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STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 753-6423 • TTY (360) 586-8203

November 26, 1997

Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street NW, Room 222
Washington, D.C. 20554

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RE: Comments of Washington Utilities and Transportation Commission
In the Matter of Calling Party Pays Service Option
in the Commercial Mobile Radio Services, FCC 97-341
WT Docket No. 97-207

Dear Ms. Salas:

Pursuant to Section III of the above referred to Notice of Inquiry, enclosed for filing are the original and ten copies of the Comments of Washington Utilities and Transportation Commission. Please distribute a personal copy of the comments to each Commissioner.

Please contact me if you have any questions about this filing.

Sincerely,


Steve McLellan
Secretary

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Before the
Federal Communications Commission
Washington, D.C. 20554

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COMMENTS OF
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

November 26, 1997

I. Introduction

The Washington Utilities and Transportation Commission (WUTC) submits the following comments in response to the Notice of Inquiry (NOI) initiated by the Federal Communications Commission (FCC) regarding Calling Party Pays (CPP). While the stated purpose of this inquiry is to explore means of encouraging and facilitating competition in the local exchange telephone market, the proliferation of CPP raises important consumer protection issues which should also guide decision making by the FCC. By safeguarding the process in which consumers potentially incur extraordinary charges for routine telecommunications services, the FCC will also be taking action to increase consumer options for local telephone service and encourage competition by ensuring that widespread consumer complaints do not detract from an otherwise acceptable alternative to wireline telephony.

II. State Experience

Calling Party Pays has been available in Washington State since January 1996, when U S WEST Communications, Inc. (USWC) requested and was granted authority to provide the service. While the WUTC expressed concern about this service upon its introduction, state authority to regulate this service is limited to approval of the

local exchange company's (LEC's) request to bill its local telephone service customers for calls they make to wireless service customers that subscribe to CPP.¹

State law limits the level of review that the WUTC conducts on competitive services, such as billing and collection. On the U S WEST CPP filing, the WUTC did not have sufficient authority to establish the type of consumer protections it might otherwise have imposed had the service been provided under the WUTC's direct regulatory authority.

Currently, in Washington State, the only indicator that a person is calling a CPP subscriber is the need to dial 1 before the seven digit number and the designation of a distinct NXX code for CPP subscribers. This indicator is not sufficient to inform callers that they are about to incur a charge nor are they sufficient in obligating a caller to pay for such a charge.

Consumers associate toll calls with the dialing of "1" and a three digit area code. Thus, the insertion of a "1" before the seven digit number promotes confusion and does not adequately disclose the imposition of CPP charges for calls to wireless customers. Even if a consumer were to associate the call with a toll charge, the CPP

¹ Pursuant to Washington statutes, the WUTC does not exercise regulatory authority over wireless providers in most cases, Revised Code of Washington 80.66.

charge is likely to be considerably higher than a toll call and the consumer does not have the option, as it does with toll calls, to route the call to a preferred provider.

Callers are essentially captive and uninformed.

The distinct NXX code is of little value as a warning mechanism since it requires the caller to have preexisting knowledge that the code is associated with a charge and to be able to remember the NXX code prior to making any local call. NXX code assignments are not well known, and information about them is not readily available.

Furthermore, consumers in Washington State have the expectation that local calling from a landline service is provided to them on a flat-rated monthly basis. This expectation is reinforced by state law which prohibits local telephone companies from only offering measured local service to their customers. Though that state law exempts wireless providers, the law did not contemplate a situation where land line customers would be required to pay on a measured use basis for a local call to a wireless telephone. The public expectation is that local calls made from a land line phone are not charged on a per call or per minute basis.

The WUTC continues to receive inquiries and complaints from consumers who unwittingly dial CPP numbers. The WUTC practice is either to advise the customer

to request that the company remove the charge from the local telephone service bill or to make the direct request ourselves. WUTC rules specifically prohibit local telephone companies from canceling or disconnecting services based on the failure of a customer to pay bills unrelated to local telephone service, including CPP charges.

Furthermore, the WUTC questions whether the customer is under any obligation to pay a wireless company for a call when the customer is not notified of charges in advance or when no prior contractual agreement exists. The WUTC has asked the CPP service provider in Washington State to provide a recorded message prior to the completion of the call; however, USWC continues to maintain that its network does not feature the technology necessary to provide such a recording. The WUTC's perspective on CPP is that the calling party's obligation to pay such charges shall remain in doubt until a mechanism is in place that discloses the calling party's financial exposure and allows the calling party to either accept or reject that obligation.

III. Recommendations

The NOI seeks comment on how the calling party can best be informed of CPP charges (para. 21) and whether notification prior to completion of the call creates a binding contractual agreement.

The WUTC's position is that a caller should not be obligated to pay for a local call to a company with whom the caller does not have a preexisting arrangement unless the calling party is notified of the exact per minute charge in advance and affirmatively accepts the obligation to pay for the charges incurred.

Specifically, a call to a CPP number should be intercepted with a message that discloses that the caller has dialed a number which will involve a charge. The announcement must provide exact rate information, on either a per minute or per call basis, and must provide the caller with instructions on how to accept the charges and complete the call. Acceptance can be either verbal or mechanical by pressing a telephone key pad code.

The WUTC believes this method would provide sufficient information to the caller and create a mechanism for the caller to make an informed and affirmative acceptance of CPP charges. In addition to being fair to consumers, the WUTC sees at least two benefits that will result from a mechanism for notification and the affirmative acceptance of charges by callers. First of all, by ensuring that calling parties are treated fairly, CPP will be a more attractive service to wireless customers who do not wish to offend their social and business acquaintances who call them. We envision that this method would enable wireless providers to offer a menu of options to callers, including access to voice mail for a lesser or no charge.

Secondly, CPP would create an incentive to telecommunications carriers to upgrade switches to Advanced Intelligent Network technology which would facilitate the provision of new competitive services that go beyond the process of CPP notification.

The WUTC endorses the FCC's efforts to establish a uniform national approach. Because the existing WUTC authority over wireless providers is minimal, the WUTC is not able to protect consumers sufficiently, nor is it able to establish guidelines that would encourage widespread application of CPP. Furthermore, there is precedence for establishing a uniform national approach. In addition to uniform rules that establish how callers can accept charges associated with information service providers (900 calls), there are also uniform procedures for securing a caller's acceptance of collect and third party charges. A similar national standard should be established for CPP.

IV. Conclusion

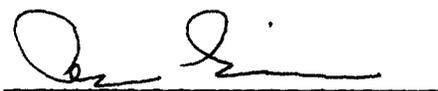
A national standard for CPP must provide for a clear advance notification to the calling party regarding the charges to be incurred for completing the call, and the

opportunity for the caller to affirmatively accept or reject liability for incurring those charges.

The WUTC encourages the FCC to condition all future introductions of CPP service on meeting the above stated disclosure and acceptance method, and to set an aggressive time line for existing CPP service providers to meet this requirement. The FCC should also clarify that until such notification and call completion procedures are in place, consumers are not obligated to pay providers for unexpected CPP charges.

The Washington Utilities and Transportation Commission looks forward to further participation and opportunity to comment on these matters before the FCC.

DATED this 26th day of November, 1997, at Olympia, Washington.

A handwritten signature in black ink, appearing to read 'Anne Levinson', written over a horizontal line.

ANNE LEVINSON, Chair

Washington Utilities and Transportation
Commission

A handwritten signature in black ink, appearing to read 'William R. Gillis', written over a horizontal line.

WILLIAM R. GILLIS, Commissioner

Washington Utilities and Transportation
Commission