¹ Comments of Verizon Northwest Inc. in Washington Utilities and Transportation Commission (WUTC) Docket No. UT-990146, Telecommunications Rulemaking, submitted November 6, 2001.

² FCC Clarification Order and Second Further Notice of Proposed Rulemaking, CC Docket Nos. 96-115 and 96-149, released September 7, 2001.

Our rules apply to all telecommunications companies, including local and long-distance companies.

Through a bill insert included in its December, 2001 billing statements, Qwest Corporation informed its customers that it would share and use customer information unless customers notify the company of their desire to protect their personal information and “opt-out” of the company’s information sharing practices. Qwest did not notify the WUTC before it started its program implementing the “opt-out.” After the fact, Qwest said in response to a request for information that it believed the Washington rules, which require “opt in,” were pre-empted by the federal rules.

Many members of the public have contacted the Commission and complained that they do not think “opt-out” is appropriate and indicated that, even if it is, they did not understand their most recent billing contained a notice about CPNI. Many who did see the notice, or learned about “opt-out” from news stories, informed us that they have been effectively prevented from “opting-out” because Qwest has not answered their calls seeking to “opt-out.”

Verizon is using the “opt-in” method but plans to switch to an “opt-out” method soon.

I. QUESTIONS CONCERNING USE OF CUSTOMER INFORMATION

In response to Verizon’s request, the CPNI notice provided by Qwest, and the complaints received from the public, we seek comments on whether the Commission’s current rules should be changed and, if yes, on what notice requirements companies should have to meet before they can sell, share, trade, or use CPNI. As part of this, we seek comments on whether approval in an “opt-out” method should provide customers with the ability to “opt-out” in a very easy fashion. These comments will assist us with the review of our current rules on CPNI and help us determine whether we need to revise our current rules. Comments will also help us determine whether the procedures followed by Qwest are sufficient to meet customer concerns about company sales and use of customers’ proprietary information following an “opt-out” notice.

- 1A. If the method for determining customer approval for sharing or selling customer information is “opt-out” (that is, those who do not contact the company and “opt-out” are approving the use of their information), how many notices should be required before a carrier sells, shares, trades, or uses customer information? One notice? More than one? How many?
- 1B. If you are a Qwest customer, were you aware that you received a notice on this topic with your bill that arrived between December 10 and January 10?

- 2A. Notices can be sent with bills or in separately marked envelopes. Which do you think is the better choice for a notice on the topic of sharing customer private information?
- 2B. If you are a Qwest customer, did the statement on the notice that accompanied your bill which said **“The following information does not impact your Qwest billing”** make you more or less inclined to read it?
- 3A. If the method for determining customer approval for sharing or selling customer information is “opt-out,” should that approval be assumed even if it is very difficult to contact the company and “opt-out?”
- 3B. If you are a Qwest customer who “opted-out” or attempted to “opt-out,” was it easy or difficult? Was it time consuming? Did you consider giving up in your efforts? Did you actually give up?
4. Is a one-time notice of a customer’s right to “opt-out” sufficient? Or should a telephone company also provide an “opt-out” opportunity on an annual basis?
5. Should a telephone company using the “opt-out” method give a customer a chance to “opt-out” at the time the customer orders service?
6. What is your preference for giving approval for use of your customer information, including who calls you and who you call: “Opt-in” or “opt-out?”
7. If your information is used without your approval, what harm will this cause you? Will it endanger you? Will it cost you money? Will it potentially cause embarrassment? Is there any other specific harm that might occur?

II. HOW TO RESPOND TO QUESTIONS

You may respond in three ways: by mail, by telephone, or by e-mail.

If you choose to respond by mail you may hand-write your response or type it and send it to us. Or you may enclose the notice with your comments in the margin next to each question. Our mailing address is:

WUTC
P.O. Box 47250
Olympia, WA 98504-7250

If you would like to telephone us and leave your name, address, telephone number and a short message, you may call toll-free at 1-800-562-6150; press 3 at the first prompt and, at the second prompt, press 3 again.

If you would like to respond by e-mail, you may do so at privacy@wutc.wa.gov or by going to our website, www.wutc.wa.gov, and choosing the link on the home page for “Use of Customer Information.”

We appreciate your participation in this effort to gather information related to the use of customer information.

Sincerely,

CAROLE J. WASHBURN
Executive Secretary