

EXHIBIT 4

Date of Intended Adoption: July 26, 1991.

June 17, 1991
David H. Rodgers
Chief Deputy
Insurance Commissioner

AMENDATORY SECTION (Amending Order R 88-4, filed 3/25/88)

WAC 284-91-025 PLAN OF OPERATION APPROVED. Pursuant to RCW 48.41.040(4) and after public hearing, the commissioner has determined that the Plan of Operation, as set forth in WAC 281-91-027, provides a sound basis for the fair, reasonable and equitable administration of the pool and provides for the sharing of pool losses on an equitable, proportionate basis among the members of the pool. It is ((hereby)) approved: PROVIDED HOWEVER, That if the plan of operation of the pool or any policy issued by the pool contains any condition or provision that does not conform to the requirements of chapter 48.41 RCW or this chapter, the plan of operation or any policy issued by the pool shall be construed and applied in accordance with such conditions and provisions as would have applied had the plan of operation or policy issued by the pool been in full compliance with chapter 48.41 RCW and this chapter.

NEW SECTION

WAC 284-91-050 INVOLUNTARY TERMINATIONS FOR OTHER THAN NONPAYMENT OF PREMIUMS. (1) For purposes of RCW 48.41.100, coverage under prior health insurance shall be deemed to have been involuntarily terminated for a reason other than nonpayment of premium, except where the insured person voluntarily ceased paying required premiums while otherwise eligible to continue such prior coverage. Therefore, as an example, loss of eligibility for group health insurance because of voluntary termination of employment by a person covered by an employer's group health insurance policy will not be deemed voluntary termination of the prior insurance coverage.

(2) For purposes of RCW 48.41.140(3), coverage under any prior health insurance will be deemed to have been involuntarily terminated for a reason other than nonpayment of premium, if the premium required to continue coverage under such insurance exceeds by one-third or more the premium required to cover the individual under the pool's one hundred dollar deductible plan.

~~WSR 91-13-077
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION~~

[Order R-346, Docket No. TV-900716—Filed June 18, 1991, 12:02 p.m.]

In the matter of amending WAC 480-12-003 relating to motor freight carriers.

This action is taken pursuant to Notice No. WSR 91-10-081 filed with the code reviser on April 30, 1991. The rule change hereinafter adopted shall take effect pursuant to RCW 34.05.380(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and is intended administratively to implement that statute.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 91-10-081 the above matter was scheduled for consideration at 9:00 a.m.,

Wednesday, June 5, 1991, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to May 28, 1991, and orally at 9:00 a.m., Wednesday, June 5, 1991, in the commission's hearing room above noted. At the June 5, 1991, meeting the commission considered the rule change proposal. No written or oral comments were received.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-12-003 should be amended to read as set forth in Appendix A shown below and by this reference made a part hereof. WAC 480-12-003 will now reflect the proper reference to the rules pertaining to practice and procedure before the commission.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-12-003 as set forth in Appendix A, be amended as a rule of the Washington Utilities and Transportation Commission to take effect pursuant to RCW 34.05.380(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 17th day of June, 1991.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard D. Casad, Commissioner
A. J. Pardini, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-24, filed 4/16/71)

WAC 480-12-003 PROCEDURE. Except as otherwise provided in this chapter, the commission's rules relating to procedure, chapter ((480-08)) 480-09 WAC shall govern the administrative practice and procedure in and before the commission in proceedings involving motor freight carriers.

~~WSR 91-13-078
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION~~

[Order R-345, Docket No. UT-900726—Filed June 18, 1991, 12:05 p.m.]

In the matter of amending WAC 480-120-021, 480-120-106, 480-120-138, and 480-120-141 and adopting

WAC 480-120-143 relating to telecommunications companies.

This action is taken pursuant to Notice No. WSR 91-03-122 filed with the code reviser on January 23, 1991. The rule change hereinafter adopted shall take effect pursuant to RCW 34.05.380(2).

This rule-making proceeding is brought on pursuant to RCW 80.01.040 and chapter 80.36 RCW and is intended administratively to implement these statutes.

This rule-making proceeding is in compliance with the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

Pursuant to Notice No. WSR 91-03-122 the above matter was scheduled for consideration at 9:00 a.m., Wednesday, May 1, 1991, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA, before Chairman Sharon L. Nelson and Commissioners Richard D. Casad and A. J. Pardini.

Under the terms of said notice, interested persons were afforded the opportunity to submit data, views, or arguments to the commission in writing prior to March 6, 1991, with reply comments due on March 27, 1991, and orally at 9:00 a.m., Wednesday, May 1, 1991, in the commission's hearing room above noted. At the May 1, 1991, meeting, on the record, the commission continued the matter to the May 8, 1991, weekly meeting at the same time and place.

At the May 8, 1991, meeting, the commission considered the rule change proposal, and took oral comment. Decisions regarding adoption of the amendments were made, and the matter was continued on the record to the May 15, 1991, weekly meeting for final adoption.

