

EXHIBIT 5

postmark is the date of submission for documents you send by mail. For documents you transmit by other means, the date we receive the document is the date of submission.

NEW SECTION

WAC 296-27-21045 What are the requirements related to movable equipment? (1) For serious, repeat, and willful violations involving movable equipment, you must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment if the violation has not already been abated. You must do this for hand-held equipment immediately after you receive the citation, and you must do this for other equipment before moving it within the worksite or between worksites.

(2) You must use a warning tag that properly warns employees about the nature of the violation involving the equipment and that tells them where the citation is posted. Nonmandatory Appendix A contains a sample tag that you may use to meet this requirement.

(3) For the construction industry, a tag designed and used in accordance with WAC 296-155-300(8) and 296-24-14011 meets the requirements of this section when the information required by subsection (2) of this section is included on the tag.

(4) You must make sure that the tag or copy of the citation attached to movable equipment is not altered, defaced, or covered by other material.

(5) You must make sure that the tag or copy of the citation attached to movable equipment remains attached until:

- You have abated the violation and you have submitted all abatement verification documents required by this regulation to us;
- You have permanently removed the cited equipment from service;
- You no longer have control over the cited equipment; or
- A final order vacates the violation.

NEW SECTION

WAC 296-27-21050 Appendix A (Nonmandatory). What can a warning tag for movable equipment involved in serious, repeat, or willful violations look like? You may use a warning tag similar to the sample shown below. You must make sure the warning tag meets the requirements of and is used in accordance with the requirements of WAC 296-27-21045.

WARNING:

**EQUIPMENT HAZARD
CITED BY L & I**

EQUIPMENT CITED:

HAZARD CITED:

**FOR DETAILED INFORMATION
SEE L & I CITATION POSTED AT:**

BACKGROUND COLOR—ORANGE
MESSAGE COLOR—BLACK

**WSR 99-02-020
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[General Order No. R-452, Docket No. UT-970301—Filed December 29, 1998, 3:42 p.m.]

In the matter of amending WAC 480-120-021, 480-120-138 and 480-120-141; and repealing WAC 480-120-137, 480-120-142 and 480-120-143, relating to pay phone and operator services providers.

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission (commission or WUTC) takes this action under Notice No. WSR 98-17-068, filed with the code reviser on August 17, 1998. This commission brings this proceeding pursuant to RCW 80.04.160, 80.36.520, and 80.01.040.

STATEMENT OF COMPLIANCE: This proceeding complies 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 34.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

DATE OF ADOPTION: The commission adopted this rule on October 28, 1998.

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CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: The proposal requires pay phone service providers and operator service providers to provide a consistent level of service and to meet intrastate standards that are consistent with federal requirements. The rules will also preserve, to the extent possible, continued consumer protections in a largely-deregulated environment by measures including adequate disclosure to consumers at the pay phone itself, at the time of a call. The rules recognize federal mandates lifting economic regulation from pay telephones and operator services. Rule amendments delete provisions that are no longer applicable or are unduly burdensome, maintain a minimum level of service, provide a means to obtain limitations on service when needed for public purposes, impose consumer protections through disclosure at the pay phone, and inform consumers of their rights as pay phone users. The rules also reduce the level of bureaucratic involvement in this business to the minimum consistent with adequate consumer protection. Rules revisions are designed to meet standards set out in Executive Order 97-02.

REFERENCE TO AFFECTED RULES: This rule repeals, amends, or suspends the following sections of the Washington Administrative Code:

Amends WAC 480-120-021 Glossary, 480-120-138 Pay telephones—Local and intrastate and 480-120-141 Alternate operator services; and repeals WAC 480-120-137 Customer-owned pay telephones—Interstate, 480-120-142 Alternate operator services—Enforcement, and 480-120-143 Local service to aggregators.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on March 27, 1998, at WSR 97-08-036.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT: The statement advised interested persons that the commission was considering entering a rule making relating to pay telephones and alternate operator service providers. The commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), by sending notice to all registered telecommunications companies, and by providing notice to the commission's list of telecommunications attorneys.

Pursuant to the notice, the commission held a workshop on May 5, 1997. The commission on July 3, 1997, wrote interested persons, summarizing the workshop and requesting comments. On September 12, 1997, the commission staff circulated a draft of possible rule changes, based on the discussions and comments, to interested persons, requesting further comments. Commission staff received comments, and prepared and sent a second draft of possible rules to interested persons on April 28, 1998, and requested comments on the possible changes.

Staff convened a meeting of interested persons on June 2, 1998, to discuss the economic impact of this rule making. Representatives from the Northwest Payphone Association, local and long distance telephone companies, and public counsel were invited to attend. Commission staff also circulated a questionnaire to gain more information about the cost impacts of the rule. Five companies responded to the ques-

tionnaire. This information and their participation in the discussion led to the results summarized in the small business economic impact statement.

NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on August 17, 1998, at WSR 98-17-068. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 98-17-068 at 9:30 a.m., Wednesday, October 28, 1998, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice also provided interested persons the opportunity to submit written comments to the commission.

COMMENTERS (WRITTEN COMMENTS): The commission received written comments from Fullers of Chehalis and Centralia, Jeffrey D. Glick of Seattle, GTE Northwest Inc. (GTE-NW), McDonalds in Vancouver, the Northwest Payphone Association (NWPA), William Paine of Maple Valley, the Public Counsel section of the Washington Attorney General (public counsel), the City of Seattle, Sentury Market in Goldendale, United Telephone Company of the Northwest (Sprint), Teltrust Communications Services, Inc. (Teltrust), US WEST Communications, Inc. (US WEST), the Washington Independent Telephone Association (WITA), and Washington State Representative Philip E. Dyer.

Based on the comments received, commission staff suggested revised language without changing the intent or ultimate effect of the proposed rule.

