BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In Re:	)	Telecommunications - Operations
	)	Chapter 480-120 WAC – Consumer Rules
Telecommunications	)	
Rulemaking	)	Docket No. UT-990146

AT&T'S COMMENTS
ON DRAFT CPNI RULES

AT&T Communications of the Pacific Northwest, Inc. and AT&T Broadband Phone of Washington, LLC. (collectively "AT&T") want to thank the Washington Utilities and Transportation Commission ("WUTC") for providing an opportunity to participate in the stakeholder workshops and to comment on the draft CPNI Rules in this docket ("proposed rules"). In order to address these rules efficiently AT&T will first make general comments on the draft rules and then will address concerns regarding the specific draft rules of most concern to AT&T.

AT&T recognizes that our customers place a high value on their privacy and we are generally supportive of the effort the WUTC is placing in these new rules, designed to protect consumer privacy. However, AT&T would prefer that the WUTC keep the existing rules on CPNI until the FCC has finished their rulemaking. As a national service provider, it is important that rules remain as consistent as possible between service territories. For example, compliance with 50 different regulations regarding information to be placed on a payment coupon would be impossible for AT&T's national billing system.

In rushing to promulgate new CPNI rules in order to include them in the draft consumer rules being considered for CR-102 on March 27, the WUTC is moving towards

adopting rules that are not only unduly burdensome and prohibitively expensive for companies to comply with but are also drafted in a way that will cause customer confusion. These concerns will be addressed in the specific rule section of these comments.

SECTIONAL ANALYSIS

1. Definitions "Telecommunications service".

The proposed definition for Telecommunications service is overly broad. Under the current definition, telecommunications service applies to all services that are offered by a company including services outside of the WUTC's jurisdiction, like cable services, internet access and wireless services. The definition needs to be tightened to cover only those services that are regulated by the WUTC.

2. WAC 480-120-203 Using private account information in the provision of services.

Subsection (1) of this rule needs an additional clarification to allow the flow of information between companies when a customer has requested to change its provider. In other words, if a customer wants to switch its local service from Qwest or Verizon, AT&T needs access to certain customer information to make the switch and ensure that the customer is provided with the same or similar services that it had with its previous provider. The rule should be modified to allow customers to give verbal authorization for a carrier to access the customer's CPNI when the customer has expressed an interest in switching its local service to that carrier.

3. WAC 480-120-206 Using private account information for marketing unrelated services.

This section requires explicit written approval for opting-in. This is an overly restrictive requirement. Customers should be allowed to use the same methods for opting –in as they can use for opting-out. Public Counsel stated in their January 31, 2002 comments that companies should be required to obtain customer's written, oral or electronic authorization prior to using CPNI. If the WUTC requires opt-in then at a minimum, customers should be allowed to provide their consent in a manner most convenient to them. For example, consent could be provided orally, electronically or written.

4. WAC 480-120-207 Notice when use of private account information is permitted unless a customer directs otherwise ("opt-out").

A general observation of this proposed rule is that the benefit of requiring a company to give annual opt-out notice to customers as well as providing them with reasonable opportunities to opt-out at anytime, may be outweighed by the costs associated with actual compliance. Under WAC 480-120-212 of the proposed rules, a customer's approval or disapproval will remain in effect until the customer "revokes, modifies, or limits such directive or approval." This being the case, there is no need for an annual notice. It should be sufficient for the notice to state what the private account information will be used for and that opting-out will not affect the customer's service. Providing language regarding telephone solicitation and telemarketing will result in further customer confusion on this issue.

In addition, as drafted this rule would require a voluminous amount of information to be provided to the customer in nothing less than a 12-point font. If the WUTC insists on requiring a minimum font size for notices, then an 8-point font should suffice. Anything larger will result in a Notice so lengthy that many consumers may not read it. Requiring the toll-free number listed on the Notice to be printed in bold type rather than requiring larger font-size requirements would provide sufficient visibility for customers to easily locate the number.

