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AZ CORP COMMISSION
DOCUMENT CONTROL

August 2, 2002

Ms. Marta Kalleberg
Arizona Corporation Commission
Docket Control
1200 West Washington Street
Phoenix, AZ 85007-2996



Dear Ms. Kalleberg:

Mr. John Hayes of the Table Top Telephone Company, Inc. (TTTC) has requested that we file an original and ten (10) copies of TTTC's comments in Arizona Corporation Commission (ACC) Docket No. RT-00000J-02-0251 (EAS Rulemaking Proceeding).

TTTC appreciates the opportunity to offer some recommendations to the ACC on these issues. In summary, as detailed in these comments, TTTC recommends:

- ◆ A finding of "community of interest" be defined and be measurable.
- ◆ Avoidance of any detrimental impact on small rural companies existing cost and rate structures.
- ◆ A simplified rule for adoption, such Washington State's current rule.
- ◆ Avoidance of any rate center consolidation due to the differences in rules governing rural versus non-rural companies. In addition, consideration should be given to the impact on the rural exemption and application of Eligible Telecommunications Carrier status for purposes of universal service.

Please direct all questions regarding this filing to Jeff Smith or me on 503.612.4400.

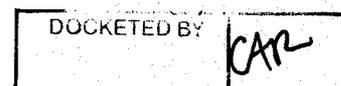
Sincerely,

Chris Pilgrim
Senior Consultant
GVNW Consulting, Inc.

Arizona Corporation Commission
DOCKETED

AUG 01 2002

Cc: Mr. John Hayes, TTTC
Mr. Jeff Smith, GVNW



Q1. In granting EAS, should a customer petition or other expression of public interest accompany a proposal? If so, how many customers or what percentage of customers in an area should be sufficient to prompt an EAS review?

A1. Yes, to the extent that a finding of community of interest is defined and can be measured. In addition, it is essential that rural companies, such as Table Top Telephone Company (TTTC), do not experience any detrimental impact to their existing cost and rate structures.

In order to gauge the public benefit, some level of interest must be measured. The demand for EAS is typically generated because a community of interest exists between two or more exchanges. Various factors create the existence of community of interest and are sometimes difficult to quantify.

The Commission should establish criteria for a community of interest finding to be met. As an example, the state of Oregon in its Docket UM 189, *In the Matter of the Investigation into Extended Area Service in the State of Oregon*, Order No. 89-815, (see Attachment A) provides the following criteria that should be met:

1. Contiguous exchange boundaries.
2. Minimum calling volume – There should be an average of four toll calls per access line per month between the contiguous exchanges.
3. Minimum calling distribution – at least 50% of customers in the petitioning exchange must make at least one toll call per month to the contiguous exchange. (The percentage was changed from 33% to 50% by Order 92-1136 (see Attachment B) in the same docket.)
4. If the above criteria are not met, the Commission should then issue a proposed order denying the petition. Petitioners should be given an opportunity to establish demographic, economic, financial or other evidence that a community of interest exists.

Q2. Should EAS from one local calling area to two or more other local calling areas be permitted? If yes, how should the potential for illegal EAS bridging for the purpose of toll bypass be addressed and evaluated?

A2. Yes, to the extent that the community of interest criteria is met.

The Commission's use of the term "EAS bridging" must be clearly defined in any rules. To minimize any collusion that may lead to illegal behavior, the Commission should include in its rules a penalty if a company is found performing illegal EAS bridging under the Commission's definition. Companies build translations tables in their switches to accomplish EAS. The translation tables can only do so much to

minimize the impact of illegal bypass. TTTC recommends that policies and procedures be adopted for minimizing this type of activity.

Q3. Should there be minimum call volumes needed before prompting an EAS review? If so, what should the minimum call volumes be and how would these minimum call volumes be determined in the case where multiple service providers exist?

A3. See response to Q1.

Q4. Are there EAS rules in other states which should be considered or adopted in Arizona? If so, please supply these rules and any related reports or other documents.

A4. Oregon does not have formalized rules. A review of EAS is conducted through an investigation by means of a docketed proceeding. Guidelines were set in that Commission's Order 89-815 in Docket UM189. By contrast, Washington State repealed its EAS rules in lieu of a more simplified rule. TTTC recommends Washington State's simplified rule for adoption in the state of Arizona.

Attachment C is the Docket No. UT-970545, General Order No. R-453 and Order Repealing and Adopting Rules Permanently. Under the rule, WAC 480-120-045, the Washington Utility and Transportation Commission (WUTC) may: 1) expand local calling only under exceptional circumstances, 2) evaluate requests for expanded local calling, considering whether the local calling is adequate to allow customers to call and receive calls from specified community services, and 3) requests for expanded local calling areas shall be made pursuant to RCW 80.04.110 (the Commission's compliant statute.) (RCW 80.04.110, which explains the criteria to initiate the complaint—hearing process, see Attachment D.)

Q5. How should the concept of "community of interest" be defined?

A5. Oregon has provided through its Forest Grove EAS investigation a guideline for community of interest that would suffice to establish the concept of community of interest. As provided in UM 189 Order 89-815 it is as follows:

"Community of interest exists where there is social, economic, or political interdependence between two areas or where there is heavy dependence by one area on another area for services and facilities necessary to meet many of its basic daily needs."

Q6. What is the significance of call volumes to an EAS petition and review?

A6. Call volumes demonstrate calling patterns and usage. In addition, in an EAS review it will provide information to estimate the amount of toll bypass and provide a foundation to develop estimates of cost impacts on the carriers.

Q7. What are the potential costs of implementing EAS and what methods should companies use to recover the cost of EAS?

A7. Conversion of toll routes is not without cost and places a burden on local exchange rates. EAS costs can be grouped into three categories: 1) switching and transport, 2) overhead, and 3) contribution to joint local loop costs. Typically EAS requires a minimal facility conversion, since the call is carried in essentially the same way as a toll call. As with toll, EAS is traffic sensitive. Conversion to EAS will stimulate traffic that will create additional need for switch, trunk, and other facilities.

EAS conversion shifts the cost burden from one category of ratepayers to another. Though toll users receive the benefit of savings, the local exchange customer absorbs the increase in rates. A proposal to reduce contribution from toll and raise local basic rates may be viewed as a threat to universal service and a failure of interexchange service to bear a reasonable share of joint costs. Proponents may overlook these risks because of the perceived advantages of EAS. The Commission must balance the benefits of EAS against its costs to ensure that EAS rates do not exceed its values to the majority of customers or rise to a level that threatens universal service.

EAS costs contribute to the non-traffic-sensitive (NTS) costs of the local loop. Like toll, EAS is an interexchange service utilizing the public switched telephone network (PSTN) that includes the local loop. Intrastate toll contributes to the NTS by means of the carrier common line charge. EAS eliminates the toll traffic for the converted routes, in turn eliminating access charge revenue for those routes.

Contribution is obtained through carrier access charges. The conversion to EAS will disrupt this mechanism and provide no clear substitute means for EAS traffic to carry the same cost support. EAS rates should make some contribution to joint costs, in addition to recovering the cost of switching, transport and overhead.

Q8. How should the Commission approach EAS in light of the current and future competition in long distance and other telephone services? For example, how will revenue impacts on companies be determined now that the ILEC may not be the only company impacted?

A8. See response to Q7.

Q9. Are there any recent developments in the telecommunications industry that should be considered by the Commission in its EAS related proceedings?

A9. It is essential that the Commission continue to monitor the FCC's key proceedings having to deal with Universal Service (CC Docket 96-45) and Intercarrier Compensation (CC Dockets 01-92 and 99-68) and Local Competition (CC Docket 96-98). These proceedings will impact future interconnection methods and cost recovery mechanisms that will impact the states. These FCC proceedings and their

evolution will undoubtedly set the ground work for the state to review its methods for interconnection and compensation.

In his July 15, 2002, letter to Senator Markey, FCC Chairman Powell mentions he looks forward to working with him "...as we jointly navigate these troubled times facing the telecommunications industry". This is an appropriate summation of the current industry status. We will experience detrimental impacts if we do not carefully consider actions we take in all jurisdictions. Care must be given when establishing a course of action that will be equitable to all concerned. Special consideration is needed with regard to the small and rural carriers to ensure they remain economically viable.

Q10. Are there other services that could/should be offered in place of the current form of EAS being offered?

A10. Consideration could be given to discounted toll plans. A properly designed toll plan would maintain access charge flow to carriers like Table Top.

Q11. Are there other factors, beyond those mentioned in previous questions, that should be considered in relation to EAS implementation?

A11. Yes, small companies need separate treatment.

Q12. How should EAS implementation be addressed in cases where the involved exchanges are owned by more than one company?

A12. See response Q11.

Q13. Rate center consolidation is a key number conservation methodology encouraged by the FCC. Should rate center consolidation also be implemented when EAS is implemented between exchanges? Provide the reasoning for your response and any supporting documentation.

A13. Rate Center consolidation is a means to conserve numbering resources and allow competitive entrants. As explained in Table Top Telephone Company's (TTTC) comments in Docket No. T-00000A-01-0076, small LECs and the RBOCs for example, are not governed by the same rules under the Telecommunications Act of 1996. Consideration must be made to the "rural exemption" and the application of Eligible Telecommunications Carrier for purposes of universal service. Rate center consolidation is not a means to an end for the purposes of EAS with regard to the small rural ILECs.

Local Number Portability (LNP) is a consideration with regard to rate consolidation. As stated in its comments, TTTC is a rural company and is not required to implement LNP until it receives a Bona Fide request. TTTC summarized stating, "Consolidation

of rate centers between ILECs may well not realize the anticipated savings in number resources and will create confusion in dealing with the consolidated rate center.” In order to resolve many of the discrepancies, TTTC as well as other rural LECs would be required to deploy LNP. The high cost per customer of LNP is not in the best interest of the customers of these rural carriers.

Consideration should also be made to the impacts of compensation and intrastate access. Revenue requirements will be impacted due to costs shifts. An examination of these impacts should be made before making a decision as to their use in accomplishing EAS.

- Q14.** What issues are there that should be considered when consolidating the rate centers of two or more ILECs in a local calling Area?
- A14.** See response to Q13.
- Q15.** What issues should be considered when consolidating the rate centers in a local calling area when both rural and non-rural carriers are involved?
- A15.** See response to Q13.
- Q16.** Are there rate center consolidation orders or rules in other states that should be considered or adopted in Arizona? If so, please supply these rules or any related reports or other documents.
- A16.** No comment at this time.
- Q17.** Identify where expansion of EAS might be considered to promote rate center consolidation and/or eliminate existing opportunities for EAS bridging. Prioritize your recommendation and provide an estimate of the cost and revenue impact to your company.
- A17.** TTTC does not support rate center consolidation.

Attachment A

Public Utility Commission of Oregon

UM 189

Order No. 89-815

ORDER NO. 89-815

ENTERED JUN 19 1989

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 189

In the Matter of the Investigation)
into Extended Area Service in the) ORDER
State of Oregon.)

SUMMARY

1. Mandatory Local Service. Extended Area Service (EAS) should be a mandatory, two-way service with a seven-digit dialing pattern, offered by local telephone companies as part of local service.

2. Rate Design. The local telephone company EAS tariffs must adopt the following rate design criteria: (1) flat rate EAS for all available EAS routes, (2) measured rate EAS for all available EAS routes, (3) a combination of flat rate local service and measured rate EAS, (4) flat EAS rates should be asymmetrical between exchanges to reflect differences in the number of subscriber lines, and (5) one flat rate option should incorporate all EAS service available to the customer.

3. Individual Company Rates. Each local telephone company will design its own rates, consistent with the rate design criteria announced in this order.

4. Residential/Business Differential. Flat rate EAS should be priced higher for business than for residential customers. Specific differentials will be set in future proceedings. Measured rate EAS should be priced at the same level for business and residential customers.

5. Cost Recovery. EAS rates should recover the costs of switching, transport, a contribution to common overhead, and a contribution to joint costs of the local loop. Revenue shortfalls should be made up first from company-wide EAS rates, then from company-wide local exchange rates. EAS tariff proposals should be revenue neutral.

6. Competition. Competition will not be allowed for all EAS traffic. Outside designated EAS Regions (see item 7 below), resellers may operate if they obtain "competitive provider" authority from the Commission. Providers will be subject to the Commission's order in Portland Voice Express, UM 165. Within designated EAS Regions, resale of EAS will be prohibited.