RULE-MAKING HEARING: The rule changes were considered for adoption, pursuant to the notice, at the commission's regularly scheduled open public meeting on October 28, 1998, before Chairwoman Anne Levinson and Commissioner Richard Hemstad. The commission heard oral comments from Suzanne Stillwell, representing commission staff; Brooks Harlow, representing the NWPA; Matt Steuerwalt, representing public counsel; and Theresa Jensen, representing US WEST. Oral commenters repeated concerns that were stated in their previous written comments.

SUGGESTIONS FOR CHANGE THAT ARE REJECTED: Although all participants worked diligently to achieve consensus, the participants and commission staff did not reach complete agreement on some topics. A summary of those areas follows.

1. Jurisdictional issues. Several commenters assert that the commission does not have jurisdiction over pay phones at all because, they argue, the Telecommunications Act of 1996 removed all regulation from the state. Commenters believe that the proposed rules are inconsistent with federal law and regulation and that the incumbent local exchange companies (LECs) will be disadvantaged in the competitive market. The commission rejects these arguments. While FCC rules ended state regulation of the local coin rate, it left to the states the authority to regulate other aspects of the pay phone industry, especially in the area of consumer protection. The rules are consistent with the intent of Congress and the FCC, and are competitively neutral as it relates to incumbent LECs.

2. Disclosure at the pay phone. Commenters argued that the disclosure that the rules require from both the pay phone service provider and operator service provider is unnecessary and costly, that too many numbers must be posted, and that

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technical limitations may affect their ability to offer on-demand verbal rate quotes. The commission strongly believes that adequate disclosure at the pay phone site is essential to promote effective competition and to inform and protect users appropriately of pay phone services. The amount of posting will be nearly the same as prior rule language (adding one telephone number while removing other language). Adding the commission's compliance number is a necessary consumer protection measure. The commission will consider requests for waivers of the rules pursuant to WAC 480-120-141 (2)(b) if technical limitations reasonably prevent offering on-demand verbal rate quotes on request.

3. Compensation for incoming calls. Commenters argued that pay phone providers should be allowed to charge customers for calls made to pay phones (incoming calls), and that the rules' prevention of such charges violates federal law. The commission rejects this argument. Federal statute and FCC orders are at most ambiguous about the existence of an obligation to compensate incoming calls, and the commission finds no legal or policy reason to allow such charges.

4. Restrictions on call length. Some pay phone providers (PSPs) and/or location providers want the authority to restrict the length of local calls. These PSPs argue that all customers should have reasonable access to a phone. The rules require that a basic local call be a minimum of fifteen minutes, which will allow persons ample time to conduct business, wait on "hold," or deal with exceptional circumstances. Public counsel urges that there be no restrictions on length of local calls, except to meet needs due to illicit activity. The rule does not require the restriction of calls to fifteen minutes, but offers a balance between customer turnover and individual callers' needs. The requirement does not affect the rate for a local call, which pursuant to federal requirements is not regulated.

Other specific comments that the commission rejected in adopting the rules include the following:

WAC 480-120-138 Pay phone service providers (PSPs)

WAC 480-120-138 (3)(d), required access to telecommunications relay service calls for the hearing impaired. Public counsel urged retaining the broader language of the existing rule, WAC 480-120-138(8), to require that "...installation complies with all applicable federal, state, and local laws and regulations concerning the use of telephones by disabled persons." Although the commission does not support other violations of law, and if it learns of such violations will report them appropriately, it has no jurisdiction to act upon such violations. Other agencies have the responsibility for ensuring compliance with other federal, state and local laws.

WAC 480-120-138 (4)(a), posting of rates. The rule requires that the rate and any call length limitations be clearly and legibly posted on or near the front of the pay phone. Public counsel asks that all placards bear the rate in thirty-point or larger type and contrasting color. Contrasting colors can be an effective means of highlighting the local call charge, as well as larger type, and either one is reasonable.

WAC 480-120-138 (4)(c), notice that no change is provided. GTE argues that it is a commonly known fact that pay phones do not make change and that it needlessly uses space on an already overloaded placard. The commission rejects the argument; virtually all contemporary-technology coin-

operated devices offer change, and there is no technological reason why the telephone instrument cannot be provisioned to do so. GTE can avoid the disclosure requirement by providing instruments that make change.

WAC 480-120-138 (4)(g) and (k), posting requirements. Subsection (4)(g) requires the PSP to post the name, address, and without-charge telephone number of all presubscribed operator service providers serving the instrument, and that the placard be updated within thirty days after a change. GTE argues that the thirty-day requirement will be burdensome in parts of its rural territory. In some areas, the company may only maintain telephones on an "as needed" basis. As to WAC 480-120-138 (4)(k), requiring updated placarding within sixty days after the effective date of a rule change, GTE asks that it be amended to permit change at the time of the next regularly scheduled visit to the pay phone. The commission rejects the suggestion that the time periods be extended. The trade-offs here are between consumer information and PSP convenience and expense. From the time of the change until the correct information is posted, consumers will not have on-site access to accurate information. The commission recognizes that an "immediate change" requirement would impose hardships on PSPs and sizeable expense. The time periods set in the rule appropriately balance the affected interests. PSP information shows that the time periods will allow changes to be made during "routine" site visits in the vast majority of instances. Thirty days is appropriate to change out placards when there has been a change in a pre-subscribed operator service provider, and sixty days is a reasonable time period to change out placards as a result of this or comparable rule changes.

WAC 480-120-138 (4)(j), commission toll-free number.

This subsection requires posting, in contrasting colors, the commission's consumer complaint compliance number, to include a statement that, "If you have a complaint about service from this pay phone and are unable to resolve it with the pay phone owner/operator, please call the WUTC at 1-888-333-WUTC (9882)." NWP, US WEST, and GTE object to printing a Washington-specific placard that puts another number in very limited space. They contend that the public may become confused and fail to follow instructions for routine calls. They fear that this will lead to a costly level of misdirected complaints that should be managed by the PSP. The commission rejects this view. The commission compliance number is necessary to support its compliance efforts and to get information from consumers about pay phone problems.