Subsection 5(i) requires that the company send a written confirmation to the customer within ten days of the opt-out directive. A ten-day turnaround is impossible for AT&T to meet. If the WUTC insists on written confirmation then companies should have a minimum of thirty days to send confirmation to customers. Moreover, AT&T suggests that the WUTC allow the company to provide confirmation to the customer in the same way that the company receives the information. For example, if the customer uses the toll-free line to opt-out, then the company could call the customer and confirm orally. If e-mail is used for opting-out, then the company could send confirmation electronically to the customer. Requiring that all confirmation be written is a prohibitively expensive and inefficient requirement with no added benefit to consumers.

5. WAC 480-120-208 Mechanisms for opting out of use, disclosure, and access to private customer account information.

According to this section, companies are required to provide five (I thought it was 6 but I don't have it in front of me) different mechanisms for opting-out. Requiring all five methods is overly burdensome and restrictive and will result in customer confusion and company non-compliance. Subsection 2(b) is problematic for AT&T because it

would be nearly impossible for customer service representatives at all of AT&T's national call centers to be familiar with the correct process for handling Washington-specific privacy status requests. In addition, keeping an accurate record of opt-out requests received in such a manner would be difficult.

Subsection 2(d) is equally troublesome. Again, AT&T provides billing on a national level and its bills are standardized as much as possible. It is not possible to add a check off box to customers only in Washington so the change would have to be made for all bills in all states. In addition, AT&T payments are handled mechanically and it would be difficult to modify the system to read new boxes. The system change required to be able to comply with this provision would be very expensive. This provision, if adopted, will generate customer confusion as well. If a customer elects to opt-out using the toll-free number and then sees a box to check for opting out on a payment coupon, they'll have to ask themselves if checking the box is needed for them to remain as an opt-out customer. According to WAC 480-120-211 of the proposed rules, each time a company receives a customer's "opt-out directive then a new confirmation must be mailed to the customer." The result is that if a customer is confused by the payment coupon and checks the box on a monthly basis, then AT&T would be required to send an expensive confirmation notice every month. Subsections 2(b) and (d) are unworkable and expensive and should be deleted from the draft.

6. WAC 480-120-209 Notice when explicit ("opt-in") approval is required

AT&T has the same concerns with this section as it does with the above WAC 480-120-207 regarding minimum font requirements in notices and timeframes for sending confirmation notices.

Additionally, subsection (4) allows for only explicit written approval. Customers should be allowed to use the same methods for opting –in as they can use for opting-out. If the WUTC is concerned with companies keeping records of oral approval, then it can require the use of Third Party Verification. Subsection (4) should be amended as follows:

> (4) Opt-in approval by the customer must be in writing, or if choosing to give oral approval, an appropriately qualified and independent third party operating in a location physically separate from the company representative has obtained the customer's oral authorization to give opt-in approval. The independent third party must not be owned, managed, controlled or directed by the carrier. The content of the verification must include clear and conspicuous confirmation that the customer has authorized an opt-in approval.

7. WAC 480-120-211 Confirming change in approval status.

As mentioned in the above discussion, companies should be allowed to use the same methods for confirmation of status as the customer used in either granting or refusing approval. Again, ten-days for written confirmation is an impossible timeframe for the company to meet. If the WUTC decides that ten days is the standard for a response, then the WUTC should allow for oral confirmation in all cases. Barring that, then thirty days should be the standard. In addition, requiring the confirmation to include a summary of the effect of the customer's opt-out or opt-in choice is redundant to the notice itself, adds additional costs to the confirmation and does not have any added benefit to the consumer. This requirement should be deleted.

The requirement in subsection (2) requiring companies to wait three weeks prior to using the customer's information after receiving opt-in approval is not needed to protect customers. If the customer wants to opt-in they may not appreciate such a long delay. This may cause confusion to the customer especially if the approval was intended for a specific purpose like letting the customer know if they should change a calling plan because their usage patterns better fit an alternative plan or service. If alternative methods (phone, internet) are used, there is no need for lengthy delays.

CONCLUSION

AT&T urges the commission to carefully consider the proposals provided herein and by other stakeholders. AT&T believes that it is important that any new rules be carefully balanced to provide consumer protections without undermining the development of competition in Washington through the imposition of burdensome regulation, administrative obligations and costs.

Respectfully submitted this 26th day of March 2002.

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