Written comments have been received from various persons in this docket, under the above notice and under prior notices, including: U.S. Long Distance, Bettye Horn, Joan Addington, Intellical, Inc., ITI, Eric Torrison, GTE Northwest, Inc., MCI Telecommunications Corp., U.S. West Communications, Public Counsel, International Pacific, National Technical Associates, Operator Assistance Network, Zero Plus Dialing, Inc., Northwest Payphone Association, Fone America, AT&T Communications of the Pacific Northwest, Inc., David Fluharty, United Telephone Co., Bruce Bennett, F.G. Hazeltine, M.D., Lisa Bergman, Douglas Syring, Elaine Britt, James H. Culler, Dean S. Johnson, William J. Clancy, Warren Bover, Jim Lazar, The Friedrich Group, Public Communications of America, Inc., The Park Lane Motel & R.V. Park, Norwest Marketing, James R. Redfield, Holiday Inn, Crowne Plaza-Seattle, Holiday Lodge-Wenatchee, Anacortes Inn, The Evergreen Inn-Leavenworth, Tower Inn-Richland, The Westin Hotel, Northwest Lodging, Inc., Travelers Inns, Washington State Hotel & Motel Association, The Inn at Friday Harbor, The Westwater Inn, Sheraton-Seattle, The Inn at Virginia Mason, Guenther Management Company, The Salish Lodge, Holiday Inn-Bellevue, A.M. Vendettuoli, Patricia's Enterprise, Sheraton-Tacoma,

Mt. Rainier Guest Services, Semi-ah-moo, Comfort Inn at Sea-Tac, Robin Bloomgarden, Hyatt Regency-Bellevue, Washington Independent Telephone Association, Public Communications of America, Sheraton-Spokane, Four Seasons, Integretel, Inc., Whidbey Telephone Co., Telesphere Limited, Inc., Central Telephone, CSI Pay Telephone Investors, Raymond Ruhlen, and Robert P. Dick.

Oral comments were also received from various persons in this docket, at the May 8 and May 15 meetings, as well as at meetings under prior notices in this docket. Oral comments have been received in this docket from: Dean Randall, GTE-NW; Ray Ohrme, Paytel NW; Doug Owens, Paytel NW and CSI; Mark Hargenbrite, Fone America; Bill Eagles and Jim McAllum, AT&T; Robert Snyder, Whidbey Telephone; Clyde MacIver, NW Payphone & MCI; Jim Wright, International Pacific; Arthur Butler, TRACER; Michael Dohen, Fone America; William Garling, Public Counsel; Kay Godfrey, Steven Kennedy, TRACER; Cliff Webster, Washington State Hotel & Motel Association; Tom Kent, Red Lion; David Thompson, Westin Hotels; Jack Doyle, Pacific Telecom; Mike Miran, U.S. West; Jim Lazar; James Cadu; George Vinyl, Telesphere, Inc.; Reid Preston, Telecall, Inc.; Richard Finnigan, Terry Vann, WITA; Glenn Harris, United Telephone; and Jim Ray, International Pacific.

The rule change affects no economic values.

In reviewing the entire record herein, it has been determined that WAC 480-120-021, 480-120-106, 480-120-138, and 480-120-141 should be amended and WAC 480-120-143 should be adopted to read as set forth in Appendix A shown below and by this reference made a part hereof. These rules, as amended and adopted, establish requirements for alternative operator services companies and connection of pay telephones to the network of exchange telecommunications companies.

Some changes were made between the text of the amendments issued pursuant to Notice No. WSR 91-03-122 and the text finally adopted by the commission. Pursuant to RCW 34.05.340(3) these changes are explained as follows:

Changes from noticed draft: Definitions: The definition of operator services is changed to more closely reflect federal definitions, and to emphasize that the alternative operator services, AOS, rules apply only to operator services, as defined. WAC 480-120-021.

Commission as a sum paid to an aggregator or location owner is defined to distinguish from the WUTC. Id.

Location surcharge and operator service charge are defined as separate elements to distinguish them from other charges and to exclude per-call fees assessed and collected directly by aggregators. Id.

Person is defined for clarity. Id.

Local exchange telephone companies LECs, are removed from the definition of alternate operator services company, consistent with the draft initially noticed in this docket. LECs may still be considered aggregators under the terms of the rule, if their conduct meets that definition. Unlike LECs, AOS companies can be seen as entering and existing markets at will. AOS companies were the subject of specific legislative enactment. AOS

companies often charge higher rates than LECs, leading to consumer complaints. Consumers often expect that they are using their LEC when they use a pay phone: requirements that apply to non-LEC companies to inform the consumer that it is not the LEC are reasonable. Id.

Changes from noticed draft: Form of Bills: The local exchange company, LEC, must provide a copy of a billing agent's customer list to the commission only when a carrier is added to or deleted from the list in order to reduce unnecessary administrative effort. WAC 480-120-106.

Pay phone rule changes from noticed draft: Coinless pay telephones are defined to exclude in-room phones provided by hotels, hospitals, campuses and similar facilities for use of guests or residents. Jurisdictional issues were presented which are resolved by this exclusion. WAC 480-120-138(b).

For directory assistance, pay phones may charge the prevailing rate for comparable directory services. The intent is that a pay phone may, when pertinent, charge the consumer the prevailing charges for credit card use and for intraLATA or interLATA directory assistance calls. A location surcharge is not permitted on directory assistance calls. WAC 480-120-138(4).

Requirements for posting information to consumers are changed; instead of specifying in the rule the mechanics for securing rate information, the rule now allows the aggregator to post its preferred method for obtaining without-charge information regarding all charges including fees, so that the consumer will be able to be informed about the charges it will pay. This allows flexibility for an aggregator to use the method compatible with its system. Id.

A provision which would have limited charges for local calls and for access to 1-800 numbers and preferred interexchange carriers to twenty-five cents was deleted in light of federal/state jurisdictional issues; the unsettled nature of comparable provisions in federal regulation; and possible adverse economic effect. Id.