Public counsel suggests retaining the existing rule language of WAC 480-120-138(14) that requires credit-card operated phones to identify all credit cards accepted. The commission believes that in today's market this is not critical for consumer protection, and the marketplace will address this issue.

WAC 480-120-138 (5)(c), one line per instrument. This subsection requires that a PSP obtain a separate pay phone access line (PAL) for each pay phone instrument. Pay phone providers oppose this, suggesting that it may stifle innovation and prevent PSPs from obtaining the most efficient and cost-effective service. The problem addressed by this rule is assuming that the pay phone is available for service - if a single line serves more than one instrument, the line cannot be

available for both instruments at the same time. The rule was modified in response to this objection and now specifically provides for commission waiver if a company demonstrates that technology accomplishes the same result as the rule's requirement.

WAC 480-120-138 (5)(d) and (e), extension, cordless or tabletop telephones. US WEST argues that the WUTC should not regulate the operational characteristics of extension telephones, cordless, or tabletop telephones because such phones, as customer provided equipment (CPE), are deregulated. We reject this argument. The rule does not regulate CPE. It does not prohibit such equipment, set a rental rate for such equipment, or regulate the dimensions, color, form, or style of the equipment. The rule regulates the services provided to the customer, a matter that remains within the commission's jurisdiction.

WAC 480-120-138 (5)(f), keypad restriction. The rule requires that a pay phone may not restrict the number of digits or letters that may be dialed. US WEST argues that the restriction is inconsistent with marketplace demands, and that whether or not to apply keypad restriction should be a decision between the PSP and location providers. The commission rejects US WEST's arguments. In today's environment, consumers need keypad access after dialing the number to enter billing codes, to retrieve voice messages, use pagers, access bank accounts and credit card accounts, call offices that use automated menus, etc. Keypad restrictions often mean that the cost of a call is wasted and the consumer has no means to conduct her or his activities. Keypad restriction is of little value in preventing professional crime, because portable tone generators are readily available to persons who know they will need them. If location-specific problems call for keypad restrictions, waiver is available under subsection (6) of the rule.

WAC 480-120-138 (5)(g), coin and credit operation. Pay phones may provide credit-only service, or coin and credit service. US WEST again states that it is inconsistent with marketplace demands, and should be a decision between the PSP and location providers to determine type of restrictions. A company may apply for waiver of the rules if necessary.

WAC 480-120-138(6), authorizing restrictions. This provision allows the commission to direct limitations on pay phone service upon request of local governing jurisdictions to support their efforts to prevent or limit criminal or illicit activities. Restrictions may include, but are not limited to, blocking of incoming calls, limiting touch tone capabilities, and imposing coin restriction during certain hours. US WEST argues that this is beyond the commission's jurisdiction and inconsistent with federal law; it argues that PSPs will implement such restrictions appropriately and willingly at the request of local communities, property owners, neighborhood groups, or others at the discretion of the company. The commission rejects the suggestion that such restrictions must be available without commission oversight. The commission does have the jurisdiction and the authority to ensure consumer protection and the minimum service and quality standards provided from pay phones. While the commission should not be an impediment to effective local police and

safety regulation, interests of consumers must be a factor in the process.

WAC 480-120-138(7), telephone directories. The PAL provider must furnish without charge one current directory each year and the PSP must ensure that a current directory is available at every pay phone. GTE argues that this is costly and burdensome, and suggested that the PSP need only make "a reasonable effort" to make a current directory available at every pay phone location. We disagree. Providing a directory is a part of pay phone service. Consumers should not be forced to use directory assistance for numbers that are readily available in a local directory.

WAC 480-120-138(8), correcting malfunctions and rule violations. The rule imposes a five-day limit for correcting reported malfunctions or rule violations. US WEST argues that "Malfunction" aspect should be removed because it is beyond the WUTC's jurisdiction since pay phones are deregulated. As noted repeatedly in this order, the commission disagrees sharply with US WEST's limited view of our jurisdiction. Public counsel suggests retaining provisions of the existing WAC 480-120-138(18) that make a LEC responsible to ensure that its PSP customers comply with rules regarding the use of its PAL line. We reject this suggestion; in today's competitive marketplace it is inappropriate to require the LEC to police the activities of a competitor. Each company is independently responsible for compliance with WUTC rules.

WAC 480-120-141 Operator service providers (OSPs)

WAC 480-120-141 (2)(a), posting - rates. Public counsel asks the commission to retain the language from the prior rule that "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..." The commission rejects the request. The adopted disclosures provide needed notice, especially coupled with the opportunity to receive an on-demand verbal rate quote.

GTE, NWP, US WEST expressed the same concerns discussed above in WAC 480-120-138(4) on disclosure requirements for pay phone service providers. The commission notes that disclosure is reasonably required for consumer protection, and resolves these concerns in the same way.

WAC 480-120-141 (2)(b), verbal disclosure of rates. Before an operator-assisted call from an aggregator location may be connected by a presubscribed OSP, the OSP must verbally advise the caller how to receive a rate quote, such as by pressing a specific key or keys, but no more than two keys, or by staying on the line. The rate quoted for the call must include any applicable surcharge, and charges must not exceed the quote.

Teltrust argues that the proposal is premature in light of the FCC's reconsideration of the parallel federal rule, which is subject to change. It argues that the rule is burdensome and expensive and that it threatens to harm OSPs as well as consumers by leading to rate increases. GTE states that it does not have the technology to comply, but that it should be able to do so by late 1999. The NWP does not object to the verbal requirement as long as it is consistent with federal requirements both in substance and in the timing of imple-

mentation. US WEST argues that the WUTC should postpone adoption of rule language concerning this issue until the FCC adopts its final rule, stating that the needed technology is not currently available for US WEST, and will take about fifteen months to implement once a final decision is made to use it. US WEST also argues that the rule generates costs and expenses to the company that they do not face today. Public counsel argues that provisions of existing rules, WAC 480-120-141 (10)(b) and (11) containing limits on OSP rates should be retained.