7. "EAS Region" Designation. When the configuration of a group of EAS exchanges has resulted in anomalous or inequitable gaps in service, the Commission may designate the group of exchanges as an "EAS Region". All remaining routes within the boundaries of the EAS Region will then be converted to EAS.

8. Portland. This order designates the 21 exchanges in the Portland area which currently have EAS as an "EAS Region". Transport of interexchange traffic by EAS resellers within the Portland EAS Region is prohibited. Transport of interexchange traffic by EAS resellers between the Portland EAS Region and Willamette Valley exchanges, or other exchanges across Region boundaries, will be subject to the Commission's order in Portland Voice Express, UM 165.

9. Procedures. The order adopts procedures for petitions, community of interest determinations, tariff analysis, public notification, hearings, and surveys or ballots. EAS Region designation proceedings will only be initiated by Commission.

INTRODUCTION

On March 2, 1988, the Commission initiated this "investigation into the provision of extended area telecommunications service (EAS) in the State of Oregon." Order No. 88-211. The Commission undertook this investigation in response to the growing demand for EAS in the state, and because of the need for a comprehensive review of substantive and procedural standards to be applied in individual EAS dockets.

Parties

All local exchange carriers in Oregon were made parties to the proceeding by Order No. 88-211. In addition, the following parties were granted intervenor status: AT&T Communications of the Pacific Northwest, Inc.; Citizens for

Metro Area Telephone Services, Inc. (CMATS); Citizens' Utility Board (CUB); Telephone Ratepayers Association for Cost-based and Equitable Rates (TRACER), and; Rose Valley Telephone Company, Inc. (UT 75). The parties who participated in the evidentiary hearing and briefing phases of the proceeding are set forth below in the appearance list.

Related Proceedings

Tariff advice filings by two companies were held in abeyance after this investigation was initiated. GTE Northwest, Inc.'s (GTE) Advice No. 305, UT 69, proposed optional EAS for the company's service areas statewide. U S WEST Communications' (USWC) Advice No. 1162, UT 75, proposed a trial "Local Plus" plan in its Cottage Grove and Dallas exchanges. By Hearings Officer's Ruling of May 13, 1988, dockets UT 69 and UT 75 were consolidated for hearing with this proceeding, pursuant to OAR 860-14-025.

Following the consolidated evidentiary hearing, GTE's tariff was withdrawn and UT 69 was dismissed. Order No. 88-1379. Subsequently, GTE has filed Advice No. 334 proposing new EAS tariffs for several of its west Portland area exchanges. These tariffs, docketed as UT 87, were suspended pending the final order in this proceeding. Order No. 89-156.

USWC's "Local Plus" proposal in UT 75 was allowed to go into effect on a trial basis for one year, effective February 1, 1989. Order No. 88-1469.

In addition to the tariff filings, the Commission had several docketed requests for EAS when it began this investigation. See Appendix "A". In the order initiating this proceeding, the Commission stayed all further proceedings in these dockets pending a final order in this docket.

Hearings

A prehearing conference was held on March 17, 1988. Written opening and rebuttal testimony was filed by the parties between April and October, 1988. An evidentiary hearing was held on October 26 and 27 in Salem, Oregon, before the Commissioners, Assistant Commissioner Thomas Barkin, and Hearings Officer Simon ffitch. The following appearances were entered:

For the Commission Staff:

Keith Kutler
Assistant Attorney General
Salem, Oregon

For GTE-Northwest, Inc.:

A. Timothy Williamson
James Brown
Attorneys at Law, GTE Legal Department
Everett, Washington

For U S WEST Communications, Inc.:

Lawrence Huss
Charles Best
Attorneys at Law, USWC Legal Department
Portland, Oregon

For the Citizens' Utility Board:

J. Rion Bourgeois
Attorney at Law
Portland, Oregon

For Various Independent Telephone Companies (ITCOs),
Contel of the Northwest, Oregon Independent Telephone
Association (OITA):

Robert Hollis
Attorney at Law
Portland, Oregon

For TRACER:

Jack Landau
Lindsay, Hart, Neil & Weigler
Attorneys at Law
Portland, Oregon

For Rose Valley Telephone Company:

Deborah Johnson Harwood
Attorney at Law
Vancouver, Washington

For Citizens for Metro Area Telephone Services, Inc.
(CMATS):

Robert Browning
Attorney at Law
Forest Grove, Oregon

After the hearing the parties filed opening and reply briefs. The briefing period concluded on March 13, 1989.

Public Comment Hearings. Hearings Officer Simon ffitch presided over public comment hearings held from January to March, 1989, in the following locations: Beaverton, Milwaukie, Redmond, Ontario, Eugene, Roseburg, Grants Pass, and Coos Bay. The Commission also received public testimony at the October evidentiary hearing in Salem. A large number of written comments were received from many areas of the state. See Appendix "B".

COMMISSION GOALS

1. Improve service and minimize the cost of calls between exchanges with a community of interest. Telephone companies should provide their customers with intra- and interexchange local telephone service which meets the telecommunications needs of areas which share a community of interest. Telecommunications service should be responsive to customer concerns about the price and fairness of service between exchanges which share a community of interest. ORS 756.040(1).
2. Balance customer demand for EAS with the goal of universal service. While recognizing the real need for a solution to the high cost of short-haul toll within a community, the Commission at the same time must remain mindful of the goal of universal service. ORS 757.810. Because toll revenue is lost, EAS conversion places upward pressure on local rates. The Commission will closely scrutinize EAS requests to ensure that resulting rate increases do not impair universal service.
3. Ensure that the cost of EAS service is recovered equitably. The Commission will not grant EAS petitions which constitute disguised attempts by telephone companies or a few high-volume users to shift nontraffic-sensitive (NTS) costs to local subscribers. Both local and interexchange callers have a responsibility to contribute to the cost of the local loop. UT 42, Order No. 87-405. The Commission will not permit EAS conversions to become an avenue for unfairly shifting cost burdens to local exchange rates.

4. Inform the public. EAS decision making should include adequate public information about the costs of proposed EAS conversion and an opportunity for public input into the decision making process.

Based upon a preponderance of the evidence, the Commission makes the following:

FINDINGS

I. OVERVIEW

The Nature of the Problem

Demand for EAS is growing substantially in Oregon. In many parts of the state the boundaries of telephone exchanges no longer bear any relation to the local community. Some residential and business customers face high long-distance bills for interexchange calling which is really "local" innature. Some urban customers are dissatisfied with irrational gaps and anomalies in EAS within metropolitan areas. Many customers in suburban and rural areas want toll-free calling to population centers.

Responding to this demand by converting long-distance traffic to EAS, however, creates new problems. Telephone companies, especially smaller independents, may face significant loss of long-distance revenue. Loss of toll revenue puts upward pressure on local exchange rates. EAS conversion shifts costs between different customer groups, creating a potential for inequity. Company proposals for combinations of flat and measured rate EAS provide more options for customers but may lead to customer confusion. In addition, opportunities for interexchange competition are restricted.

Description of EAS

Extended Area Service is a form of telephone service which enables a telephone subscriber in one exchange to call a neighboring or nearby exchange without being billed at long-distance (toll) rates.

The exchange is the basic building block of the telephone network. In an exchange the "local loop" connects each customer's telephone by transmission lines to a central switch which routes calls within the exchange. Exchanges are defined geographic areas with boundaries approved by the Commission. ORS 757.005(3)(c). A call within an exchange is a local call. Id.

A call from one exchange to another is a "toll" or long-distance call. ORS 757.005(3)(i). The toll call, however, cannot simply bypass the local loop and be transmitted directly across the exchange boundary, no matter how close to each other the two customers are located. Standard exchange configuration requires the call to take a more circuitous route. The toll call must first be routed over the local loop to the central switching office for the originating exchange. The call is then carried from that central switch to the central switch of the receiving exchange over inter-exchange trunk facilities. Finally, the call is completed by routing it from the receiving central switch, over the local loop, out to the receiving customer's individual telephone.

Long-distance calling between nearby exchanges is known as "short-haul toll". EAS is a substitute for short-haul toll service. EAS is primarily a change in the rate structure, rate design, and billing methods for the calling traffic involved.

EAS as Local Service

Flat rate EAS is a hybrid with elements of both local and toll service. EAS is currently provided by local exchange carriers as part of local exchange service, with seven-digit dialing, and local service billing. Because EAS goes beyond local exchange boundaries, however, it is not "local exchange telecommunications service" under Oregon law. ORS 757.005(3)(c) states that "'local exchange telecommunications service' means telecommunications service provided within the boundaries of exchange maps filed with and approved by the commission." As an interexchange service, flat rate EAS resembles toll calling, which is defined in ORS 757.005(3)(i) as "telecommunications between exchanges carried on the public switched network for which charges are made on a per-unit basis."

The Commission has previously recognized that EAS is not local exchange service as defined in ORS 757.005(3)(c). As a result, EAS is not eligible to be designated as an essential service under ORS 757.850. AR 188, Order No. 88-1522 at 16.

History of EAS in Oregon

EAS is not a new service option. The Commission has been reviewing requests to implement EAS for at least thirty years. See, e.g., In the Matter of Serving Arrangements Between the Athena-Weston and Milton Exchanges, UF 2179, Order

No. 36570 (1959) (Athena-Weston). Currently, more than half of all local exchanges in Oregon have some EAS service to one or more neighboring exchanges.

EAS proceedings have become more complex since the days of the Athena-Weston decision. See, e.g., In the Matter of the Investigation of EAS Between the Forest Grove and Beaverton Exchanges, UM 116, Order Nos. 87-892, 87-692, 87-606, 87-309 (Forest Grove EAS Investigation). In most EAS cases the Commission has used a balloting process to determine customer preferences. Generally, denials of petitions were based upon the low percentage of favorable ballots, see, Elgin, UF 2485, Order No. 41880 (1965), low calling volume, Harrisburg, UF 2491, Order No. 41500 (1965), or lack of a community of interest, Knappa, UF 2228, Order No. 37621 (1961). In the Forest Grove EAS Investigation orders, the Commission considered calling volume and distribution data, community of interest factors, rate projections, cost information, balloting, and other criteria. See, e.g., Order No. 87-309.

Demand for EAS

The large number of requests received by the Commission demonstrates a significant demand for EAS. Requests have been received in many forms, including letters, formal and informal petitions, and telephone calls. The requests come from a wide variety of sources: city and county governmental officials, chambers of commerce, school and fire districts, individual businesses, residential telephone customers, and others. The requests come from virtually all parts of the state.

The Commission currently has a number of EAS requests docketed as formal proceedings. See Appendix "A". In addition, the Commission has received petitions or significant numbers of contacts from other areas of the state. See Appendix "B".

Outmoded exchanges. Original exchange boundaries no longer correspond to community boundaries. In the early days of the telephone network, exchange boundaries matched closely existing settlement patterns. As communities have grown, however, settlement has expanded beyond exchange boundaries. Commercial and governmental activities have been conducted without reference to telephone exchange boundaries. County, municipal, school and fire district, regional government, and urban growth boundaries, often overlap exchange boundaries, and each other as well.

Changing communities. The demand for EAS is in large measure a result of the changing nature of communities in Oregon. Improved transportation, communications, and the general growth of cities and towns has expanded the boundaries of what the local resident views as his or her community. Communities on the outskirts of larger urban areas, once isolated and relatively self-sufficient, have become interdependent parts of larger communities. Interdependence has been accelerated by improvement of roads and mass transit, location of businesses outside the urban core, coverage by regional media, and the growth of commuter populations.

These larger urban communities usually include two or more separate telephone exchanges. Without EAS, residents of these communities must pay long-distance charges to make calls within what they perceive as their own local community.

Rural calling. Even in rural areas where there is no trend to suburbanization, rural communities demand EAS if they depend for basic services on a nearby town located in a different exchange. Non-discretionary calls to schools, police, fire, and medical services are long-distance calls. The resulting toll charges are often unacceptably high. Several witnesses from rural areas at Commission hearings reported monthly average toll bills in excess of \$100.