Concerns were expressed regarding fraud resulting from the use of 10XXX dialing codes to reach an interexchange carrier. Selective blocking is increasingly available from local exchange companies to allow calls to go through an operator, but to block direct-dialed calls which could be billed to the aggregator rather than the consumer. That sort of selective blocking will reduce fraudulent billing to the pay phone while allowing access to the consumer's preferred carrier. Outgoing and incoming call screening are features which provide information to operators that billing should not be made to the screened line. WAC 480-120-130(10) requires the local exchange company to provide these selective blocking and screening services upon request when the technology to provide them is available in the central office serving the requesting line. The change from the noticed draft is to describe and makes specific reference to the different services. WAC 480-120-138(10). WAC 480-120-141(12) provides for allocation of risk of loss when fraud occurs despite subscription to call screening.

Local exchange company field visits to pay phone locations shall be charged pursuant to tariff when a tariff

applies. This acknowledges and restates the general rule that tariffed rates must be charged for services provided. WAC 480-120-138(18).

References to adjudications are clarified to note that a range of adjudicative process is available to deal with complaints pursuant to pertinent administrative rules and law. WAC 480-120-138(19).

Changes from noticed draft: AOS rule: Prison service waivers can be accomplished on a case-by-case basis, so no express provision is required. WAC 480-120-141.

The list of operator service customers of each AOS is to be filed. The rule is changed to acknowledge that the list is proprietary, to protect confidential information, when the AOS complies with pertinent existing rules for identifying proprietary information. WAC 480-120-141(1).

The rule is clarified to state that AOS companies are required to secure compliance with their tariff provisions, as are other public service companies. Specific procedures to reduce disputes are identified for clarity. Existing pertinent commission adjudicative procedures are identified for completeness. To aid enforcement, when the commission has found that a customer/aggregator has knowingly and repeatedly violated commission AOS rules, it is to be refused AOS service until the commission finds the customer/aggregator will comply. Withholding of compensation is also required, consistent with federal requirements, on a location-by-location basis. WAC 480-120-141(2).

The consumer may be either, or both, the person initiating a call through an AOS company or the person paying for that call. The change is made to assure the availability of pertinent information and protections to the persons who may need them. WAC 480-120-141(3).

New posting requirements may be implemented later than initially proposed for practical considerations. Current posting rules must be complied with until then, for transition purposes. It is not feasible to require different notices for locations whose presubscribed AOS carrier exceeds prevailing rates and those which do not. WAC 480-120-141(4).

Notice to consumers of rates must include notice of the existence, nature and amount of location surcharges and other fees to better inform consumers. This provision is moved from noticed subsection 10(c). Id.

Proposed provisions to limit location charges to tariffed surcharge rates and to restrict local call, 1-800 and interexchange carrier access were deleted because of likely adverse economic effect on small business and because of potential interjurisdictional issues noted above. Id.

Audible notice, or branding, is required no later than, rather than "at" the beginning of the call, to allow compliance by reasonable notices either before or after the signal to enter billing information. WAC 480-120-141(5).

The branding message must use the carrier's name as registered with the commission, although the proposal is modified to allow the commission to grant a waiver to abbreviate or omit portions of the registered name if the full term is not necessary for clear consumer identification of the service provider. Id.

The proposed requirement to use specific branding language was deleted in light of difficulties in distinguishing between intrastate and interstate calls and because carriers demonstrated varying ways to provide adequate consumer notice of the carrier's identity. *Id.*

AOS carriers must maintain adequate facilities for a blockage rate not exceeding one percent in the time consistent busy hour, rather than a given busy hour, consistent with industry standards. If the AOS carrier provides facilities for access to consumers' preferred carriers, those facilities must also meet the stated adequacy standard. *Id.*

Location surcharges are allowed in AOS company tariffs, and can be waived by aggregators or may be established at a higher level for locations with demonstrably higher costs. This will help mitigate multi-tiered surcharges which may be discriminatory and confusing and may lead to unjustly high rates; will allow flexibility in pricing; and will avoid the need to spread the support of high-cost locations. WAC 480-120-141(10).

The section headings are changed to refer to variable rates and surcharges, the present subject of subsection (c). *Id.*

Clarification is added that the relevant rates for consideration are those which consumers are charged and that the relevant market means interLATA or intraLATA. *Id.*

The proposed cap upon location charges, fees or surcharges exceeding twenty-five cents for any call, above tariffed rates, was deleted because of potential adverse economic effect. The posting requirement related to such charges was moved to subsection (4) of this rule for proximity to other posting requirements, for clarity.

Departure from prevailing rates can be supported by an AOS. Such a demonstration can include evidence from aggregators about the economic necessity for location surcharges. This will assist AOS companies to support the economic need for charges paid to their customers. *Id.*

Subsection (12) is added in order to allocate risk of loss from fraud on toll traffic when loss from fraud occurs even through the local exchange company offers and an aggregator subscribes to call screening.

Local service to aggregators: A new section is added which requires LEC tariffs to provide that all aggregators who offer local calls on a per-call basis must provide without-charge access to 911, where available, and to the local exchange company operator. The requirement was noticed in WAC 480-120-141 (4)(c) as a condition required through AOS providers, but refers to a local services and is more appropriately associated with the provision of local exchange service. The requirement will assure that there is no impediment to dealing swiftly with emergency conditions affecting health or safety. WAC 480-120-143.

ORDER

WHEREFORE, IT IS ORDERED That WAC 480-120-021, 480-120-106, 480-120-138, and 480-120-141 as set forth in Appendix A, be amended and adopted as rules of the Washington Utilities and Transportation

Commission to take effect pursuant to RCW 34.05.380(2).