The commission adopts the FCC's verbal disclosure requirement on an intrastate basis. Staff recognizes that the FCC granted limited waivers and extensions of time to come into compliance to several specific petitioners for automated calls, collect call and inmate services (October 31, 1998, and December 31, 1998, for collect call and inmate services, respectively). Further, the FCC permitted OSPs that use store-and-forward technology, until October 1999, to come into compliance with its rules. The federal rule is stayed only as it applies to interstate intraLATA operator services until sixty days after release of the FCC's reconsideration order.

The verbal rate disclosure option is necessary to better inform consumers, fosters a more competitive environment, and it serves the public interest. Petitioners to the FCC rule have indicated they can use live operators for rate quotes during the interim period. Staff's intent is that the WUTC rules be as consistent with the FCC as local conditions permit. If there are significant changes to the FCC rule resulting from the FCC's review and resulting order, the commission will do an expedited rule making at that time to consider changes needed for consistency. Waivers will be considered during the interim period, consistent with the FCC approach.

WAC 480-120-141 (6)(b), operational capabilities - adequate facilities. This rule requires the OSP to determine cause of excessive blockage and take steps to correct the problem. US WEST argues this is not enforceable, stating that the responsible party is the Interexchange Carrier (IXC), since the IXC is provisioning trunking. The commission believes that the OSP needs to pursue any service problem directly with the IXC or other responsible party to resolve a blocking problem.

WAC 480-120-141 (6)(c), operator service standards. US WEST asks the commission to reject this language as ambiguous and not measurable. The commission believes that the language as stated is a reasonable public expectation and that it is stated with sufficient clarity.

WAC 480-120-141 (6)(d), operational capabilities - reorigination. The rule requires an OSP to reoriginate calls to another carrier upon request and without charge when equipment that will accomplish reorigination with screening and allow billing from the point of origin of the call, is in place. If reorigination is not available, the OSP must give dialing instructions for the consumer's preferred carrier. US WEST asks the commission to eliminate this provision because its operators do not have dialing instructions for customers who wish to reoriginate a call to another carrier. Customers are transferred to directory assistance to learn their preferred carrier's access number. The company argues that OSPs should not have to incur the expense of increased call handling time. The commission notes that this is not new rule language and

that it requires no new technology. The required service is appropriate and should continue to be required.

WAC 480-120-141(9), enforcement. Public counsel asks the WUTC to retain language from WAC 480-120-142, which includes specific RCWs and WACs detailing minimum service levels. The commission rejects the proposal because revised rule incorporates needed references.

COMMISSION ACTION: After considering all of the information regarding this proposal, the commission repealed the three rules proposed for repeal and adopted the proposed rule amendments, with the changes described and discussed in this order. Appendix A of this order sets out the rule as adopted.

CHANGES FROM PROPOSAL: The commission adopted the proposal with the following changes from the text noticed at WSR 98-17-068. Note that the changes described below are in addition to nonsubstantive grammatical, editorial, and minor clarifying changes.

WAC 480-120-021 Glossary

Pay phone services definition was changed to "provision of pay phone equipment to the public for placement of local exchange, interexchange, or operator service calls." This amendment was offered by the NWPA. We adopt it for the reasons advocated in its support.

WAC 480-120-138 Pay phone service providers (PSPs)

WAC 480-120-138 (4)(b) is changed to state that "notice must be posted that directory assistance charges may apply, and to ask the operator for rates," rather than the proposed requirement to state the rate. Public counsel asks that the commission retain a rate cap at dominant carrier's rates. The FCC requirement appears to be clear that PSPs, if charged for directory assistance, may pass those costs on to the consumer/caller. The adopted language is consistent with the intent of the rule and the need for appropriate disclosure from pay phones.

WAC 480-120-138 (5)(h), one way call restriction.

Many commenters want the flexibility to deal on their own with the question of whether or not to ban incoming calls. They argue that pay phone owners and location providers should be allowed to restrict phones against incoming calls whenever they choose. The commission believes that, generally, two-way service should be available from pay phones. However, the commission proposed exceptions to this policy to meet concerns that were expressed. Present exceptions allowing restricting incoming calls in libraries and hospitals, where quiet is necessary for the operation of the institution, would continue. The commission proposed a new exception, inside the building of a private business, where the pay phone provider and the location owner may decide whether to restrict against incoming calls. Phones located outside such private business locations, and in or on premises where people have access to public transportation such as airports, bus and train stations, must provide two-way service unless the commission grants a waiver. Adopted language addresses concerns heard in the comments, and it is consistent with the intent of the rule and appropriate consumer protection.

WAC 480-120-138(6) is revised to remove repetitive and unnecessary language, to correctly identify the appropriate subsection for requesting a waiver, and to shorten the

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comment period from thirty to twenty days when there has been a request to restrict a pay phone, as the City of Seattle suggests. It is consistent with the intent of the rule and with appropriate consumer protection.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the commission determined that WAC 480-120-021, 480-120-138, and 480-120-141 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, and WAC 480-120-137, 480-120-142, and 480-120-143 should be repealed, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 3, repealed 3; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 3, repealed 3.

Number of Sections Adopted Using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

ORDER

THE COMMISSION ORDERS:

1. WAC 480-120-021, 480-120-138, and 480-120-141 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, and WAC 480-120-137, 480-120-142, and 480-120-143 are repealed, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

2. This order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

3. The commission adopts the commission staff memoranda, presented when the commission considered filing a preproposal statement of inquiry, when it considered filing the formal notice of proposed rule making, and when it considered adoption of this proposal in conjunction with the text of this order, as its concise explanatory statement of the reasons for adoption of the proposed changes, as required by RCW 34.05.025.

DATED at Olympia, Washington, this 28th day of December 1998.

Washington Utilities and Transportation Commission

Anne Levinson, Chair

Richard Hemstad, Commissioner

William R. Gillis, Commissioner

APPENDIX "A"

AMENDATORY SECTION (Amending Order R-384, Docket No. UT-921192, filed 2/26/93, effective 3/29/93)

WAC 480-120-021 Glossary. Access line - a circuit between a subscriber's point of demarcation and a serving switching center. Access code - sequence of numbers that, when dialed, connect the caller to the provider of operator telecommunication services associated with that sequence.