Toll pricing. Demand for EAS is also related to the current pricing structure. Toll service is measured and usage sensitive. Local service, with the exception of optional local measured service, is billed at a flat rate for unlimited calling. Most telephone customers make the majority of their calls within their local communities. Since community boundaries now often contain multiple exchanges, this high-volume calling crosses exchange boundaries and results in very high costs to the customer, even though the call is for all practical purposes a "local call". Payment of such high costs for "local calling" creates demand for an alternative.

Fairness. A consistent thread running throughout requests for EAS is the demand for fairness. Illogical or outdated exchange boundaries have created anomalies which have led to customer dissatisfaction. Some calls within a community are flat rate calls, while others within the same community, often to closer destinations, incur toll charges. For example, the resident of one suburb can call the city center toll free while a resident of the neighboring suburb cannot. In addition, the two residential customers must pay

toll charges to speak with each other though they live only a mile apart. Such arrangements are perceived by customers as at best irrational, if not fundamentally unfair.

The Commission has received much anecdotal testimony at its public hearings in this case reflecting this concern for fairness. The Central Oregon community of Powell Butte, for example, is divided by the boundary between the Redmond and Prineville exchanges. Witnesses reported at the Redmond public hearing that, in one instance, lines from the separate exchanges are attached to the same pole. A telephone call to a neighbor across the street is a toll call, but a call to a neighbor on the same side of the street is a local call. Situations of this type violate the customers' basic notions of fairness, regardless of the technical or historical justification. Accordingly, a major component of the demand for EAS must be recognized as a demand for more fairness in the delivery of local telephone service.

Community of Interest

The concept of a "community of interest" is central to consideration of EAS requests. In the majority of cases, demand for EAS is generated because a community of interest exists between two or more exchanges. The Commission has traditionally required some showing that such a connection exists before granting an EAS request. The Commission explained this requirement in Forest Grove EAS Investigation:

Community of interest exists where there is social, economic, or political interdependence between two areas or where there is heavy dependence by one area on another area for services and facilities necessary to meet many of its basic daily needs.

Order No. 87-309 at 8.

The existence of a community of interest is not easily proved. The list of factors which could be considered in the determination is nearly endless. Some residents may feel a strong community of interest with the neighboring exchange, while others may be indifferent. Some exchanges may have ties based on commercial factors, while others may be connected primarily because of schools or governmental functions. Establishing uniform standards to measure, for example, the percentage of children attending school in the neighboring

exchange, would not be a productive exercise. To do so would turn EAS proceedings into demographic and socio-economic studies reaching beyond the resources of the parties and the statutory purpose of the Commission.

One type of objective measurement has been used in EAS cases, however. Calling patterns between the proposed EAS exchanges have been used as a measure of customer interest and to help develop estimates of cost. Although in the past EAS orders have typically treated community of interest and calling patterns as separate criteria, they are obviously closely related. Calling patterns are one strong indication a community of interest exists. Calling pattern data are readily available.

General EAS Policy Considerations

While it may appear that EAS provides an easy answer to the demand for a rational system for short-haul interexchange calling, implementation of EAS raise several difficult policy issues.

Public expectations. The testimony and written comments from the public during this investigation indicate that demand for EAS is premised on certain quite specific expectations. Public demand for EAS is really demand for local service with a wider geographic reach. The public seeks a service which will share the following characteristics with local service: (1) unlimited flat rate calling, (2) seven-digit dialing, (3) service and billing provided by the local exchange company, and (4) rates which are significantly lower than toll and which do not make up a disproportionate amount of the total charge for local service.

Connected with the latter expectation is the myth that EAS is a "free" service. Although EAS is "toll-free", it is not without cost to the customer. Typically, the local exchange rate will include an EAS "additive", a relatively small increment added to the bill to cover the costs of the extended local calling area. The "free service" myth results from the low EAS "additive" in many exchanges. In USWC service areas the additive is \$0.12 per available EAS exchange. Since the additive is included in the total local exchange bill, the customer tends to see only the total flat rate, rather than its components.

Public expectations for EAS to be flat rate are also based in part on non-economic factors. Oregon telephone customers have a strong aversion to local measured service. ORS 757.840, which prohibits mandatory local measured service, was proposed by initiative petition in Ballot Measure 8 at the November, 1986, general election. The measure passed by a margin of nearly four to one. Optional measured service is also unpopular. Only about 12 per cent of telephone customers choose local measured service, although some surveys indicate that many more than 12 per cent of customers would reduce their bills with this option.

Customers prefer flat rate to measured service for a number of reasons. Cost is predictable. The ability to make unlimited local calls provides the customer, even one with normally low usage, with a form of "insurance" against unexpectedly high and unaffordable costs. Such costs could result from unforeseen family emergencies, unauthorized use by children, or other circumstances outside the customer's control. Universal service is fostered because flat rates limit customer vulnerability to termination for non-payment of high toll bills. Billing errors are perceived to be less likely, and easier to detect.

The public expectations for EAS set the parameters for much of the policy discussion in this proceeding. Proposals for EAS which do not meet these basic expectations can be expected to create significant customer dissatisfaction and resistance.

Trading inequities. Mandatory flat rate EAS can be said to be inequitable. It forces all customers to pay for the service although some make no EAS calls whatever.

One solution to this problem is to allow customers to opt for measured EAS. In this way, customers who make few or no calls could minimize or altogether avoid EAS charges. This solution, however, may substitute one "inequity" for another. By spreading cost recovery over even fewer customers it puts still greater pressure on local rates. Unless all the costs of EAS are recovered from EAS rates, local rates have to be increased to help recover part of EAS costs. As a result, all customers pay higher local rates. Thus, customers who make no EAS calls, and seek to avoid EAS charges by choosing a measured option, still pay for EAS in a "hidden" fashion through a local rate increase.

To some extent this cost shift to company-wide local exchange rates may already be occurring to cover the cost of EAS already in place. Some local customers may be helping support EAS in other company exchanges even though their own exchange does not provide the service.

In terms of prospective EAS implementation, there are two factors which may minimize the impact of local rate increases caused by measured EAS. First, the procedures adopted in this order will provide customers with information about the rate impact, so that they can give consent to the plan with knowledge of its effects. Second, such rate increases should be minimal, unless there is substantially increased participation in measured service options. Any rate increases specifically attributable to the measured option will add only incrementally to the overall cost shift resulting from conversion to EAS. Whether EAS is all flat rate or a measured option is available, there will be upward pressure on local rates.

High-volume users. EAS conversion also creates potential for unfair cost shifts from high-volume to low-volume telephone users. Suburban businesses and governmental offices with very high calling volumes may account for a high percentage of the total interexchange calling on a potential EAS route. Without EAS conversion these customers have very high toll bills. After EAS conversion, if they select flat rate EAS service, their bills drop dramatically, as does their contribution to recovery of NTS costs. Local telephone companies experience a corresponding drop in revenues, and look elsewhere to replace them. Responsibility for the costs which these high volume customers formerly paid is then spread throughout the entire customer base. Analysis of demand, calling patterns, and community support for EAS must take into account the special role of the high-volume user.

High-volume business customers often raise economic justifications for implementing EAS, including economic development, job creation, and job preservation. Many local businesses experience unavoidable increases in toll usage and cost if they grow and diversify into new products and markets. Toll costs may be a legitimate and serious concern for these customers.

This argument carries little weight, however, where businesses have voluntarily chosen to locate in non-EAS exchanges. Presumably, such businesses evaluated transpor-

tation, communications, local taxes and other costs. Although economic development may be given some consideration, the Commission must balance this goal with the needs of other customers. The primary statutory role of the Commission is the protection of all utility customers, not the creation of economic development incentives for individual companies. ORS 756.040(1). Not all businesses benefit from EAS. Small businesses serving a customer base within one exchange would suffer from a cost shift advantageous to high-volume regional business users.

Use of the telecommunications system generates income for many businesses, offsetting the costs which they incur. This is not the case for other classes of customers. In some cases, rather than seeking EAS, high-volume business users should look to competition in the interexchange market to bring toll costs down. In this developing market, interexchange providers should be motivated to meet their needs with innovative packages of services.

Core exchange dominance. In one typical scenario, the exchange seeking EAS will be peripheral to a more heavily populated core exchange. Although calling between the exchanges can be expected to be roughly equal from either direction, the imbalance in population size means that a smaller proportion of customers in the core exchange are likely to have any interest in calling the peripheral exchange. As a result, if EAS were to be put to a vote of both exchanges, it would almost inevitably be voted down. The Commission must balance the core exchange customers' concerns with the legitimate needs of the outlying petitioning exchange.

Cost recovery. Cost recovery is the most critical issue raised by conversion of interexchange traffic to EAS. EAS conversion shifts the cost burden from one group of ratepayers to another. Generally, conversion to EAS puts upward pressure on local exchange rates. The contribution that long-distance revenue once made to recovery of nontraffic-sensitive (NTS) costs is lost. Responsibility for recovering NTS costs must be shifted to other services. As a practical matter, this burden is likely to fall most heavily on local exchange rates. EAS, therefore, while saving toll users money, is likely to increase rates for all local exchange customers.

In any other context, a proposal to reduce contribution from toll services and raise basic local service rates probably would be viewed as a threat to universal service and a failure of interexchange service to bear a reasonable share of joint costs. When EAS is the issue, proponents may overlook these risks because of the perceived advantages of EAS. However, the Commission still must balance the benefits of EAS against its costs to ensure that EAS rates do not exceed its value to the majority of customers or rise to a level that threatens universal service.

Alternatives to EAS

Short-haul Toll. One alternative to EAS is to leave the existing local/toll options in place. This approach has some benefits. It avoids the cost shift and the upward pressure on local rates which comes with EAS. It leaves in place the current opportunities for competition for interexchange traffic. Competitive interexchange providers may be able to develop attractive packages of services for exchanges with significant numbers of very high-volume short-haul toll users. EAS conversion severely hampers interexchange competition. In exchanges where the demand for EAS comes primarily from high-volume toll customers, reliance on competition among interexchange providers to bring toll prices down may be a more appropriate solution.

Multiple Exchange Carrier Service (MECS). In testimony in this proceeding the Independent Telephone Companies (ITCOs) proposed MECS as an alternative to EAS. MECS is, in effect, a discounted toll plan, designed to alleviate demand for EAS by reducing toll rates. Under this plan all interexchange calling rates would probably be usage sensitive, unless companies voluntarily offered a flat rate. Each local exchange carrier's access charges would be consolidated into a single unified rate. This access rate would be charged to interexchange carriers for all access services. In turn, interexchange carriers would file a single MECS statewide rate to be charged to all customers for multiple exchange calls.

MECS could potentially eliminate all flat rate EAS. Carrier access charges would be expanded statewide, enhancing the ability of local exchange carriers to obtain revenues from interexchange carriers. Although toll rates would be likely to decline somewhat, the actual amount of

the reduction is unclear. MECS, as proposed, does not appear to meet the public expectations for EAS as a flat rate service with affordable rates and other characteristics of local service.

Optional EAS. An optional EAS system, in which the customer could choose between using flat rate EAS or toll, has several problems. Except when using their own phones, customers would face uncertainty about whether a "local" call would result in a toll charge. Customers who chose the toll option would have difficulty controlling unauthorized or unexpected toll charges for "local" calling by family members, visitors, neighbors or others. Optional EAS would impair the uniformity and predictability of local calling. A combination of "1 +" toll and flat rate EAS would lead to network inefficiencies. Customer confusion and dissatisfaction would be likely.

Shared Tenant Services and COCOTS

Issues involving Shared Tenant Service providers and Customer Owned Coin Operated Telephones (COCOTS) in the EAS context were not addressed by the parties in this proceeding, and will not be addressed in this order.

II. SPECIFIC IMPLEMENTATION ISSUES

In its written opening testimony in this proceeding, Staff identified the following policy issues:

- | | |
|--------------------|--|
| <u>Issue No. 1</u> | Should EAS be provided on a mandatory or on an optional basis? |
| <u>Issue No. 2</u> | Should EAS rates be flat or measured rates? |
| <u>Issue No. 3</u> | Once a multiple exchange area, for example, a metropolitan area, has significant EAS demand throughout, should additional EAS conversion be selective route-by-route conversion, or should EAS be made ubiquitous by the Commission. |
| <u>Issue No. 4</u> | How should the cost of EAS be recovered? Should EAS rates make the same contribution as toll rates to the NTS costs of the local exchange? |

- Issue No. 5 Should EAS rates contain a business/residential differential under which business rates are higher?
- Issue No. 6 Should EAS rates be uniform for all companies throughout the state?
- Issue No. 7 Should competition be allowed for EAS routes?
- Issue No. 8 Should the Portland area exchanges which currently have EAS be designated an "EAS area", making EAS ubiquitous for all 21 affected exchanges?
- EAS Procedures Staff made recommendations for procedures to be employed by the Commission in reviewing specific EAS requests, including petition requirements, community of interest criteria, and scheduling.