IT IS FURTHER ORDERED That the order and the annexed rule, after first being recorded in the order register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this 17th day of June, 1991.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard D. Casad, Commissioner
A. J. Pardini, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order filed 1/31/89)

WAC 480-120-021 GLOSSARY. Alternate operator services company - any corporation, company, partnership, or person other than a local exchange company providing a connection to intrastate or interstate long-distance or to local services from ((places including but not limited to, hotels, motels, hospitals, campuses, and customer-owned pay telephones. Alternate operator services companies are those with which a hotel, motel, hospital, campus, or customer-owned pay telephone, etc., contracts to provide operator services to its clients)) locations of call aggregators. The term "operator services" in this rule means any intrastate telecommunications service provided to a call aggregator location that includes as a component any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an intrastate telephone call through a method other than (1) automatic completion with billing to the telephone from which the call originated, or (2) completion through an access code use by the consumer with billing to an account previously established by the consumer with the carrier.

Applicant - any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., applying to the utility for new service or reconnection of discontinued service.

Automatic dialing-announcing device - any automatic terminal equipment which incorporates the following features:

- (1)(a) Storage capability of numbers to be called; or
- (b) A random or sequential number generator that produces numbers to be called; and
- (c) An ability to dial a call; and
- (2) Has the capability, working alone or in conjunction with other equipment, of disseminating a prerecorded message to the number called.

Billing agent - A person such as a clearing house which facilitates billing and collection between a carrier and an entity such as a local exchange company which presents the bill to and collects from the consumer.

Base rate area or primary rate area - the area or areas within an exchange area wherein mileage charges for primary exchange service do not apply.

Call aggregator - a person who, in the ordinary course of its operations, makes telephones available for intrastate service to the public or to users of its premises, including but not limited to hotels, motels, hospitals, campuses, and pay telephones.

Central office - switching unit in a telephone system having the necessary equipment and operating arrangements for terminating and interconnecting subscribers' lines, farmer lines, toll lines and interoffice trunks. (More than one central office may be located in the same building or in the same exchange.)

Commission (agency) - in a context meaning a state agency, the Washington utilities and transportation commission.

Commission (financial) - in a context referring to compensation for telecommunications services, a payment from an AOS company to an aggregator based on the dollar volume of business, usually expressed as a percentage of tariffed message toll charges.

Competitive telecommunications company - a telecommunications company which is classified as such by the commission pursuant to RCW 80.36.320.

Competitive telecommunications service - a service which is classified as such by the commission pursuant to RCW 80.36.330.

((Customer)) Consumer - user not classified as a subscriber.

Exchange - a unit established by a utility for communication service in a specific geographic area, which unit usually embraces a city, town or community and its environs. It usually consists of one or more central offices together with the associated plant used in furnishing communication service to the general public within that area.

Exchange area - the specific area served by, or purported to be served by an exchange.

Farmer line - outside plant telephone facilities owned and maintained by a subscriber or group of subscribers, which line is connected with the facilities of a telecommunications company for switching service. (Connection is usually made at the base rate area boundary.)

Farmer station - a telephone instrument installed and in use on a farmer line.

Interexchange telecommunications company - a telecommunications company, or division thereof, that does not provide basic local service.

Location surcharge - a flat, per-call charge assessed by an alternate operator services company on behalf of a call aggregator in addition to message toll charges, local call charges, and operator service charges. A location surcharge is remitted, in whole or in part, to the call aggregator-customer.

Operator service charge - a charge, in addition to the message toll charge or local call charge, assessed for use of a calling card, a credit card or for automated or live operator service in completing a call.

Outside plant - the telephone equipment and facilities installed on, along, or under streets, alleys, highways, or on private rights-of-way between the central office and subscribers' locations or between central offices.

Person - unless the context indicates otherwise, any natural person or an entity such as a corporation, partnership, municipal corporation, agency, or association.

Station - a telephone instrument installed for the use of a subscriber to provide toll and exchange service.

Subscriber - any person, firm, partnership, corporation, municipality, cooperative organization, governmental agency, etc., supplied with service by any utility.

Toll station - a telephone instrument connected for toll service only and to which message telephone toll rates apply for each call made therefrom.

Utility - any corporation, company, association, joint stock association, partnership, person, their lessees, trustees or receivers appointed by any court whatsoever, owning, controlling, operating or managing any telephone plant within the state of Washington for the purpose of furnishing telephone service to the public for hire and subject to the jurisdiction of the commission.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order R-293, filed 1/31/89)

WAC 480-120-106 FORM OF BILLS. Bills to subscribers shall be rendered regularly and shall clearly list all charges. Each bill shall indicate the date it becomes delinquent and notice of means by which a subscriber can contact the nearest business office of the utility.

The portion of a bill rendered by the local exchange company on behalf of itself and other companies shall clearly specify the alternate operator service company's billing agent and, where feasible, within ninety days after the effective date of this rule, the provider of the alternate operator service (or its authorized billing agent.) and a toll free telephone number the consumer can call to question that portion of the bill and, if appropriate, receive credit. A number may be used on this portion of the bill only if it connects the subscriber with a firm which has full authority to investigate and, if appropriate, to adjust disputed calls including a means to verify that the rates charged are correct. Consumers requesting an address where they can write to question that portion of the bill shall be provided that information.

A local exchange company shall not provide billing and collection services for telecommunications service to any company not properly registered to provide service within the state of Washington, except to a billing agent that certifies to the local exchange carrier that it will submit charges only on behalf of properly registered companies. As a part of this certification the local exchange company shall require that the billing agent provide to it a current list of each telecommunications company for which it bills showing the name (as registered with the commission) and address. This list shall be updated and provided to the local exchange company as changes occur. The local exchange company shall in turn, upon receiving it, provide a copy of this list to the

commission for its review whenever a carrier is added or deleted.