Aggregator - is referenced in these rules as a call aggregator, defined below.

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 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: Automatic completion with billing to the telephone from which the call originated; or completion through an access code used by the consumer with billing to an account previously established by the consumer with the carrier)) is referenced in these rules as an operator service provider (OSP), defined below.

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.

Automatic location identification/data management system (ALI/DMS) - ALI/DMS is a feature that forwards to the public safety answering point (PSAP) a caller's telephone number, the name and service address associated with the telephone number, and supplementary information as defined in the DMS for automatic display at the PSAP. The DMS is a combination of manual procedures and computer programs used to create, store, manipulate, and update data required to provide selective routing, ALI, emergency service numbers, and other information associated with the calling party's telephone number.

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.

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Call aggregator - ((a)) any corporation, company, partnership, or person, who, in the ordinary course of its operations, makes telephones available ((for intrastate service)) to the public or to users of its premises for telephone calls using a provider of operator services, including but not limited to hotels, motels, hospitals, campuses, and pay ((telephones)) phones (see also pay phone service provider).

Centrex - a telecommunications service providing a subscriber with direct inward dialing to telephone extensions and direct outward dialing from them.

Central office - a 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.

Consumer - user not classified as a subscriber.

Customer premises equipment (CPE) - telecommunications terminal equipment, including inside wire, located at a subscriber's premises on the subscriber's side of the standard network interface point of demarcation (excluding pay telephones provided by the serving local exchange company).

Emergency calling - the ability to access emergency services by dialing 911, or dialing a local number to police and/or fire where 911 is not available, without the use of a coin or the entering of charge codes. Where enhanced 911 is operational, the address displayed to the public safety answering point (PSAP) shall be that of the phone instrument if different from the public access line demarcation point and the phone number must be that of the pay phone.

Exchange - a unit established by a ((utility)) telecommunications company 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.

Foreign exchange service - a communications exchange service that uses a private line to connect a subscriber's local central office with a distant central office in a community outside the subscriber's local calling area.

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

Interoffice facilities - facilities connecting two or more telephone switching centers.

Local coin call - a connection from a pay phone within the local calling area of not less than fifteen minutes.

Location surcharge - a flat, per-call charge assessed by an ((alternate operator services company)) operator service provider (OSP) on behalf of a call aggregator/pay phone service provider 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)) aggregator/pay phone service provider.

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.

Operator service provider (OSP) - any corporation, company, partnership, or person providing a connection to intrastate or interstate long-distance or to local services from 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: Automatic completion with billing to the telephone from which the call originated; or completion through an access code used by the consumer with billing to an account previously established by the consumer with the carrier.

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.

Pay phone or pay telephone - any telephone made available to the public on either a fee-per-call basis, independent of any other commercial transaction, for the purpose of making telephone calls, whether the telephone is coin-operated or is activated by calling collect or using a calling card.

Pay phone access line, public access line, pay telephone access line, pay station service, pay phone service (PAL) - is referenced in these rules as an access line, see above.

Pay phone services - provision of pay phone equipment to the public for placement of local exchange, interexchange, or operator service calls.

Pay phone service provider (PSP) - any corporation, company, partnership, or person who owns or operates and makes pay phones available to the public.

Presubscribed provider of operator services - the provider of operator services to which the consumer is connected when a call is placed without dialing an access code.

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

Private branch exchange (PBX) - customer premises equipment installed on the subscriber's premises that functions as a switch, permitting the subscriber to receive incoming calls, to dial any other telephone on the premises, to access a tie trunk leading to another PBX or to access an outside trunk to the public switched telephone network.

Private line - a dedicated, nonswitched telecommunications channel provided between two or more points.

Public safety answering point (PSAP) - an answering location for enhanced 911 (E-911) calls originating in a given area. PSAPs are designated as a primary or secondary. Primary PSAPs receive E-911 calls directly from the public; secondary PSAPs receive E-911 calls only on a transfer or relay basis from the primary PSAP. Secondary PSAPs generally serve as centralized answering locations for a particular type of emergency call.

Reverse search of ALI/DMS data base - a query of the automatic location identification (ALI/DMS) data base initiated at the public safety answering point (PSAP) to obtain electronically the ALI data associated with a known telephone number for purposes of handling an emergency call when the searched telephone line is not connected to the PSAP.

Special circuit - an access line specially conditioned to give it characteristics suitable for handling special or unique services.

Standard network interface (SNI) - the point of interconnection between telecommunications company communications facilities and terminal equipment, protective apparatus, or wiring at a subscriber's premises. The network interface or demarcation point is located on the subscriber's side of the telecommunications company's protector, or the equivalent thereof in cases where a protector is not employed.

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.

Trunk - a single or multichannel telecommunications medium between two or more switching entities which may include a PBX.

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.

AMENDATORY SECTION (Amending Order R-422, Docket No. UT-940049, filed 9/22/94, effective 10/23/94)

WAC 480-120-138 (~~Pay telephones—Local and intrastate~~) **Pay phone service providers (PSPs)**, (~~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 intercon-~~

~~tion 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 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 charge for each directory assistance call paid by the consumer shall not exceed the prevailing per call charge 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) 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 provide access to all inter-exchange 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 which prevents fraud 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 or the 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 rendered 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 as follows. When the local exchange company becomes aware of a violation, prior to disconnection of service, it shall immediately send written notification to the subscriber outlining all deficiencies. If any deficiency is not corrected within five days from the date of written notification to the subscriber, the local exchange company shall discontinue service. Prior to effecting the disconnection of service, the local exchange company shall make two bona fide attempts to reach the subscriber by telephone to advise the subscriber of the impending disconnection. WAC 480-120-081 shall not apply to such disconnections. The local exchange company shall ensure that any costs associated with the field visits for public access lines services be recovered from the subscriber of the public access line service in question.

