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January 20, 2005

Carole Washburn, Secretary
WUTC
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PO Box 47250
Olympia, WA 98504-7250

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RECORDS DIVISION
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STATE OF WASHINGTON
UTILITY AND TRANSPORTATION
COMMISSION

RE: VCI Company Petition for Waiver of WAC 480-120-162, UT-042045

Dear Ms. Washburn:

The Public Counsel Section of the Washington Office of the Attorney General requests the Commission deny VCI's petition for a waiver from WAC 480-120-162. VCI has failed to show that granting an exemption to the rule meets the public interest standard or is necessary to achieve the purposes of the underlying regulation. The company does not face a hardship of a degree or kind different from hardships imposed on other similarly situated telecommunications providers. For these reasons we recommend denial of the waiver.

Background.

WAC 480-120-162 limits the charge contracted paying agents can levy on Local Exchange Company (LEC) customers to one dollar when those customers use the agent to pay their bill. The purpose of the rule is to ensure that consumers retain an opportunity to pay their utility bills in person while shielding customers from company-created paying agent contracts that charge customers high fees by requiring the company to create paying agent relationships in which the customer does not pay a fee greater than \$1.00.

VCI has not justified a waiver of the rule.

By its own admission, prior to its petition and in violation of the rule, VCI created paying agent relationships in which Moneygram, a VCI contracted paying agent, has been charging a fee of \$5.00 to \$5.95 to customers of VCI.

VCI claims the rule contradicts the purpose of the underlying regulation because VCI will not have paying agents due to the impossibility of securing paying agent arrangements in which the customer is charged no more than \$1.00. VCI, however, fails to provide a comprehensive list of available paying agents in its territory and their charges to demonstrate the

impossibility. Neither does VCI's petition provide any evidence about their effort to negotiate with the available paying agents. The Commission has not granted a waiver of the paying agent fee to any telecommunications providers. VCI's failure to perform to a standard met by its competitors is not proof that the rule contradicts the purpose of the underlying regulation.

VCI elected to establish its business model and establish its paying agent arrangements in full knowledge of the rule. The company has failed to justify a waiver. Public Counsel requests the Commission deny VCI's Petition.

Sincerely,



STEVE JOHNSON
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