All bills for telephone service shall identify and set out separately any access or other charges imposed by order of or at the direction of the Federal Communications Commission. In addition, all bills for telephone service within jurisdictions where taxes are applicable will clearly delineate the amount, or the percentage rate at which said tax is computed, which represents municipal occupation, business and excise taxes that have been levied by a municipality against said utility, the effect of which is passed on as a part of the charge for telephone service.

Subscribers requesting by telephone, letter or office visit an itemized statement of all charges shall be furnished same. An itemized statement is meant to include separately, the total for exchange service, mileage charges, taxes, credits, miscellaneous or special services and toll charges, the latter showing at least date, place called and charge for each call. In itemizing the charges of information providers, the utility shall furnish the name, address, telephone number and toll free number, if any, of such providers. Any additional itemization shall be at a filed tariff charge.

Upon a showing of good cause, a subscriber may request to be allowed to pay by a certain date which is not the normally designated payment date. Good cause shall include, but not be limited to, adjustment of the payment schedule to parallel receipt of income. A utility may be exempted from this adjustment requirement by the commission.

AMENDATORY SECTION (Amending Order R-316, filed 3/23/90)

WAC 480-120-138 PAY TELEPHONES—LOCAL AND INTRASTATE. Every telecommunications company operating an exchange within the state of Washington may allow pay telephones to be connected to the company's network for purposes of interconnection and use of registered devices for local and intrastate communications. Every such telecommunications company offering such service shall file tariffs with the commission setting rates and conditions applicable to the connection of pay telephones to the local and intrastate network under the following terms and conditions. Local exchange companies that do not have a public access line tariff on file with the commission shall not be subject to these rules.

For purposes of these rules "pay telephone" is defined as equipment connected to the telephone network in one of the following modes:

(a) Coin operated: A telephone capable of receiving nickels, dimes, and quarters to complete telephone calls. Credit card or other operator-assisted billing may be used from a coin-operated instrument.

(b) Coinless: A pay telephone where completion of calls, except emergency calls, must be billed by an alternative billing method such as credit card, calling cards, collect, third-party billing, or billed in connection with the billing of meals, goods, and/or services. These pay phones include, but are not limited to, charge-a-call, cordless, tabletop, and credit card stations. The term

does not include in-room telephones provided by hotels, motels, hospitals, campuses or similar facilities for the use of guests or residents.

For purposes of these rules, the term "subscriber" is defined as a party requesting or using a public access line for the purpose of connecting a pay telephone to the telephone network.

(1) Pay telephones connected to the company network must comply with Part 68 of the Federal Communications Commission rules and regulations and the ((current)) National Electric Code and National Electric Safety Code as they existed on January 1, 1991, and must be registered with the Federal Communications Commission, or installed behind a coupling device which has been registered with the Federal Communications Commission.

(2) All pay telephones shall provide dial tone first to assure emergency access to operators without the use of a coin.

(3) The caller must be able to access the operator and 911 where available without the use of a coin.

(4) ~~((The subscriber shall pay the local directory assistance charge currently in effect for each pay telephone and may charge the user for directory assistance calls.))~~ The charge for each directory assistance call paid by the ((user)) consumer shall not exceed the ((current)) prevailing per call charge ((paid by the subscriber)) for comparable directory assistance. In the absence of persuasive contrary evidence, the charge of U S WEST Communications for intraLATA directory assistance or AT&T for interLATA directory assistance shall be accepted as the prevailing charge. A location surcharge is not permitted.

(5) Emergency numbers (e.g., operator assistance and 911) must be clearly posted on each pay telephone.

(6) Information consisting of the name, address, telephone number of the owner, or the name of the owner and a toll-free telephone number where a caller can obtain assistance in the event the pay telephone malfunctions in any way, and procedures for obtaining a refund from the subscriber must be displayed on the front of the pay telephone.

The following information shall also be posted on or adjacent to the telephone instrument:

(a) ~~An accurate quotation of all rates and surcharges is available to the user by dialing '0' and requesting costs. The method by which the consumer may obtain without charge an accurate quotation of rates, fees and surcharges; and~~

(b) The notices required by WAC 480-120-141((++)) (4).

In no case will the charges to the user exceed the quoted costs.

(7) The telephone number of the pay telephone must be displayed on each instrument.

(8) The subscriber shall ensure that the pay telephone is compatible for use with hearing aids and its installation complies with all applicable federal, state, and local laws and regulations concerning the use of telephones by disabled persons.

(9) The pay telephone, if coin operated, must return the coins to the caller in the case of an incomplete call

and must be capable of receiving nickels, dimes, and quarters. Local exchange company pay telephones shall not be subject to the requirements of this subsection.

(10) All pay telephones must ~~((be capable of providing))~~ provide access to all interexchange carriers where such access is available. If requested by the subscriber, the local exchange company providing the public access line shall supply, where available, ~~(a) restriction where available, which prevents fraud to the by selective blocking of 10XXX 1+ codes and (b) call screening to identify the line as one to which charges may not be billed,~~ at appropriate tariffed rates.

(11) Except for service provided to hospitals, libraries, or similar public facilities in which a telephone ring might cause undue disturbance, or upon written request of a law enforcement agency, coin-operated pay telephones must provide two-way service, and there shall be no charge imposed by the subscriber for incoming calls. This subsection will not apply to pay telephones arranged for one-way service and in service on May 1, 1990. Should an existing one-way service be disconnected, change telephone number, or change financial responsibility, the requirements of this subsection shall apply. All pay telephones confined to one-way service shall be clearly marked on the front of the instrument.

(12) Pay telephones shall be connected only to public access lines in accordance with the approved tariffs offered by the local exchange company. Local exchange company pay telephones are not subject to this requirement.