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. (1) General. This section sets out the standards applicable to providing pay phone service in the state of Washington. All pay phone service providers (PSPs) must comply with this and all other rules relating to pay phone services.

Every local exchange company within the state of Washington must allow pay phones to be connected to its network, and must file a tariff or price list with the commission to include the rates and conditions applicable to providing service to pay phones via its network.

The absence from these rules of specific requirements of the Americans with Disabilities Act and of other local, state or federal requirements does not excuse PSPs from compliance with those requirements.

(2) Registration and application of rules.

(a) Pay phone service providers (PSPs) operating a pay phone within the state of Washington must register by:

(i) Submitting a master business application to the master license service, department of licensing; and

(ii) Obtaining a unified business identifier (UBI) number. A PSP that already has a UBI number need not reapply.

(b) Except where pay phone services or PSPs are specifically referenced, the rules of general applicability to public service companies or telecommunications companies do not apply to pay phone services. This does not exempt pay phone service providers from rules applicable to remedies or sanctions for violations of rules applicable to PSP operations.

(3) Access. Pay phones must provide access to:

(a) Dial tone;

(b) Emergency calling;

(c) Operator;

(d) Telecommunications relay service calls for the hearing impaired.

(e) All available subscriber toll-free services; and

(f) All available interexchange carriers, including the local exchange company.

Access to services (a) through (e) of this subsection, must be provided at no charge to the calling party.

(4) Disclosure - What must be posted. The following information must be clearly and legibly posted on or near the front of the pay phone, and must not be obstructed by advertising or otherwise:

(a) The rate for local calls, including any restrictions on the length of calls. Clear and legible posting of the rate can be accomplished by using 30 point or larger type print, or contrasting color;

(b) Notice that directory assistance charges may apply, and to ask the operator for rates;

(c) Notice that the pay phone does not make change, if applicable;

(d) The emergency number (911);

(e) The name, address, phone number, and unified business identifier (UBI) number of the owner or operator;

(f) A without-charge number to obtain assistance if the pay phone malfunctions, and procedures for obtaining a refund;

(g) The name, address, and without-charge number of all prescribed operator service providers, as registered with the commission. This information must be updated within thirty days of a change in the OSP.

(h) Notice to callers that they can access other long distance carriers;

(i) The phone number including area code of the pay phone. When the pay phone is in an area that has had an area code change, that area code change must be reflected on the pay phone within thirty days of the area code conversion.

(j) In contrasting colors, the commission compliance number for consumer complaints, to include the following information: "If you have a complaint about service from this pay phone and are unable to resolve it by calling the

repair/refund number or operator, please call the commission at 1-888-333-WLTC (9882); and

(k) Placarding shall be in place within sixty days after the effective date of an applicable rule change.

(5) Operation and functionality.

(a) The pay phone, if coin operated, must return coins to the caller in the case of an incomplete call, and must be capable of receiving nickels, dimes, and quarters.

(b) Pay phone keypads must include both numbers and letters.

(c) A PSP must order a separate pay phone access line (PAL) for each pay phone installed. The commission may waive this requirement if a company demonstrates that technology accomplishes the same result as one to one ratio by means other than through a PAL, that the service provided to consumers is fully equivalent, and that all emergency calling requirements are met. This PAL must pass the appropriate screening codes to the connecting carrier to indicate that the call is originating from a pay phone.

(d) Extension telephones may be connected to a pay phone access line for the purpose of monitoring emergency use only. An extension phone must be activated only when 911 is dialed from the pay phone, and the extension phone must be equipped with a "push to talk" switch or other mechanism to prevent inadvertent interruption of the caller's conversation with the public safety answering point. The pay phone must be clearly labeled to indicate that "911 calls are monitored locally."

(e) Cordless and tabletop pay phones may be connected to the telephone network only when the bill is presented to the user before leaving the premises where the bill was incurred, unless the consumer requests that the call be alternatively billed.

(f) The pay phone may not restrict the number of digits or letters that may be dialed.

(g) Pay phones may provide credit-only service, or coin and credit service.

(h) Pay phones must provide two-way service, and no charge may be imposed by the PSP for incoming calls. Exceptions to two-way service are allowed under the following circumstances:

(i) Service provided to hospitals and libraries where a telephone ring might cause undue disturbance;

(ii) Service provided within a building on the premises of a private business establishment, in the discretion of the business owner. For purposes of this section, premises where people have access to public transportation such as airports, bus and train stations are not considered private business establishments, and

(iii) Service at locations where local governing jurisdictions or law enforcement find that incoming calls may be related to criminal or illicit activities and have obtained an order under subsection (6) of this section. Each pay phone confined to one-way service must be clearly marked on or near the front of the pay phone.

(6) Restrictions. A PSP must limit the operational capabilities of pay phones only when directed by the commission. The commission may direct such limitations upon request of local governing jurisdictions (or other governmental agencies) in their efforts to prevent or limit criminal or illicit

activities. Restrictions may include, but are not limited to, blocking of incoming calls, limiting touch tone capabilities and coin restriction during certain hours.

Requests for a commission order directing the restriction of a pay phone (or pay phones in a certain geographic area) must be made by petition to the commission for waiver of subsection (5) of this section to allow one or more specific restrictions and for an order directing restriction of the phone. The petition may be made on a form provided by the commission. The petition must include a request for the restriction signed by an agent of the local government jurisdiction in which the pay phone is located who has authority from the jurisdiction to submit the request and must state the jurisdiction's reasons for the request.

The petitioner must serve a copy of the petition on the pay phone service provider no later than the date the petition is filed with the commission. The petitioner must post a notice prominently visible at the pay phone(s) of the proposed restriction, no later than the day it is filed with the commission, and maintain it at the location until the commission acts on the petition. The notice must explain what is proposed and how to file an objection to the petition with the commission. The petition is for an administrative, and not an adjudicative, decision and will be processed administratively.