This issue list was the framework for much of the evidence and for the legal argument submitted by the parties. The briefs and testimony also addressed the broader policy issues raised by EAS. The Commission has considered both the specific issue positions and the general policy concerns of the parties in reaching a decision, as well as the testimony at the public hearings held around the state.

III. DISCUSSION OF SPECIFIC IMPLEMENTATION ISSUES

Rate Design (Staff Issues 1, 2, and 6)

A. Findings

EAS is fundamentally local in nature. Public demand for EAS is demand for service which shares the characteristics of local service and extends over a wider territory than the existing "hard wired" exchange. EAS is provided on a two-way basis. Historically, rates for EAS have made up a relatively small portion of local exchange service rates. EAS, where it is currently available, is a mandatory service. Thus, once a route has been converted to EAS, all traffic over the route becomes EAS traffic. No customer can decline EAS service and continue to use toll calling to reach the neighboring exchange.

Flat rate preference. One essential element of the demand for EAS is the public expectation that EAS will continue to be offered as a flat rate service. EAS is a part of local telephone service and, as such, is expected

to provide customers the opportunity for unlimited calling at flat rates without regard to duration, distance or time of day. Customers are familiar with flat rate EAS service and depend upon it as a means of avoiding toll charges for local calling.

Arguably, mandatory flat rate EAS creates an inequity, since some callers do not call beyond their local exchange. Traffic reports from a number of telephone companies indicate that approximately 20 per cent of customers make no inter-exchange calls. Under this system, low-volume users to some extent support the high-volume user of EAS. If EAS charges are relatively low, the inequity may not have a serious economic impact on the low-volume user. If EAS charges rise, however, as a result of EAS expansion, this inequity may become a more significant concern.

Measured EAS Rate Option. One remedy for the inequity of flat rate EAS is to give customers the option of selecting measured EAS in combination with flat rate local exchange service. Under this plan, a customer could avoid some EAS charges by not making any EAS calls.

As a general proposition, flat EAS rates will be lower in a mandatory flat rate EAS system, since the cost recovery is spread over more customers. Only those customers with measured local service avoid the flat rate charge. If, however, the rate design includes a measured EAS option combined with flat rate local billing there is additional upward pressure on the flat EAS rate to compensate for the revenue lost from customers who choose the measured EAS option as a means to avoid EAS charges. In addition, telephone companies may experience higher administrative overhead as customer options become more complex.

Inclusion of a measured option in the rate design also puts upward pressure on local exchange rates. Flat EAS rates are spread over fewer customers. Unless EAS rates bear the full cost of EAS, however, there is a "spillover" of cost recovery responsibility to local exchange rates. As a result, even if a customer selects a measured EAS rate option to avoid EAS charges he or she will still contribute to EAS through the local rates.

Although the measured rate EAS option has these potential drawbacks, it does provide a valuable alternative to customers who wish to minimize the impact of EAS expansion on their phone bills. The additional upward pressure on local rates caused by this option should not be significant if the current low level of participation in measured rates continues.

Two-way Calling. There has been no dispute in this proceeding that EAS should be provided on a two-way basis. One-way EAS has several problems. First, it stimulates signaling, which results in network inefficiencies. Signaling occurs when a customer in an exchange without EAS dials a customer in an EAS exchange. As an example, the customers may allow the phone to ring an agreed number of times. The customer in the second exchange does not answer, but calls back, using EAS. One-way EAS also fails to satisfy customer demand for receiving inbound EAS calls. A system of one-way EAS routes would not add up to a consistent, readily identifiable EAS area. Finally, one-way EAS is highly susceptible to resale.

Zones and Local Calling Areas. Staff has recommended that the Commission require EAS rate design to include a selection of flat and measured rate EAS options. These options, sometimes called "menu" offerings or "soft zones", would be offered to customers in an EAS "Area", termed an EAS Region in this order. The proposal is based upon the USWC "Local Plus" plan in UT 75.

Staff's recommendation is based on the premise that EAS demand is not uniform throughout a group of exchanges. Within the affected exchanges different customers may have diverse calling needs. Customers may wish to tailor their service to their needs by selecting flat EAS service for a portion of the area, and measured rate EAS to the remainder. This option may provide customers with a means of controlling their own local phone bill.

While it is true that not all customers have the same calling needs, zone or "Local Plus" plans have a fundamental problem. Once EAS has been implemented in an area, the individual exchanges, in effect, merge into a larger single exchange. In general, the public expects that service within this new "super-exchange" will have the same characteristics and uniformity as local service provided within any exchange. Customers in an exchange pay a flat rate and have uniform service throughout the exchange, regardless of their location or calling volume. Demand for EAS is demand for expansion of the boundaries within which this same local service is offered.

Zones and "Local Plus" plans are not fully responsive to this demand. Such plans preserve the fragmentation of the outmoded exchange boundaries which led to demand for EAS in the first instance. There is a potential for serious customer confusion and anxiety as the customer is presented with a multitude of unfamiliar and complex alternatives for "local" calling. Administration of complex "menu" plans may also place undue burdens upon telephone companies. In addition, zone plans tend to increase EAS costs by reducing the number of customers over whom the flat rate EAS can be spread.

This type of billing option is being made available to some customers of U S WEST Communications in that company's "Local Plus" trials in Cottage Grove and Dallas approved in UT 75. The trial tariffs were effective February 1, 1989, and run for one year. The Commission has not yet received empirical data from these trials. For this reason, and for the other reasons discussed in this section, it is premature to require other companies to include this type of billing option in their proposed EAS tariffs.

Uniformity. Establishing rate design criteria which each company must satisfy while setting its own rates will allow for statewide consistency in EAS provisioning while at the same time permitting individual companies and their customers the ability to fashion rate structures which are appropriate for their particular circumstances.

Asymmetric Rates. EAS costs are more equitably shared if EAS customers in a relatively small peripheral exchange are charged a higher rate than those in a large core exchange. As a general rule calling volume between exchanges attains a roughly equal balance between inbound and outbound traffic. As a result, the costs of EAS for each exchange are also roughly equal. The peripheral exchange, because it spreads the cost over fewer customers, will have higher EAS rates, while the core exchange will have lower rates because the same cost is spread over more customers. A single EAS rate for both exchanges would result in significantly imbalanced cost support.

B. Conclusion

Once EAS has been approved for an interexchange route, all telephone traffic carried on the route should be treated as EAS. EAS should be provided by local exchange telephone companies as part of local service, with seven-digit dialing. All EAS should be provided on a two-way basis.

The Commission not require uniformity but will permit each local exchange company to develop its own rates. The Commission will require each local exchange company to file tariffs for EAS within the following parameters for rate design:

- (1) Flat rate EAS must be available for all routes.
- (2) A measured rate option must be available for all routes.
- (3) A combination of flat rate local service and measured rate EAS must be offered.

- (4) EAS rates should be asymmetrical between exchanges to reflect differences in the number of subscriber lines.
- (5) One flat rate option should incorporate all EAS service available to the customer.

The Commission will not require companies to include a "soft zone" option or "menu" of flat EAS/measured EAS combinations in tariff proposals. Companies may, if they wish, include such "menu" plans in proposed EAS tariffs, and may wish to propose trials. The Commission will look at "menu" plans in terms of complexity to the customer and ease of administration for the company. The Commission will review this aspect of EAS rate design independently, and will consider making it a rate design requirement after more information is available.

Cost Recovery (Staff Issue No. 4)

A. Findings

Recovery of EAS costs is the core issue faced by the Commission, companies and customers when considering conversion to EAS. See, e.g. Forest Grove EAS Investigation, Order No. 87-309 at 7. Conversion of toll routes to EAS is not without cost. EAS conversion places upward pressure on local exchange rates.

EAS Costs. Completion of an EAS call requires use of all network facilities between customer premises: (1) the local loop, (2) central office connections, (3) central office switching, and (4) interoffice facilities. In addition, EAS calling involves operating and overhead costs.

The costs assigned to EAS can be grouped into three categories, switching and transport, overhead, and contribution to joint local loop costs.

The first two categories of costs, switching and transport, and overhead, are not problematic. There is no dispute that EAS providers should recover these costs through EAS rates. As previously noted, implementation of EAS requires little, if any, facility conversion, since the call is carried in essentially the same way as a toll call. As in the case of toll, these costs of EAS are traffic sensitive. The record indicates that conversion to EAS stimulates traffic by a factor of two to six over prior toll volumes. This traffic stimulation will create some additional need for switch, trunk, and other facilities. This additional need will in some cases be offset by the capacity of facilities employing newer technology, such as fiber optics, to absorb increased traffic. For these reasons the costs attributable to these aspects of EAS are relatively small.

Lost Access Charge Revenues. The third category of EAS costs is the contribution toward the nontraffic-sensitive (NTS) costs of the local loop. Like toll, EAS is an inter-exchange service using the public switched network, including the local loop. Intrastate toll contributes to NTS costs by means of the carrier common line charge. This access charge revenue provides approximately \$200 million statewide toward the costs of the local loop.

Implementation of EAS eliminates toll traffic for the converted routes. This loss of toll traffic, in turn, eliminates the access charge revenue for those routes. For some telephone companies, access charge revenue may represent a significant portion of their overall revenues. The effect of the revenue loss is not certain, and will vary from company to company. Some companies may be able to absorb some or all of the costs of EAS if, for example, they have been earning excess revenue.

The NTS Pool. NTS costs are currently recovered from the NTS pool based upon a revenue requirement filed with the Oregon Exchange Carriers Association (OECA). The revenue requirement is not based upon access charges actually recovered. If the revenue requirement to the pool is not adjusted, the local exchange carrier may continue to recover NTS costs from the pool in the same amount as before the conversion to EAS, in effect maintaining the same cost allocation previously assigned to toll. This problem can be solved by removing the NTS costs for the converted exchanges from the NTS pool at the time of conversion.

Contribution to Joint Costs. The Commission has rejected the notion that local service has in the past been subsidized by long-distance service. The cost of the local loop is a joint cost which must be shared by both local and toll service. Although no precise allocation of cost responsibility can be made, it is a Commission goal to promote universal service by maximizing contribution to joint costs. UT 42, Order No. 87-405 at 9. Contribution is currently obtained through carrier access charges. Conversion to EAS, however, disrupts this system, and provides no clear substitute means by which EAS interexchange traffic can carry the same share of cost support. At a minimum, however, application of this basic principle means that EAS rates should make some contribution to joint costs, in addition to recovering the cost of switching, transport and overhead.

Replacement of Lost Revenue. There are a limited number of revenue sources from which to replace the lost income from access charges. The revenue can be recovered from EAS rates themselves, from local exchange rates, or from some supplementary source, such as a high cost fund.

(1) EAS Rates -

Ideally EAS should make the same contribution to local loop costs as the toll service which EAS replaces. If EAS rates are set at this level, however, they will be as high, or nearly as high as the toll rates to be replaced. This conflicts with the public expectation that EAS will provide flat rate calling at rates comparable to those charged for local service. Implementing EAS as merely a name change for toll will not meet the public demand for a more affordable and equitable phone network. Consequently, if EAS is to be implemented, EAS rates cannot be assigned the same level of responsibility as toll for local loop cost support.

Another factor places a cost recovery ceiling on EAS rates. If a rate design is adopted which includes a measured EAS option, the EAS flat rate must be maintained at a level low enough to prevent customers from being forced onto the measured option. Migration of customers from flat to measured service could result in a destructive spiral effect as flat rates are forced even higher as the costs are spread over fewer and fewer flat rate customers.

(2) Local Exchange Rates -

A second source of revenue is company-wide local exchange rates. The effect of assigning additional cost responsibility to the local ratepayers is to shift the existing balance of NTS cost support from toll to local. If this shift is too great, the interexchange service will not be making a reasonable contribution to the joint costs of the local loop.