(13) A subscriber must order a separate pay telephone access line for each pay telephone installed. Extension telephones may be connected to a pay telephone access line when the instrument:

(a) Prevents origination of calls from the extension station; and

(b) Prevents third party access to transmission from either the extension ~~((of))~~ or the ~~((coin-operated))~~ pay telephone instrument.

Local exchange companies are exempted from (b) of this subsection.

(14) Credit card operated pay telephones shall clearly identify all credit cards that will be accepted.

(15) Involuntary changes in telephone numbers upon conversion of pay telephones from local exchange company-owned to privately-owned pay telephones are prohibited.

(16) No fee shall be charged for nonpublished numbers on a public access line.

(17) Cordless and tabletop pay telephones shall not be connected to the telephone network except under the following conditions:

(a) The bill for usage is tendered to the user before leaving the premises where the bill was incurred or alternatively billed at the customer's request; and

(b) The user is notified verbally or on the instrument that privacy on cordless and tabletop telephones is not guaranteed; and

(c) When other electrical devices are equipped with filters, as necessary, to prevent interference with the pay telephone.

(18) Violations of the tariff, commission rules pertaining to pay telephone service, or other requirements contained in these rules, including interexchange carrier access requirements, will subject the pay telephone to disconnection of service if the deficiency is not corrected within five days from date of written notification to the subscriber. WAC 480-120-081 (4)(g) shall not apply to such disconnections. Local exchange company field visits shall be charged to the subscriber if the charge is required by a pertinent local exchange company tariff.

It shall be the responsibility of every local exchange company to assure that any subscriber taking service pursuant to these rules and to tariffs filed pursuant to these rules meets all of the terms and conditions contained within these rules and the tariffs so filed. It shall be the duty of the local exchange company to enforce the terms and conditions contained herein.

It shall be the responsibility of the local exchange company to provide free of charge one current telephone directory each year for each public access line. It shall be the responsibility of the subscriber to make a reasonable effort to assure a current directory is available at every pay telephone location.

Public access lines will be charged at rates according to the relevant tariff as approved by the commission.

(19) Disconnection of, or refusal to connect, a pay telephone for violation of these rules may be reviewed by the commission in a formal complaint under WAC 480-09-420(5) through an adjudicative or a brief adjudicative proceeding under the provisions of chapters 34.05 RCW and 480-09 WAC.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending Order R-193 filed 1/31/89)

WAC 480-120-141 ALTERNATE OPERATOR SERVICES. All telecommunications companies providing alternate operator services (AOS), as defined in WAC 480-120-021, shall ~~((conform to))~~ comply with this and all other rules relating to telecommunications companies not specifically waived by order of the commission. ~~((Alternate operator services companies (AOS) are those with which a hotel, motel, hospital, prison, campus, customer-owned pay telephone, etc., contracts to provide operator services to its clientele.))~~

(1) Each alternate operator services company shall file with the commission at least every six months a current list of operator services customers which it serves and the locations and telephone numbers to which such service is provided to each customer. A customer list provided pursuant to this rule is proprietary information and, if identified when filed as required in WAC 480-09-015, is subject to the protections of that rule.

(2) Each AOS company is responsible for assuring that each of its customers complies fully with contract and tariff provisions which are specified in this rule. Failure to secure compliance constitutes a violation by the AOS company.

(a) The AOS company shall withhold on a location-by-location basis the payment of compensation, including commissions, from a call aggregator, if the AOS company reasonably believes that the call aggregator is blocking access to interexchange carriers in violation of these rules.

(b) Violations of tariff, contract or other statements of conditions of service, in commission rules pertaining to AOS company service, or of other requirements contained in these rules, including interexchange carrier access requirements, will subject an aggregator to termination of alternate operator services if the deficiency is not corrected within five days from date of written notification to the aggregator. WAC 480-120-081 (4)(g) shall not apply to such terminations.

(c) AOS company actions in furtherance of this rule may be reviewed by the commission in a formal complaint under WAC 480-09-420 through an adjudicative or a brief adjudicative proceeding under the provisions of chapters 34.05 RCW and 480-09 WAC.

(d) An AOS company shall refuse to provide operator services to a call aggregator who the commission has found to have knowingly and repeatedly violated commission rules regarding the provision of alternate operator service until the commission has found that the call aggregator will comply with relevant law and rule.

(3) For purposes of this section ((the)), "consumer" means the party ((billed for the completion of)) initiating and/or paying for an ((interstate/intrastate)) interexchange or local call. "Customer" means the call aggregator, i.e., the hotel, motel, hospital, prison, campus, ((customer-owned)) pay telephone, etc., contracting with an AOS for service.

((++)) (4) An alternate operator services company shall require, as a part of ((the)) any contract with its customer and as a term and condition of service stated in its tariff, that the customer:

(a) Post on the telephone instrument in plain view of anyone using the telephone, in eight point or larger Sty-mie Bold type, the information provided in the following notice:

SERVICE ON THIS INSTRUMENT MAY BE PROVIDED AT RATES THAT ARE HIGHER THAN NORMAL. YOU HAVE THE RIGHT TO CONTACT THE OPERATOR FOR INFORMATION REGARDING CHARGES BEFORE PLACING YOUR CALL. INSTRUCTIONS FOR ((DIALING THROUGH THE LOCAL TELEPHONE COMPANY)) REACHING YOUR PREFERRED CARRIER ARE ALSO AVAILABLE FROM THE OPERATOR.