If no objection is made by any person or by commission staff within the twenty-day comment period, the commission will enter an order directing the restriction. If an objection is filed, the commission will hear the petition after notice to the objector and the petitioner.

Once restrictions are in place at the telephone, the PSP must post on or near each pay phone so limited, in legible and prominent type, a description of each limitation in effect, times when the restrictions will be in effect, and the name and without-charge number of the governmental agency that recommended the restriction.

(7) Telephone directories. The provider of the pay phone access line must furnish without charge one current telephone directory each year for each pay phone access line (PAL).

The PSP must ensure that a current directory is available at every pay phone.

(8) Malfunctions and rule violations. Malfunctions of the pay phone, or rule violations reported to the repair/refund number or the commission, must be corrected within five days.

(9) Complaints and disputes. Complaints and disputes regarding pay phone service providers shall be treated in accordance with WAC 480-120-101.

AMENDATORY SECTION (Amending Order R-430, Docket No. UT-950134, filed 4/28/95, effective 5/29/95)

WAC 480-120-141 ((Alternate operator services:))
Operator service providers (OSPs). ((All telecommunications companies providing alternate operator services (AOS), as defined in WAC 480-120-021, shall comply with this and all other rules relating to telecommunications companies not specifically waived by order of the commission.

(1) Each alternate operator services company shall maintain, revise and provide to the commission upon request 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 as follows. When the AOS becomes aware of a violation, prior to disconnection of service, it shall immediately send written notification to the aggregator outlining all deficiencies. If any deficiency is not corrected within five days from the date of written notification to the aggregator, the AOS shall terminate service. Prior to effecting the termination of service, the AOS company shall make two bona fide attempts to reach the subscriber by telephone to advise the subscriber of the impending termination. WAC 480-120-081 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 480-09-120 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.

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

(4) An alternate operator services company shall require, as a part of 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, in any language used by anyone using the telephone, in eight point or larger Stylus 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 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 without charge to receive specific rate information; and

(iii) Directions to allow the consumer to 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 audibly and distinctly at the beginning of every call, and again before the call is connected, including 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.

(iii) 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 the 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 heavy traffic, such as national emergency, local disaster, holidays, etc.

(6) The alternate operator services company shall assure that 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.

(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 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 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.

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

(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 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 US 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 those prevailing 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, \$0.25 higher per call than AT&T daytime charges for intraLATA and 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, \$0.25 higher per call than AT&T daytime charges for intraLATA and 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, 950 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.)) (1) General. This section gives information to operator service providers (OSPs) that provide operator services from pay phones and other aggregator locations within Washington. All telecommunications companies providing operator services (both live and automated) must comply with this and all other rules relating to telecommunications companies not specifically waived by order of the commission. The absence from these rules of specific requirements of the Americans with Disabilities Act and of other local, state or federal requirements does not excuse OSPs from compliance with those requirements.

(a) Each operator service provider (OSP) must maintain a current list of the customers it serves in Washington and the locations and telephone numbers where the service is provided.

(b) No OSP may provide service to a PSP that is not fully in compliance with the rules.

(c) For purposes of this section, "consumer" means the party initiating and/or paying for a call using operator services. In collect calls, both the originating party and the party on the terminating end of the call are consumers. "Customer" means the call aggregator or pay phone service provider, i.e., the hotel, motel, hospital, correctional facility/prison, or campus, contracting with an OSP for service.

(2) Disclosure.

(a) What must be posted. The following information must be clearly and legibly posted on or near the front of a pay phone, and must not be obstructed by advertising or other messages:

(i) The name, address, and without-charge number of all presubscribed operator service providers, as registered with the commission. This information must be updated within thirty days after a change of OSPs;

(ii) Notice to consumers that they can access other long distance carriers;

(iii) In contrasting colors, the commission compliance number for consumer complaints, to include the following information: "If you have a complaint about service from this pay phone and are unable to resolve it by calling the repair/refund number or operator, please call the commission at 1-888-333-WUTC (9882)"; and

(iv) Placarding as a result of rule changes shall be in place within sixty days after the effective date of the rule change.

(b) Verbal disclosure of rates. Before an operator-assisted call from an aggregator location may be connected by a presubscribed OSP, the OSP must verbally advise the consumer how to receive a rate quote, such as by pressing a specific key or keys, but no more than two keys, or by staying on the line. This message must precede any further verbal information advising the consumer how to complete the call, such as to enter the consumer's calling card number. This rule applies to all calls from pay phones or other aggregator locations, including prison phones, and store-and-forward pay phones or "smart" telephones. After hearing an OSP's message, a consumer may waive their right to obtain specific

rate quotes for the call they wish to make by choosing not to press the key specified in the OSP's message to receive such information or by hanging up. The rate quoted for the call must include any applicable surcharge. Charges to the user must not exceed the quoted rate.

(3) Access. Pay phones must provide access to the services identified in WAC 480-120-138(3).

(4) Branding. The operator service provider must:

(a) Identify the OSP providing the service audibly and distinctly at the beginning of every call, including an announcement to the called party on calls placed collect.

(b) Ensure that 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.

(c) State the name of the company as registered with the commission (or its registered "doing business as" name) whenever referring to the OSP. Terms such as "company," "communications," "incorporated," "of the northwest," etc., may be omitted when not necessary to identify clearly the OSP.

(5) Billing. The operator service provider must:

(a) Provide to the billing company applicable call detail necessary for billing purposes, as well as an address and toll free telephone number for consumer inquiries.

(b) Ensure that consumers are not billed for calls that are not completed. For billing purposes, calls must be itemized, identified, and rated from the point of origination to the point of termination. No call may be transferred to another carrier by an OSP unless the call can be billed from the point of origin of the call.

(c) Charges billed to a credit card need not conform to the call detail requirements of this section. However, the OSP must provide specific call detail in accordance with WAC 480-120-106, Form of bills, upon request.

(6) Operational capabilities. The operator service provider must:

(a) Answer at least ninety percent of all calls within ten seconds from the time the call reaches the carrier's switch.