The distinction between flat rate EAS and local rates is to some degree an artificial one. From the customer's point of view, the local area which he or she is able to call is expanded. The local service bill, although it may now include an EAS "additive", is still a flat rate for unlimited calling to the "local" community. As a result, it may be unimportant as practical matter whether the EAS rate or the local exchange rate is increased to cover additional local loop costs. In either event, the combined flat rate for local calling increases.

The distinction is somewhat more relevant if optional measured EAS rates are available. The customer who makes no interexchange calls can avoid paying any EAS rates. He or she will be somewhat more concerned, therefore, with how cost recovery responsibilities are assigned between EAS and local rates. It will be to this customer's advantage if EAS rates bear a greater part of the NTS cost support burden relative to local rates.

Even if no measured option is offered, it is important to maintain the distinction between EAS and local rates when reviewing EAS proposals for at least two reasons. First, customers in company exchanges without EAS service will only see the increase in the company-wide local exchange rate. These customers will undoubtedly be concerned with the allocation of costs between the two types of rates. Second, careful separation enables the public involved in EAS proceedings to more accurately determine the precise costs of EAS.

(3) High Cost Fund -

A third potential source of support for NTS costs under EAS would be a high cost fund. Such a fund would be available to local exchange companies who suffer revenue shortfalls after converting routes to EAS. The fund could be derived from two sources, a statewide charge to local customers, or a surcharge on access charges. The record in this case does not contain detailed evidence on how the high cost fund would work, or on how many companies would need to resort to it. Other possible sources of revenue, such as other non-essential services or a surcharge on access charges, were suggested but not developed on the record. These or other possible sources of revenue can be explored in the context of individual EAS proposals when more data is available.

Intercompany compensation. Staff recommends that companies which jointly provide EAS adopt a "bill and keep" compensation mechanism. Each company bills its customers for the EAS service provided and keeps the revenues. Bill and keep avoids the complexities of a settlements process and saves administrative costs. Bill and keep is most effective when per customer costs and revenues are approximately the same for each local company. If a local company's costs to provide EAS exceed its revenues, however, it might have to raise other rates to compensate.

Other methods of intercompany compensation exist. Companies which jointly provide EAS could establish an inter-utility compensation plan and settlements formula.

B. Conclusions

EAS rates should recover the following costs:

- (1) the cost of switching and transport,
- (2) a reasonable contribution to common overhead, and

- (3) a reasonable contribution to joint costs of the local loop.

EAS rates should not be required to completely make up for the loss of access revenues resulting from conversion from toll to EAS. In other words, EAS should not be assigned a pre-determined responsibility for nontraffic sensitive (NTS) costs. NTS costs allocated to toll should be removed from the statewide NTS cost pool and reallocated to local service.

In general, EAS conversion implies a major policy decision to significantly alter the balance of support for NTS costs between local and interexchange service. It must be remembered, however, customers derive substantial benefits from improved telephone service within the "community of interest." To the extent that the public interest is well served by EAS conversion in a particular case, some cost shifts may be justifiable.

In reviewing EAS rate proposals, the Commission, will require NTS cost recovery through EAS rates first. If a local exchange carrier faces a revenue shortfall as a result of conversion, it should turn to company-wide EAS rates first, then to company-wide local exchange rates for recovery of lost revenues.

Local companies should bill and keep EAS revenues. In situations where this is inappropriate or inequitable, local companies may propose alternative compensation plans.

Business/Residential Differential (Staff Issue No. 5)

A. Findings.

Most Oregon telephone companies have a differential between business and residential telephone local rates. For the majority of customers the differential is in the range of 2.0:1 to 2.5:1. Rate differentials are less prevalent for current EAS rates. USWC, with a majority of the access lines in the state, charges business and residential customers the same for EAS. GTE-NW, on the other hand, has a differential of 4:1 for EAS rates.

A portion of EAS costs are usage or traffic sensitive. To the extent business usage is higher, business should pay more of the cost of the service. Data submitted by USWC in UM 116, the Forest Grove EAS investigation, and included in testimony in this case reflects higher usage by business. The ratio for Portland to Beaverton calling was 2.3:1, Portland to Forest Grove ratio was 3.4:1, the Portland to Tigard ratio was 5.5:1. Local telephone companies must install sufficient

capacity to meet peak demand. To the extent business customers are disproportionately responsible for that peak demand, it is appropriate for a higher rate to be charged. Businesses subscribing to measured EAS make a contribution to costs based upon their amount of usage. This is not the case for businesses subscribing to flat rate EAS.

While usage-based pricing may establish a minimum differential, there is evidence that value-based demand pricing may also be appropriate for business rates. As a general proposition, EAS service is worth more to business customers. The business rate can be set higher than the residential rate because there is a difference in price elasticity of demand between residential and business customer classes. Business customers can be expected to be willing to pay more for unlimited EAS calling than residential customers are willing to pay.

The residential customer's benefits from EAS, though quite real, are not directly economic beyond the savings on toll charges. Many business customers, on the other hand, will not only reduce their costs, but can expect to enhance their revenues through improved access to a broader customer base. This aspect of business demand was verified by the testimony of several business representatives and other witnesses in this proceeding.

B. Conclusions

Business generates higher EAS use and should bear a greater share of the cost. Flat rate EAS rates should be higher for business than for residential customers. The factual record in this proceeding is inadequate to determine a statewide ratio. The appropriate ratio should be determined when individual companies file tariffs.

Competition (Staff Issue No. 7)

A. Findings

Intrastate interexchange telecommunications traffic in Oregon has been opened to competition. This does not mean that all toll routes currently attract competition. By definition, however, the sphere within which interexchange carriers can compete for toll traffic diminishes with every EAS expansion. If mandatory EAS is in place, all traffic previously carried over toll routes will be treated as EAS, either flat or measured. In a toll environment, interexchange carriers have the opportunity and the incentive to package their services so that they can compete effectively for high volume short-haul toll customers. When EAS is implemented, this opportunity is limited or eliminated.

EAS is provided as a part of local service by the local telephone company. Although there is no legal prohibition against interexchange providers competing on EAS routes, there is little incentive for a customer to choose another interexchange provider. As a practical matter, conversion of a toll route to EAS severely limits, and in many cases may preclude altogether, the potential for interexchange competition.

One area of competition that has arisen, however, is EAS resale. In its current form, EAS resale has developed as a form of competition with short-haul toll where an unmet demand for EAS exists. The "hub and spoke" pattern of EAS development in urban areas creates the environment for this type of resale, in which resellers trade upon the differential between short-haul toll and EAS rates. See, e.g., Portland Voice Express, UM 165, Order No. 89-313, Order No. 89-688 (Motion for Reconsideration). Where "hub and spoke" configurations exist, the issue arises as to the proper charges to be paid by EAS resellers providing service over toll routes. This issue is currently under review by the Commission in Portland Voice Express. See Order No. 89-688.

Competition for EAS traffic could also arise in a somewhat different context in the future. In this order, the Commission designates Portland area exchanges as an EAS Region and provides procedures for Region designation in other appropriate cases (see discussion below). Although establishment of EAS Regions would eliminate opportunities for the "hub and spoke" type of resale, other forms of resale could arise within a Region.

An EAS reseller might offer, for example, Region-wide flat rate EAS to customers with flat local/measured EAS. The customer could be offered access to flat rate EAS by means of an intraexchange flat rate local call. The customer would then have no need to use his measured EAS. As a result his contribution to the cost of EAS would be minimal. Since the reseller would be subscribing only to flat rate and compressing many customers' usage onto a few lines, the resellers contribution to EAS costs would likewise be limited. As a result of this type of resale, the local exchange companies, while providing the facilities for EAS, would be deprived of revenue needed to cover EAS costs. Upward pressure on the local exchange company's rates would result, with the potential for a dangerous spiral effect.

The Staff has recommended that resellers providing service over EAS routes within a Region be required to subscribe to measured service. Requiring resellers to subscribe to measured service would avoid revenue loss and inadequate recovery of EAS costs.

B. Conclusions

While favoring competition in appropriate circumstances, the Commission recognizes that EAS severely limits the potential for interexchange competition.

Where "hub and spoke" configurations exist, the Commission will permit EAS resellers to operate as competitive providers if they obtain a certificate of authority under ORS 757.815. Competitive providers who resell EAS in this context will be required to comply with the requirements of the Commission's final order in Portland Voice Express, UM 165. Essentially, resellers will be required to pay local exchange companies the appropriate tariffed charges for the type of telecommunications service the reseller provides.

With respect to EAS Regions, however, permitting competition by resellers is not desirable. When an EAS Region is designated, the Commission will be imposing significant responsibilities upon local exchange companies to implement EAS conversion in compliance with the provisions of this order. The Commission's goal in a Region designation is to meet the demand for EAS while providing for adequate and equitable recovery of EAS costs. It would be incompatible with this goal to permit resellers to operate within a Region. The revenue diverted to resellers would impair local exchange companies' ability to cover EAS costs and to provide EAS in the manner required in this order.

For the reasons set forth above, resale within an EAS Region creates significant problems. To solve these problems, Staff recommends permitting "competitive" resale, while requiring resellers to buy measured EAS. The Commission concludes that the better approach is to recognize that competition is likely to be harmful to both customers and local exchange companies and is, therefore, inappropriate in the Region setting. Accordingly, the Commission will prohibit resale of EAS within the boundaries of designated EAS Regions.

EAS Region Designation (Staff Issue No 3)A. Findings

Hub and Spoke. The "hub and spoke" pattern of EAS service in some urban areas has resulted in irrationalities in the network. These irrationalities have created significant customer dissatisfaction and resale problems. In the Portland area, for example, a customer in Gresham can make a toll free call to Portland using the EAS service, but must make a toll call to reach the neighboring Sunnyside exchange. Both public witnesses and witnesses for the parties at the evidentiary hearing reported that this problem existed in Portland and other larger cities.

A "hub and spoke" pattern of EAS service is not inherently unfair. The pattern has developed in urban areas as a reflection of customer demand and historical development of communities of interest. With urban expansion comes growth in population, expansion of government services, improved and more interconnected transportation, and commercial development at the periphery. A point is reached at which the exchange by exchange expansion of EAS no longer responds to customer demand. The "hub and spoke" system at that point becomes irrational and inequitable for a significant number of customers.

EAS Resale. In addition to the perceived inequities for the customer, "hub and spoke" EAS can create the opportunity for resale. The reseller wishing to take advantage of the EAS "gap" between Sunnyside and Gresham, for example, would simply install a switch in a central Portland exchange, and provide, in effect, discount long-distance service by completing the indirect connection between Sunnyside and Gresham which exists over the EAS network. The reseller profits on the difference between the Gresham-Sunnyside toll rate and the lower flat rate EAS charge. Resale can harm ratepayers by reducing toll revenue, which in turn may place greater revenue demands on local exchange rates.

The foregoing problems can be avoided by designating an entire group of exchanges as an area ("Region") where EAS will be ubiquitous. Once this takes place all further exchanges in the area would be converted to EAS service. It is not possible to create a mechanical formula to identify the areas suitable for such treatment. Use of formulae such as the Standard Metropolitan Statistical Area, which have

no demonstrated relationship to the boundaries of exchanges involved in EAS, would limit the Commission's ability to use its own expertise to evaluate the unique needs for EAS in different areas.

B. Conclusions

The network irrationality and the inequity for customers which can develop as a result of "hub and spoke" EAS require that the Commission exercise discretion in some cases to implement EAS without exchange-by-exchange conversion. In cases where the Commission identifies significant customer demand for ubiquitous EAS, the Commission may designate the group of affected exchanges as an EAS Region. The Commission will then discontinue exchange-by-exchange conversion and will convert all remaining routes to EAS.

The Commission does not intend to adopt mandatory ubiquity as a uniform precondition to approval of all EAS plans. Designation of an EAS Region will be made on a case-by-case basis, based upon a record developed as set forth below in the Procedural Rules portion of this order.

EAS Region designation may create especially complex problems of cost, revenue recovery, and intercompany compensation. The procedures adopted in this order provide a forum for resolving these issues.

Portland EAS Region (Staff Issue No. 8)

A. Findings

Although this proceeding has primarily been a general policy review of EAS issues for statewide application, it has also included an examination of the specific problems of EAS in the Portland area. In the Forest Grove EAS Investigation order, the Commission Staff was directed to:

"...investigate alternative rate structures for the Portland metropolitan area that meet the needs of the customers, balance universal service and competition, and which are not unduly discriminatory, and make a recommendation of the most appropriate structure."