(b) Post and maintain in legible condition on or near the telephone:

(i) The name, address, and without-charge number of the alternate operator services company, as registered with the commission;

(ii) Dialing directions so that a consumer may reach the AOS operator ((so as)) without charge to receive specific rate information; and

(iii) Dialing d Directions to allow the consumer to ((dial through the local telephone company)) reach the

consumer's preferred carrier and to make it clear that the consumer has access to the other providers

(c) Provide access from every instrument to 1-800 services and all available interexchange carriers; and

(d) Shall post, on or near the instrument, a notice stating whether a location surcharge or any other fee is imposed for telecommunications access through the instrument, the amount of any fee or location surcharge, and the circumstances when it will apply.

(e) Posting under these rules shall begin no later than October 1, 1991, and shall be completed no later than January 31, 1992. In the interim, posting in compliance with the immediate prior posting provisions of WAC 480-120-141 is required and shall constitute compliance with this rule.

((+)) (5) The alternate operator services company shall:

(a) Identify the AOS company providing the service ((or its authorized billing agent)) audibly and distinctly at the beginning of every call, and again before the call is connected, including ((those handled automatically, and)) an announcement to the called party on calls placed collect.

(i) For purposes of this rule the beginning of the call is no later than immediately following the prompt to enter billing information on automated calls and, on live and automated operator calls, when the call is initially routed to the operator.

(ii) The message used by the AOS company shall state the name of the company as registered with the Commission whenever referring to the AOS company. Terms such as "company", "communications", "incorporated", "of the northwest", etc., when not necessary to clear consumer identification of the entity providing service may be omitted when authorized by letter from the secretary of the commission.

(iii) The consumer shall be permitted to terminate telephone call at no charge before the call is connected.

(iv) The AOS company shall immediately, upon request, and at no charge to the consumer, disclose to the consumer:

(A) a quote of the rates or charges for the call, including any surcharge;

(B) the method by which the rates or charges will be collected; and

(C) the methods by which complaints about the rates, charges, or collection practices will be resolved.

(b) Provide to the local exchange company such information as may be necessary for billing purposes, as well as an address and toll free telephone number for consumer inquiries.

(c) Reoriginate calls to another carrier upon request and without charge, when equipment is in place which will accomplish reorigination with screening and allow billing from the point of origin of the call. If reorigination is not available, the AOS company shall give dialing instructions for the consumer's preferred carrier.

(d) Assure that a minimum of ninety percent of all calls shall be answered by the operator within ten seconds from the time the call reaches the carrier's switch.

(e) Maintain adequate facilities in all locations so the overall blockage rate for lack of facilities, including as pertinent the facilities for access to consumers' preferred interexchange carriers, does not exceed one percent in the time consistent busy hour. Should excessive blockage occur, it shall be the responsibility of the AOS company to determine what caused the blockage and take immediate steps to correct the problem. This subsection does not apply to blockage during unusually heaving traffic, such as national emergency, local disaster, holidays, etc.

((3)) (6) The alternate operator services company shall assure that ((consumers)) persons are not billed for calls which are not completed. For billing purposes, calls shall be itemized, identified, and rated from the point of origination to the point of termination. No call shall be transferred to another carrier by an AOS which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.

((4)) (7) For purposes of emergency calls, every alternate operator services company shall have the following capabilities:

(a) Automatic identification at the operator's console of the location from which the call is being made;

(b) Automatic identification at the operator's console of the correct telephone numbers of emergency service providers that serve the telephone location, including but not limited to, police, fire, ambulance, and poison control;

(c) Automatic ability at the operator's console of dialing the appropriate emergency service with a single keystroke;

(d) Ability of the operator to stay on the line with the emergency call until the emergency service is dispatched.

No charge shall be imposed on the caller ((from)) by the telephone company or the alternate operator services company for the emergency call.

If the alternate operator services company does not possess these capabilities, all calls in which the ((caller)) consumer dials zero (0) and no other digits within five seconds shall be routed directly to the local exchange company operator, or to an entity fully capable of complying with these requirements. AOS companies lacking sufficient facilities to provide such routing shall cease operations until such time as the requirements of this section are met.

((5) Consumer) (8) Complaints and disputes shall be treated in accordance with WAC 480-120-101, Complaints and disputes.

((6)) (9) Charges billed to a credit card company (e.g., American Express or Visa) need not conform to the call detail requirements of this section. However, the AOS shall provide ((consumers with)) specific call detail in accordance with WAC 480-120-106 upon request.

(10) "Public convenience and advantage"; surcharges; variable rates.

(a) For services, public convenience and advantage means at a minimum that the provider of alternate operator services offers operator services which equal or exceed the industry standards in availability, technical quality and response time and which equal or exceed industry standards in variety or which are particularly adapted to meet unique needs of a market segment. In

the absence of other persuasive evidence, a demonstration that operator service equals or exceeds that provided by U S WEST Communications for intraLATA services or AT&T for interLATA services will be accepted as demonstrating public convenience and advantage.

(b) Charges no greater than the prevailing operator service charges in the relevant market - intraLATA or interLATA - will be accepted as demonstrating that charges are for the public convenience and advantage. In the absence of persuasive contrary evidence, the charges for U S WEST for intraLATA service and AT&T for interLATA service will be accepted as the prevailing charges.

(c) Surcharges; variable rates. No location surcharge may be added to without-charge calls nor to a charge for directory assistance. No tariff may provide for rate levels which vary at the option of a call aggregator, provided, that an aggregator may waive application of the surcharge to calls from its instruments, and provided further, that an AOS company may establish a tariff rate for high-cost locations if the conditions for application of the rate confine it to locations with substantially higher than average operating costs.

(11) Rates to the consumer for the provision of alternate operator services, including directory assistance, shall not exceed the prevailing rates for such services in the relevant market - intraLATA or interLATA - unless need for the excess to produce rates which are fair, just and reasonable is demonstrated to the satisfaction of the commission. In the absence of persuasive contrary evidence, rate levels of U S WEST for intraLATA service and AT&T for interLATA service will be considered the prevailing rate.