(b) 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 is the responsibility of the OSP to determine what caused the blockage and take immediate steps to correct the problem.

(c) Offer operator services that equal or exceed the industry standards in availability, technical quality, response time, and that also equal or exceed industry standards in variety or are particularly adapted to meet unique needs of a market segment.

(d) Reoriginate calls to another carrier upon request and without charge when the capability to accomplish reorigination with screening and allow billing from the point of origin of the call is in place. If reorigination is not available, the P must give dialing instructions for the consumer's preferred carrier.

(7) Emergency calls. For purposes of emergency calls, every OSP must have the following capabilities:

(a) Be able to transfer the caller into the appropriate E-911 system and to the public safety answering point (PSAP) serving the location of the caller with a single keystroke from the operator's console, to include automatic identification of the exact location and address from which the call is being made;

(b) Have the ability for the operator to stay on the line with the emergency call until the PSAP representative advises the operator that they are no longer required to stay on the call; and

(c) Be able to provide a without-charge number for direct access to public safety answering points should additional information be needed when responding to a call for assistance from a phone utilizing the provider's services. That emergency contact information must not be considered proprietary.

(8) Fraud protection.

(a) A company providing telecommunications service may not bill a call aggregator for the following:

(i) Charges billed to a line for calls which originated from that line through the use of carrier access codes (i.e., 10XXX+0, 10XXX+01, 950-XXXX), toll-free access codes, or when the call originating from that line otherwise reached an operator position, if the originating line subscribed to outgoing call screening or pay phone specific ANI coding digits and the call was placed after the effective date of the outgoing call screening or pay phone specific ANI coding digits order; or

(ii) Collect or third-number billed calls, if the line serving the call that was billed had subscribed to incoming call screening (also termed billed number screening) and the call was placed after the effective date of the call screening service order.

(b) Any calls billed through the access line provider in violation of (a)(i) or (ii) of this subsection must be removed from the call aggregator's bill by the access line provider. If investigation by the access line provider determines that the pertinent call screening or pay phone specific ANI coding digits was operational when the call was made, the access line provider may return the charges for the call to the telecommunications company as not billable.

(c) Any call billed directly by an OSP, or through a billing method other than the access line provider, which is billed in violation of (a)(i) and (ii) of this subsection, must be removed from the call aggregator's bill. The telecommunications company providing the service may request an investigation by the access line provider. If the access line provider determines that call screening or pay phone specific ANI coding digits (which would have protected the call) was subscribed to by the call aggregator and was not operational at the time the call was placed, the OSP must bill the access line provider for the call.

(9) Enforcement. Operator service providers are subject to all pertinent provisions of law.

(a) Suspension. The commission may suspend the registration of any company providing operator services if the company fails to meet minimum service levels or fails to provide disclosure to consumers of protection available under chapter 80.36 RCW and pertinent rules.

(i) Suspension may be ordered following notice and opportunity for hearing as provided in RCW 80.04.110 and the procedural rules of the commission.

(ii) No operator service provider may operate while its registration is suspended.

(iii) Except as required by federal law, no provider of pay phone access line service may provide service to any operator service provider whose registration is suspended.

(b) Penalty. The commission may assess a penalty as provided in RCW 80.36.522 and 80.36.524, upon any company providing operator services if the company fails to meet minimum service levels or fails to provide disclosure to consumers of protection available under chapter 80.36 RCW.

(c) Alternatives. The commission may take any other action regarding a provider of operator services as authorized by law.

(d) Complaints. Complaints and disputes will be treated in accordance with WAC 480-120-101.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 480-120-137 Customer-owned pay tele-
phones—Interstate.
- WAC 480-120-142 Alternate operator services—
Enforcement.
- WAC 480-120-143 Local service to aggregators.

WSR 99-02-023
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 30, 1998, 11:00 a.m., effective March 30, 1999]

Date of Adoption: December 30, 1998.

Purpose: Chapter 296-24 WAC, General safety and health standards.

Subject: First aid relating to longshore, stevedore, and related waterfront operations. State-initiated adopted amendments are made to delete a reference to chapter 296-56 WAC in WAC 296-24-06105, which exempts applicability of chapter 296-24 WAC first aid requirements to longshore, stevedore, and related waterfront industries. This exemption previously existed because first aid requirements were included in the vertical standard.

However, under a separate rule amendment adoption (see this Washington State Register for other WISHA rule adoptions), the department replaced existing first aid requirements in chapter 296-56 WAC with a reference to first aid requirements in chapter 296-24 WAC. Deletion of the exemption in chapter 296-24 WAC was necessary to make first aid requirements applicable to longshore, stevedore and related waterfront operations.

Both rules are adopted and become effective on March 30, 1999.

Citation of Existing Rules Affected by this Order Amending WAC 296-24-06105 What workplaces does this rule apply to?

Statutory Authority for Adoption: RCW 49.17.040

Adopted under notice filed as WSR 98-20-079 on October 6, 1998.

Changes Other than Editing from Proposed to Adopted Version: No public comments were received on this proposal. Therefore, WISHA is adopting the rule as proposed.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: March 30, 1999.

December 30, 1998

Gary Moore
Director

AMENDATORY SECTION (Amending WSR 98-06-061, filed 3/2/98, effective 6/1/98)

WAC 296-24-06105 What workplaces does this rule apply to? This rule applies to all workplaces, except for the ones listed below. They are, instead covered by separate individual rules (vertical standards):

Rule Title	Chapter
• Agriculture	296-307 WAC
• Compressed Air Work	296-36 WAC
• Construction	296-155 WAC
• Fire Fighters	296-305 WAC
• Logging	296-54 WAC
(*) Longshoring/Stevedoring	296-56 WAC
• Sawmills	296-78 WAC
• Shipbuilding and Repairing	296-304 WAC

WSR 99-02-024
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed December 30, 1998, 11:05 a.m., effective March 30, 1999]

Date of Adoption: December 30, 1998.