UM 116, Order No. 87-309 at 15.

Portland is the largest city in Oregon, a fact which is reflected in the size and complexity of the telephone system which serves it. The metropolitan area, covering large portions of three counties, is served by seven different local exchange carriers. At the present time, there are 21 exchanges in the Portland area which offer EAS to one or more other exchanges in the metropolitan region. The Portland exchange alone has approximately 290,000 access lines, about one-fourth of all the local access lines in the state.

EAS in the Portland area has developed in a hub and spoke pattern. The problems with hub and spoke patterns of EAS delivery have been discussed previously in this order. The Portland situation illustrates the significant irrationalities and anomalies which can develop when the community outgrows the boundaries on which the EAS system was based. Examples are numerous. A Beaverton customer can call Portland toll free, but not Lake Oswego, even though Lake Oswego is much closer than many parts of the Portland exchange. Likewise, customers in neighboring Sandy and Corbett, both in the eastern reaches of Multnomah County, can call Portland toll free, but must pay a long distance charge to call each other.

The Commission has received numerous complaints from customers in the Portland area about the anomalies in current EAS service. The current situation is perceived as fundamentally unfair, since it results in dramatically different charges for calls which are for all practical purposes identical "local" calls, but happen to fall within or outside EAS exchanges.

The demand for EAS in the Portland area is also illustrated by the presence of EAS resellers in the area. See, e.g., Portland Voice Express, UM 165, Order No. 89-313, Order No. 89-688. Resellers are responding to a need for more equitable and affordable service in the peripheral exchanges. Resale of EAS is disadvantageous to local exchange companies because it deprives them of the access charge revenue which they would ordinarily derive from the toll traffic.

Implementation of ubiquitous EAS in the Portland area will be complex. Seven different companies are involved. This record does not contain cost and revenue information for each of the companies involved, nor does it contain complete calling volume information for each of the exchanges involved.

The boundary of the Portland group of EAS exchanges does not have complete integrity. The Charbonneau exchange to the south of the metropolitan area has EAS routes, both with Portland and, directly or indirectly, with ten Willamette Valley exchanges. This allows resellers to compete unfairly for traffic which would otherwise be handled by toll carriers. This is detrimental to local exchange companies who provide investment for the underlying facilities, and to interexchange carriers, who must pay access charges.

B. Conclusions

There is sufficient evidence in the record of demand for EAS in the Portland area to warrant designation of Portland as an EAS Region. The Portland Region should consist of the 21 exchanges which currently have EAS on one or more routes. The affected exchanges are listed in Appendix "C" to this order. This designation will correspond with "Phase I" of the EAS Region procedures described below.

Further proceedings in the Portland EAS Region designation will be conducted in accordance with the "Phase II" requirements adopted by the Commission in this order.

The Commission Staff is directed to monitor EAS resale activity in the Charbonneau exchange for compliance with the order in Portland Voice Exchange, UM 165. For the reasons set forth in the "Competition (Staff Issue No. 7)" section of this order, EAS resale within the boundaries of the Portland EAS Region will be prohibited.

EAS Procedures

A. Findings

The Commission cannot make efficient use of its resources if it docket each individual customer request for EAS. EAS procedures should require a minimum showing of interest in order to docket the proceeding. A petition from a significant number of customers, or a request from the relevant local exchange provider would constitute an adequate showing. In the past the format of petitions has varied widely. A uniform format would assist the Commission in accurately determining the level of interest in the exchange.

Docketing - If the petition meets the above requirements, the EAS request should be docketed for investigation.

Phase I: Community of Interest - The Commission should determine if the following community of interest criteria are met:

- a. Contiguous exchange boundaries.
- b. Minimum calling volume - There should be an average of four toll calls per access line per month between the contiguous exchanges.
- c. Minimum calling distribution - At least 33 per cent of customers in the petitioning exchange must make at least one toll call per month to the contiguous exchange.
- d. If the above criteria are not met, the Commission should then issue a proposed order denying the petition. Petitioners should be given an opportunity to establish through demographic, economic, financial or other evidence that a community of interest exists.

If the Commission finds that a community of interest exists, the investigation enters Phase II.

Phase II: Tariff Analysis -

- a. The local exchange company(ies) involved should be required to provide a proposed tariff, an implementation schedule, a cost estimate, and revenue requirements.
- b. The company should notify all affected customers of the proposed changes.
- c. Public hearings should be held to determine customer reaction.
- d. At Commission discretion, an advisory survey or poll of customers may be taken, using a PUC form.

Public Interest Determination - At the conclusion of the proceeding the Commission should decide, based upon the record, whether the proposed EAS service is in the public interest.

Timeline - There should be a recommended twelve month schedule from the acceptance of a petition until the Commission is provided with a factual record upon which to base a decision. The Commission may extend the schedule for good cause. Statutory tariff deadlines will apply.

(2) EAS Region Designation

Docketing - The Commission should retain exclusive authority to initiate a designation proceeding. This would not preclude companies from proposing area-wide trials.

Phase I: Demand Assessment - In this phase of the proceeding the Commission should review the level of EAS requests and complaints, the pattern of interexchange calling, the level of entry by resellers, any other relevant information, and take public comment. If sufficient demand were found to exist, the proceeding would move into the second phase.

Phase II: Tariff Analysis -

- a. The local exchange company(ies) involved should be required to provide a proposed tariff, an implementation schedule, a cost estimate, and revenue requirements.
- b. The company(ies) should notify all affected customers of the proposed changes.
- c. Public hearings should be held to determine customer reaction.
- d. At Commission discretion, an advisory survey or poll of customers may be taken, using a PUC form.

Public Interest Determination - At the conclusion of the proceeding the Commission should decide, based upon the record, whether the proposed EAS service is in the public interest.

Unless a community of interest exists between the affected exchanges, EAS is not appropriate. Calling patterns provide a reliable objective indicator that such a community exists. Calling pattern information is readily available to the Commission staff, companies, and customers. In addition, to avoid unlimited and chaotic expansion, EAS petitions should be limited to requests involving contiguous exchanges. If high interexchange calling volume exists between contiguous exchanges and if the calling is relatively widely distributed throughout the customer base, the Commission will find that a community of interest exists.

Calling patterns may not always reflect the existence of a community of interest. An opportunity should be provided for parties to establish through demographic, economic, financial or other evidence that a community of interest exists.

Once the Commission has determined that a community of interest exists, an EAS proceeding should include a tariff analysis phase. This phase should include the filing of a proposed tariff by the local exchange company, dissemination to the public of estimated cost information, public hearings, and advisory public hearings or polling.

Proposed tariffs filed by the company should be revenue neutral. Individual EAS proceedings are not an appropriate forum for a rate case. The ability of the local company involved to absorb costs should be reserved for a separate rate case. Such a case could be initiated by Staff where there was evidence, for example, of company overearnings.

Ballots and surveys can be helpful to the Commission in EAS proceedings. Customer preference in the affected exchanges carries much weight. The Commission must base its EAS decisions on the entire record, however, and not upon inflexible voting formulae. The "veto" power of larger core exchanges makes calculation of such formulae difficult. The record in this proceeding does not provide an adequate basis for adopting specific approval margins.

The Commission will retain discretion after completion of the above procedures to determine, based upon the record, whether EAS conversion is in the public interest.

EAS dockets should be processed in a timely fashion. This order will establish recommended timelines. At the point in the EAS proceeding when the company files proposed tariffs, the normal statutory tariff deadlines will apply.

There are two types of EAS conversion cases (1) petitions from individual exchanges, and (2) EAS Region designation proceedings. Each type of case has somewhat different characteristics and will require some differences in procedural rules. EAS Region designations are not appropriate for petitioning since the problems will not be limited to individual exchanges. The Commission should retain authority to initiate these proceedings at its discretion, based upon evidence of area-wide demand that it receives. EAS Region designations, however, should also provide a tariff analysis phase which includes an opportunity for public notification and input.

The Commission Staff recommended procedures for EAS requests which incorporate the foregoing principles and contain specific numerical criteria. OITA submitted an alternative set of procedures which, in general, would have made it more difficult for EAS petitions to be approved, and which would have provided opportunities for cost/revenue analysis and public comment. After the evidentiary hearing the Staff expanded its procedural proposals to include a tariff analysis phase. Staff's revised proposal thus provides for the cost revenue analysis and public input sought by OITA.

B. Conclusions

The Commission will adopt the Staff recommendations regarding EAS procedures with some minor modifications. These procedures will bring more consistency to EAS docket proceedings, provide for cost/revenue analysis and public input, and avoid unnecessary restrictions on public participation. EAS requests should be processed according to the following guidelines.

(1) Exchange-by-Exchange Petitions

Petitions -

- a. Petitions from customers or from local telephone companies should be accepted.
- b. Customer petitions should bear the signatures of 25 percent of subscribers or 5000, whichever is less.
- c. Petitioners should use a petition form prepared by the PUC, providing for one signature per subscriber.

Timeline - There should be a recommended twelve month schedule from the initiation of the docket until the Commission is provided with a factual record upon which to base a decision. The Commission may extend the schedule for good cause. Statutory tariff deadlines will apply.

IV. CONCLUSION

The demand for EAS arises, in large measure, because of outmoded exchange boundaries which no longer adequately serve local community calling areas. This order is intended to provide guidance for the problems of EAS expansion which result from these outmoded exchanges. The order may not, however, finally resolve every EAS issue. As EAS expansion proceeds, the Commission will continue to look at EAS policy questions.

ORDER

IT IS HEREBY ORDERED that:

1. Extended Area Service (EAS) shall be offered, when approved by the Commission, as a mandatory, two-way service, with a seven-digit dialing pattern. EAS shall be offered by local telephone companies as a part of local service.
2. Each local telephone company shall develop and propose its own EAS rate tariffs, in conformance with the following rate design criteria:
 - 1 a. Flat rate EAS must be available for all routes.
 - 2 b. Measured rate EAS must be available for all routes.
 - 3 c. A combination of flat rate local service and measured rate EAS must be offered.
 - 4 d. Flat EAS rates should be asymmetrical between exchanges to reflect differences in the number of subscriber lines.
 - 5 f. One flat rate option should incorporate all EAS service available to the customer.

3. Company EAS tariffs must include a residential/business differential under which business customers pay a higher flat rate for EAS. Measured rate EAS shall be priced at the same level for business and residential customers.
4. Company tariffs must propose EAS rates which recover the costs of switching, transport, and a contribution to common overhead. EAS rates must also make a contribution to the cost of the local loop. Revenue shortfalls must be made up first from company-wide EAS rates, then from company-wide local exchange rates. EAS tariff proposals should be revenue neutral.
5. Competitive providers will not be allowed to engage in resale in all EAS markets. (1) Outside designated EAS Regions, such providers must obtain a certificate of authority under ORS 757.815. Certificated providers will be required to comply with the Commission order in Portland Voice Express, UM 165. These requirements also apply to resale across the boundary of a designated EAS Region. (2) Within a designated EAS Region, EAS resale is prohibited.
6. When the configuration of a group of EAS exchanges has resulted in anomalous or inequitable gaps in service, the Commission may designate the group of exchanges as an "EAS Region". All remaining routes within the boundaries of the EAS Region would then be converted to EAS. Region designation proceedings will be conducted according to the procedures set forth in this order.
7. The 21 exchanges in the Portland area which currently have EAS are hereby designated an EAS Region. The particular exchanges involved are set out in Appendix "C" to this order. The Commission Staff is directed to initiate further proceedings in the Portland Region case under Phase II of the procedures adopted in this order. Staff is directed to monitor resale activity in the Charbonneau exchange for compliance with the Portland Voice Express order.
8. The Commission adopts the following procedures for the processing of EAS petitions:

Petitions -

- a. Petitions from customers or from local telephone companies should be accepted.
- b. Customer petitions should bear the signatures of 25 percent of subscribers or 5000, whichever is less.
- c. Petitioners should use a petition form prepared by the PUC, providing for one signature per subscriber.

Docketing - If the petition meets the above requirements, the EAS request should be docketed for investigation.