(12) Fraud prevention.

(a) A company providing interexchange telecommunications service may not bill a call aggregator for charges billed to a line for calls which originated from that line through the use of 10XXX+0; 10XXX+01; 95-XXXX; or 1-800 access codes, or when the call originating from that line otherwise reached an operator position, if the originating line subscribed to outgoing call screening and the call was placed after the effective date of the outgoing call screening order.

(b) A company providing interexchange telecommunications service may not bill to a call aggregator any charges for collect or third number billed calls, if the line serving to which the call was billed was subscribed to incoming call screening and the call was placed after the effective date of the call screening service order.

(c) Any calls billed through the local exchange carrier in violation of subparagraphs (a) or (b) above must be removed from the call aggregator's bill by the local exchange company upon identification. If investigation by the local exchange company determines that the pertinent call screening was operational when the call was made, the local exchange company may return the charges for the call to the interexchange telecommunications company as not billable.

(d) Any call billed directly by an alternate operator service company, or through a billing method other than the local exchange company, which is billed in violation of subparagraphs (a) and (b), above, must be removed

from the call aggregator's bill. The telecommunications company providing the service may request an investigation by the local exchange company. If the local exchange company, after investigation, determines that call screening which would have protected the call, which is offered by the LEC and was subscribed to by the call aggregator, was not operational at the time the call was placed, the AOS company shall bill the LEC for the call.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 480-120-143 LOCAL SERVICE TO AGGREGATORS. The local exchange company's tariff shall provide that every aggregator offering local calls on a per-call basis must provide without-charge access to 911, where available, and to the local exchange company operator.

WSR 91-13-079

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 90-62—Filed June 18, 1991, 1:40 p.m., effective September 18, 1991]

Date of Adoption: June 18, 1991.

Purpose: Regulate the discharge of toxic pollutants from new pollution sources and certain existing sources in order to prevent air pollution, reduce emissions to the extent reasonably possible and maintain such levels of air quality as will protect human health and safety.

Statutory Authority for Adoption: RCW 70.94.331.

Pursuant to notice filed as WSR 91-01-083 on December 18, 1990.

Changes Other than Editing from Proposed to Adopted Version: WAC 173-460-010 Purpose.

Subsection (1) was revised to clarify that ecology will use the lists in WAC 173-460-150 and 173-460-160 to define toxic air pollutant. This change was made to insure consistency with the definition of toxic air pollutant.

WAC 173-460-020 Definition.

"Acceptable source impact level (ASIL)" was revised to clarify that the rule does not apply to restricted or controlled areas. This change was made in response to public comment requesting clarification.

"Reasonably available control technology for toxics (T-RACT)" was added. This technology category was added for two reasons. Changes to the Washington Clean Air Act restrict applicability of new source review and T-BACT to pollutant increases. Public comments recommended that T-BACT apply only to sources increasing toxic pollutants.

WAC 173-460-030 Requirements, applicability, and exemptions.

Subsection (1) was deleted. This change was made in response to comment that it was duplicative and inconsistent with requirements in WAC 173-460-040.

Subsection (3)(a) relabeled subsection (2)(a) and was modified by deleting all text after the word "devices." This change was made in response to public comment that the section was confusing and incorrect grammar.

Subsection (3)(e) was added to exempt "process vents subject to 40 CFR Parts 264 and 265, Subpart AA." This was added in response to comment that regulation of these vents is duplicative with federal rule.

WAC 173-460-040 New source review.

Subsection (1), the explanation of notice of construction in subsection (1)(a) was moved to this section for clarity.

Subsection (1)(a), this subsection was rewritten to clarify. The phrase "unless conditions in subsections (c) and (d) of this subsection apply to the new source" was deleted and a second sentence used to explain when notification and notice of construction are not required. The term "application" was added to clarify that all new toxic sources must provide information to the authority. This change is made because of change of applicability of new source review to toxic increases, only. An application will be used to evaluate pollutant changes as increases or decreases.

Subsection (c) was deleted because the notice of construction requirements were consolidated in subsection (1)(a). A new requirement becomes subsection (c). This limits new source review of modifications and "the air contaminants whose emissions may increase as a result of the modification." This change is made for consistency with change made to the Washington Clean Air Act and because of public comment requesting that new source review be limited to toxic pollutant increases.

Subsection (d) was deleted and rewritten as subsection (2)(a)(b)(c). Subsection (2) is the same as subsection (d). Subsection (2)(a) is the same as subsection (d)(i). Subsection (d)(ii) was relabeled subsection (2)(b) and changed by deleting the phrase "does not increase toxic air pollutant emissions significantly." Change was made based on public comment that this phrase was ambiguous in how it related to the small quantity emission tables. Subsection (d)(iii) was relabeled subsection (2)(c) and simplified to relate all minor material changes to the small quantity emission tables. The requirement for demonstrating no overall toxicity increase was dropped. This was changed because of public comment that this section was ambiguous. Subsection (d)(iv) was dropped because it was duplicative with the nonprocess fugitive emission exemption in WAC 173-460-030.

Subsection (2) is relabeled subsection (3).

Subsection (3)(a) is relabeled subsection (4)(a) and changed to add "and authority" after "state." Change is made to clarify that sources must be in accord with applicable local authority rules. Change is made in response to public comment recommending this addition.

Subsection (3)(b) is relabeled subsection (4)(b) and modified by adding "for the toxic air pollutants which are likely to increase." Change is made for consistency with the Washington Clean Air Act and because of