Phase I: Community of Interest - The Commission will determine if the following community of interest criteria are met:

- a. Contiguous exchange boundaries.
- b. Minimum calling volume - There should be an average of four toll calls per access line per month between the contiguous exchanges.
- c. Minimum calling distribution - At least 33 per cent of customers in the petitioning exchange must make at least one toll call per month to the contiguous exchange.
- d. If the above criteria are not met, the Commission will then issue a proposed order denying the petition. Petitioners will be given an opportunity to establish through demographic, economic, financial or other evidence that a community of interest exists.

If the Commission finds that a community of interest exists, the investigation enters Phase II.

Phase II: Tariff Analysis -

- a. The local exchange company(ies) involved will be required to provide a proposed tariff, an implementation schedule, a cost estimate, and revenue requirements.
- b. The company shall notify all affected customers of the proposed changes.
- c. A public hearing will be held to determine customer reaction.
- d. At Commission discretion, an advisory survey or poll of customers may be taken, using a PUC form.

Public Interest Determination - At the conclusion of the proceeding the Commission will determine, based upon the record, whether the proposed EAS service is in the public interest.

Timeline - There is a recommended twelve month schedule from the acceptance of a petition until the Commission is provided with a factual record upon which to base a decision. The Commission may extend the schedule for good cause. Statutory tariff deadlines will apply.

9. The Commission adopts the following procedures for the processing of EAS Region designations:

Docketing - The Commission retains exclusive authority to initiate a designation proceeding. This does not preclude companies from proposing area-wide trials.

Phase I: Demand Assessment - In this phase of the proceeding the Commission may review the level of EAS requests and complaints, the pattern of interexchange calling, the level of entry by resellers, any other relevant information, and take public comment. If sufficient demand is found to exist, the proceeding will move into the second phase.

Phase II: Tariff Analysis -

- a. The local exchange company(ies) involved will be required to provide a proposed tariff, an implementation schedule, a cost estimate, and revenue requirements.
- b. The company(ies) shall notify all affected customers of the proposed changes.
- c. A public hearing will be held to determine customer reaction.
- d. At Commission discretion, an advisory survey or poll of customers may be taken, using a PUC form.

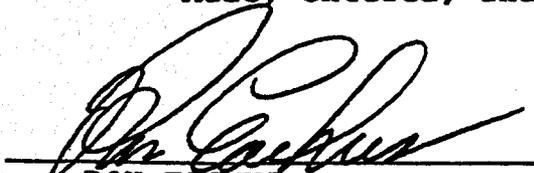
Public Interest Determination - At the conclusion of the proceeding the Commission will determine, based upon the record, whether the EAS Region designation is in the public interest.

Timeline - There is a recommended twelve month schedule from the initiation of a Region designation docket until the Commission is provided with a factual record upon which to base a decision. The Commission may extend the schedule for good cause. Statutory tariff deadlines will apply.

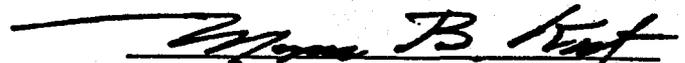
10. The Commission will begin consideration of individual EAS dockets and petitions under the requirements contained in this order. Orders will be issued in the individual dockets reopening proceedings. Earlier filed dockets, and those with statutory deadlines will be taken up first.
11. Within 180 days of the effective date of this order, all local exchange companies shall file tariffs implementing the terms of this order for

their existing EAS exchanges, with the exception of those exchanges in the Portland EAS Region. Portland Region exchange matters will be addressed in Phase II of the Region designation proceedings to be initiated by Staff (see paragraph 7 above).

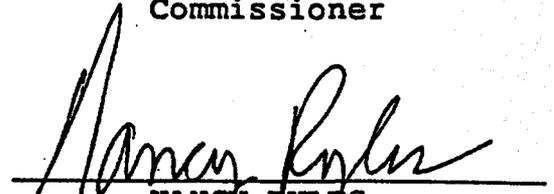
Made, entered, and effective JUN 19 1989.



RON EACHUS
Commissioner, Chair



MYRON B. KATZ
Commissioner



NANCY RYLES
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A party may appeal this order pursuant to ORS 756.580.



APPENDIX "A"

PENDING EAS DOCKETS

<u>Docket No.</u>	<u>Area</u>
UM 158	Dallas, Independence, Falls City, Salem, Monmouth
UM 185	Adrian portion of the Parma Exchange
UM 186	Creswell
UM 187	Myrtle Creek, Canyonville, Riddle, Days Creek, Glendale, Wolf Creek, Azalea, Cave Junction, O'Brien, and Selma
UM 194	Newberg
UT 75	Cottage Grove and Dallas ("Local Plus" trial)
UT 87	GTE Advice No. 334 (West Portland metro exchanges trial)

EAS Petitions and Written Comments

In addition to the docketed proceedings listed in Appendix "A" has received petitions or significant numbers of contacts from other areas, including Hood River, Clackamas County, Columbia County, the Illinois Valley, Central Oregon (Redmond, Powell Butte, Sisters), Sixes, Milton-Freewater and communities in the western part of the Portland metropolitan area.

TELEPHONE EXCHANGES WITH EXTENDED
AREA SERVICE TO AND FROM THE PORTLAND EXCHANGE

1. Beaver Creek
2. Beaverton
3. Burlington
4. Charbonneau
5. Corbett
6. Estacada
7. Forest Grove
8. Gresham
9. Hillsboro
10. Lake Oswego
11. North Plains
12. Oak Grove - Milwaukie
13. Oregon City
14. Redland
15. Sandy
16. Scholls
17. Sherwood
18. Stafford
19. Sunnyside
20. Tigard

db/2011H

Attachment B

Public Utility Commission of Oregon

UM 189

Order No. 92-1136

ORDER NO. 92-1136

ENTERED AUG 10 1992

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 189

In the Matter of the Investigation into Extended)
Area Service in the State of Oregon.)

ORDER

**DISPOSITION: NEW CALLING DISTRIBUTION CRITERION
ADOPTED FOR EAS COMMUNITY OF
INTEREST DETERMINATIONS**

INTRODUCTION

On June 19, 1989, the Commission issued Order No. 89-815 in this docket. The order adopted rate design criteria and other substantive and procedural standards for EAS in Oregon. As part of the order, the Commission adopted objective criteria for determining community of interest between telephone exchanges involved in EAS cases before the Commission. The three basic criteria, examined during Phase I of Commission EAS proceedings, are geographic proximity, minimum calling volume, and minimum calling distribution. Order No. 89-815 at 39.¹

In late 1991, in several pending EAS dockets, the Commission staff (staff) proposed that one of the community of interest criteria, minimum calling distribution, be changed to require a broader distribution of calls. In order to provide an opportunity for full public participation in a review of the UM 189 standard for minimum calling distribution, the Commission issued Order No. 91-1758, reopening this docket to consider staff's proposal. The order reopening the docket was served upon the service lists for UM 189, UM 194 (consolidated docket service list), UM 314, 315, the parties to pending

¹ These standards apply to "exchange-by-exchange" petitions, not to Commission designation of EAS Regions. See Order No. 89-815 at 34-37.

inactive dockets and the telecommunications service list maintained by the Commission. A copy of staff's testimony in support of its proposal was attached to the order.

A schedule was adopted providing an opportunity for parties to file responses to staff testimony and to file further rebuttal testimony. The schedule also set a deadline for the filing of petitions to intervene. Written comment from interested persons was permitted. The deadlines for filing written testimony were extended at the request of USWC.

On January 23, 1992, a final service list was served on all parties. During January and February, initial response testimony and rebuttal were filed with the Commission by several of the parties. Comments were also received from a number of interested persons. The record was closed on March 3, 1992.

FINDINGS OF FACT

Staff Proposal - New Customer Calling Distribution Criterion

Current Criterion. Order No. 89-815 established three objective criteria for determining whether a community of interest exists: (1) the exchanges must have contiguous boundaries; (2) there must be a minimum calling volume of four toll calls per access line per month between the petitioning exchange and the contiguous exchange; and (3) a minimum of 33 percent of customers in the petitioning exchange must make at least one toll call per month to the contiguous exchange. It is this last criterion which staff proposes to change.

Proposed New Criterion. Staff proposes that a more stringent call distribution standard be adopted. The new minimum standard would require that more than 50 percent of customers in the petitioning exchange make at least two toll calls per month to a receiving exchange. The two-call average would be based upon telephone company data for at least three months with a preference for six months of data. A customer is defined as a single account. Staff 10/Wolf 3.

Staff Rationale. The higher standard is designed to provide for a clearer indication of widely distributed customer calling patterns. Staff believes that the decision to grant EAS should not be determined by the calling interests of a minority of customers.

At the time the current distribution criterion was adopted in Order No. 89-815, actual call distribution data was not available. Since that order was issued, the staff has conducted a study of minimum calling distribution statistics from EAS petitions docketed and reviewed since Order No. 89-815. The study reviewed 60 exchange-by-exchange EAS relationships using Phase I data from 22 dockets. The data show that exchanges which display high calling volumes also display a broad call distribution. It is not uncommon to find that 80-90 percent of customers place at least two calls between exchanges when the call volume exceeds ten calls per line per month. Adoption of the stricter standard would produce, in staff's view, a better "screening effect" and correlate with the current calling volume standard. Results of the staff study are set out in Appendix "A."

Staff argues that this is consistent with the purpose of the original standard adopted by the Commission in June 1989, which was designed to protect consumers against undue cost shifts from high volume users to low volume users and to be representative of a widely distributed customer base.

Response of the Parties

USWC

USWC does not object to the revised third criterion as proposed. USWC believes the revised criterion is fair and reasonable and better demonstrates that a majority of customers benefit and will utilize an expanded calling area. Requiring that more than half of the customers meet the distribution requirement will help assure that there are enough benefits, both in terms of usage and of cost to the customer, to warrant the adoption of EAS.

PTI

PTI does not oppose staff's proposal, but differs to some degree with the rationale. PTI notes that staff's proposal seeks to avoid basing EAS decisions on the interests of a minority of customers, in part to avoid the undue influence of high-volume users. PTI points out that Order No. 89-815 already attempts to balance these interests by means of rate design requirements. The requirement that both flat and measured EAS options be offered allows some low-volume customers to avoid the cost shift by opting for a less costly form of EAS. PTI believes that if the stricter standard is adopted, the availability of alternative means to establish a community of interest by demographic and other factors will become more important and should be given greater emphasis by the Commission.

MCI

MCI supports the staff proposal. In general, MCI believes that EAS has numerous detrimental effects on the development of competition in the intraLATA market because it establishes a portion of the intraLATA market as a *de facto* monopoly, thereby depriving consumers of the incentives and opportunities provided by competition. Because of this negative impact, MCI supports EAS only where there is a true community of interest, not solely a preference for elimination of random toll charges. MCI supports the staff proposal because it ensures that the calling patterns of a majority of exchange customers will be used as a statistical indicator, yielding a more accurate identification of a meaningful community of interest.

GTE

GTE supports staff's proposed criterion.

OITA

OITA is convinced that no substantial case has been made for employing a 50 percent call distribution standard in exchange-by-exchange EAS cases. OITA's concern is that the proposal appears to be based on academic notions of fairness and a general desire to suppress the volume of EAS petitions rather than a detailed analysis of the public response to EAS conversions under current criteria.

OITA argues that the existing standards have not been in place long enough to provide a reliable "readout" of public response. There has been no showing of subscriber dissatisfaction with current criteria, or that rate impacts or take rates were substantially different from that originally anticipated. The reduction of staff workload is an inadequate justification for the change.

Other Written Comments**UM 314 (Grand Island/Amity/McMinnville/Newberg)**

Cynda Saunders of Grand Islanders for Extended Area Service opposes the application of the new standard in Docket No. UM 314. The group feels that it is entitled to the standards that were in effect at the time their petition was accepted by the Commission. Three other residents of the subject area, Judy Darling, Beryl Forester, and Candace Tompkins wrote to Governor Roberts, also requesting that the pending petitions in UM 314 be evaluated under the present rather than the proposed criterion.

UM 395 (Seaside/Warrenton/Astoria); UM 353 (Knappa/Astoria)

Local governmental bodies in Clatsop County have expressed significant opposition to the application of the proposed criteria to previously filed petitions involving area communities. The Clatsop County Board of Commissioners requested use of the current criterion, stating that it would be an "injustice to the petitioners if a change in Criteria [sic] adversely affecting the further consideration of the petitions were made at this late date."

The Mayor of Astoria wrote to strongly urge the Commission to consider petitions filed before the date of the order reopening this docket under the existing community of interest criteria. The City believes it is unfair to subject prior petitions, filed in good faith based upon reasonable criteria, to new criteria adopted subsequently. The Seaside City Manager wrote to oppose the change.

Additional letters in opposition to the use of the new standard in UM 395 were received from Audrey Knippa and Aida Day of Seaside. Letters in support of the need for EAS from Seaside to Astoria were received from Frances Gunn and Mrs. Oscar Berg.

Vickie Barrett, organizer of the petition drive for the Knappa petition, wrote to request that the Commission follow the criteria in place when the UM 353 petition was filed with the Commission. She believes it would be "grossly unfair" to change the rules at this stage of the process. A letter in support of this position was received from Patrick Coons of Astoria.

The Cannon Beach City Manager wrote to oppose the change, although the city does not have a petition currently pending.

UM 354 (Coquille/Coos Bay)

Clay Davis wrote on behalf of the Coquille petitioners to object to the new standard. Mr. Davis states that the petitioners feel "the proposed change is unfair to pending EAS areas that are awaiting approval . . ."

Impact on Prior EAS Investigations

In most cases a higher distribution standard for determining a community of interest would not have affected the final outcome of past EAS dockets. In the twelve dockets already completed or currently in Phase II, two petitions would have failed solely on the basis of the higher standard. See Appendix "A."

OPINION

Having reviewed the record in this reopened phase of the proceeding, the Commission concludes that the staff proposal is reasonable and should be adopted.

The stricter calling distribution standard will make it more difficult for future petitioners to establish a community of interest. The Commission is persuaded, however, that the adoption of a higher threshold requirement is consistent with the EAS policies announced in Order No. 89-815.

EAS policy involves balancing many competing interests. In balancing these interests, the Commission is guided by the goals announced in Order No. 89-815. Those goals are to:

1. Improve service and minimize the cost of calls between exchanges with a community of interest.
2. Balance customer demand for EAS with the goal of universal service.
3. Ensure that the cost of EAS service is recovered equitably.
4. Inform the public.

Order No. 89-815 at 5-6.

There is a significant amount of legitimate demand for EAS in Oregon. In large measure this demand is a response to the limitations of exchange boundaries which no longer reflect community boundaries. The Commission is committed to being responsive to this public need for service. At the same time, EAS has some potential undesirable effects on the telecommunications system. EAS tends to benefit high-volume telephone users at the expense of low-volume users by shifting costs from the former to the latter. Order No. 89-815 at 13. It tends to place upward pressure on local rates. *Id.* EAS virtually eliminates the possibility of interexchange competition in areas where it is adopted. Order No. 89-815 at 26-28. In Order No. 89-815, the Commission noted these effects and stated its intention to implement EAS in such a way as to minimize these negative impacts.

As noted, one rationale for current EAS policy is the Commission's concern that EAS not be a mechanism for unfairly shifting costs from high-volume to low-volume telephone customers.

EAS conversion also creates potential for unfair cost shifts from high-volume to low-volume telephone users. Responsibility for the costs which these high volume customers formerly paid is then spread throughout the entire customer base. Analysis of demand, calling patterns, and community support for EAS must take into account the special role of the high volume user.

Id. Order No. 89-815 at 13. Broadening the distribution requirement serves this policy goal by diminishing the possibility that a community of interest will be established based upon the high usage of a minority of the customers in the relevant exchange. Under the current criteria, high-volume calling by only a few customers can raise the exchange-wide per line average to the required level. Even if only a minority of customers (one third) make one interexchange calls per month, a community of interest is found. After two and one half years of experience with these standards, staff recommends that the balance be shifted to require a more representative distribution.

The proposed new distribution standard changes both elements of the current standard. First, it raises the percentage of customers who must call the receiving exchange from 33 percent to more than 50 percent. Second, each of these customers must make a minimum of two calls per month rather than one, as under the current standard. As PTI noted in its testimony, the new distribution standard introduces a new element to the objective community of interest criteria - a reflection of majority usage patterns. Adding this element to the criteria will yield a more clear-cut showing of community of interest. Communities which can show that over half their telephone customers engage in regular calling to the receiving exchange will have made a more convincing showing of EAS demand and of community of interest. Increasing the number of calls required per customer will be an added indicia of continuing EAS demand over time.

To the extent that it limits undue expansion of EAS, adoption of the new standard will preserve opportunities for interexchange competition, where appropriate. The Commission has noted:

Competitive interexchange providers may be able to develop attractive packages of services for exchanges with significant numbers of high-volume short-haul toll users. EAS conversion severely hampers interexchange competition. In exchanges where the demand for EAS comes primarily

from high-volume toll customers. reliance on competition among interexchange providers to bring toll prices down may be an appropriate solution.

Order No. 89-815 at 15.

Finally, it is important to note that, while the adoption of the new criterion makes it more difficult for petitioners to establish a community of interest, petitioners who do not meet the objective criteria have another option available. Order No. 89-815 provides petitioners with an opportunity to establish through demographic, economic, financial, or other evidence that a community of interest exists.

Application of the New Standard

The new calling distribution criterion will be applied to all pending inactive petitions for exchange-by-exchange EAS conversion. Pending inactive petitions are those which have been accepted and docketed by the Commission but where formal proceedings have not yet begun. The new standard will also be applied to all newly filed EAS petitions. None of these cases have entered Phase I Community of Interest Determination. In view of the benefits to be derived from a stronger community of interest standard, the Commission believes it is reasonable to apply the new standard to these dockets, once they are activated.

The three pending active petitions, UM 289 (Yamhill), UM 314 (Grand Island), and UM 315 (Brownsville), will be reviewed under the original UM 189 standard. Because the old standard was in effect when formal proceedings began and the Phase I Community of Interest Determination was already under way when the new standard was proposed, application of the new standard would be inappropriate in those dockets.

CONCLUSIONS

1. The revised calling distribution criterion proposed by staff is consistent with the EAS policy goals adopted by the Commission in Order No. 89-815.
2. The new criterion is reasonable and should be adopted.
3. The new criterion will be applied to all pending inactive exchange-by-exchange petitions, and to all new petitions filed after the date of entry of the order reopening this docket. Docket Nos. UM 289, 314, and 315 should be reviewed under the original standard.

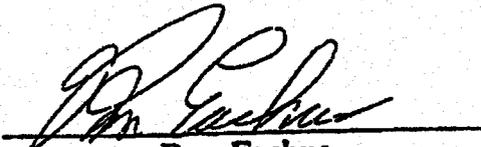
ORDER

IT IS ORDERED that:

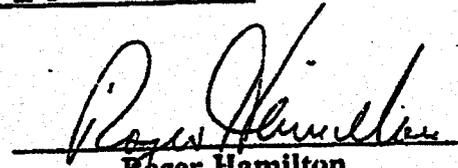
1. The EAS community of interest criterion for minimum calling distribution is amended to require that more than fifty percent of customers in the petitioning exchange make at least two toll calls per month to the relevant receiving exchange. The two-call average would be based upon telephone company data for at least three months with a preference for six months of data. A customer is defined as a single account.

2. The new criterion shall apply to all pending inactive exchange-by-exchange petitions, and to all new petitions filed after the date of entry of the order reopening this docket. Docket Nos. UM 289 (Yamhill, non-Region portion of docket), 314 (Grand Island), and 315 (Brownsville) shall be reviewed under the original UM 189 distribution standard.

Made, entered, and effective AUG 10 1992.



Ron Eachus
Chairman



Roger Hamilton
Commissioner

Commissioner Joan Smith. concurs in part; dissents in part:

I dissent from the provision in the order applying new criterion to all pending inactive exchange-by-exchange petitions (ordering paragraph No. 2).

While I agree that the shift in the criterion will likely provide a more representative distribution in determining community of interest, nothing in the record appears to demonstrate significant harm to ratepayers or others which, in turn, compels retroactive application to pending petitions.

The appearance of unfairness to the petitioners outweighs retroactive application. Even though their cases have not entered Phase I Community of Interest Determination, they have been filed with the Commission. While petitioners may not be intimately familiar with the intricacies of Order No. 89-815, I assume they would not expect criteria to change, however justified, during the pendency of their own filing. As a policy matter, therefore, I do not agree with retroactive application of the new criterion to the pending inactive petitions.



Joan H. Smith
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561.
A party may appeal this order pursuant to ORS 756.580.

Staff/11
 Work/2

STAFF ANALYSIS OF CUSTOMER CALLING DISTRIBUTION
 TEST FOR N > 50% @ 2 CALLS/MONTH

DOCKET	FROM	TO	N%.X>1	N%.X>2	PASS NO?	# No, STATUS
UM 281	COTTAGE GROVE	EUGENE	83.26%	75.83%		
UM 186	CRESWELL	EUGENE	89.37%	85.72%		
UM 186	CRESWELL	COTTAGE GROVE	70.90%	59.65%		
UM 314	GRAND ISLAND	AMITY	51.85%	41.08%	NO	PHASE 1
UM 314	GRAND ISLAND	McMINNVILLE	82.91%	73.62%		
UM 314	GRAND ISLAND	NEWBERG	46.75%	33.94%	N/A	
UM 314	GRAND ISLAND	SALEM	82.74%	73.87%		
UM 290	NORTH HARNEY	BURNS	93.02%	86.89%		
UM 290	SOUTH HARNEY	BURNS	77.99%	67.31%		
UM 308	TYGH VALLEY	MAUPIN	66.37%	52.85%		
UM 308	TYGH VALLEY	PINE GROVE	33.73%	22.92%	N/A	
UM 308	TYGH VALLEY	WAMIC	65.28%	51.79%		
UM 309	SWEET HOME	LEBANON	76.02%	62.86%		
UM 315	BROWNSVILLE	LEBANON	68.23%	54.23%		
UM 315	BROWNSVILLE	SWEET HOME	51.08%	36.82%	N/A	
UM 315	BROWNSVILLE	HALSEY	50.83%	38.18%	NO	PHASE 1
UM 325	LEBANON	ALBANY	76.20%	65.04%		
UM 312	JOSEPH-IMNAHA	LOSTINE	20.48%	11.01%	N/A	
UM 312	JOSEPH-IMNAHA	WALLOWA	23.85%	13.17%	N/A	
UM 313	AURORA	WOODBURN	67.12%	55.76%		
UM 301	SCAPPOOSE	ST HELEN	80.91%	73.21%		
UM 287	RAINER	ST HELEN	62.70%	48.30%	NO	COMPLETED
UM 289	YAMHILL	CARLTON	63.22%	50.46%		
UM 289	YAMHILL	McMINNVILLE	83.56%	76.15%		
UM 289	YAMHILL	NEWBERG	59.20%	45.30%	NO	PHASE 1
UM 288	NORTH POWDER	HAINES	51.76%	40.39%	N/A	
UM 288	NORTH POWDER	BAKER	83.92%	75.69%		
UM 288	NORTH POWDER	LAGRANDE	82.35%	72.55%		
UM 279	RIDGEVIEW	ADRIAN	18.64%	11.49%	N/A	
UM 279	RIDGEVIEW	NYSSA	46.89%	37.57%	N/A	
UM 279	RIDGEVIEW	VALE	21.74%	13.07%	N/A	
UM 279	RIDGEVIEW	ONTARIO	50.00%	39.44%	N/A	
UM 278	MOSIER	THE DALLES	69.82%	66.86%		
UM 278	MOSIER	HOODRIVER	71.13%	63.25%		
UM 277	BEAVER	TILLAMOOK	81.50%	73.33%		

91-111

Stall/11
Well/3

FROM	TO	N%,X>1	N%,X>2	PASS NO?	II No. STATUS	
UM 271	PARKDALE	HOODRIVER	70.15%	64.87%		
UM 271	PARKDALE	ODELL	62.93%	51.00%		
UM 271	ODELL	PARKDALE	54.73%	41.94%	NO	(1)
UM 271	ODELL	HOODRIVER	67.39%	63.90%		
UM 251	MILTON FREEWATER	WALLA WALLA	INTERSTATE TOLL			
UM 251	MILTON FREEWATER	STATELINE	INTERSTATE TOLL			
UM 158	DALLAS	SALEM	81.80%	79.17%		
UM 158	INDEPENDENCE	SALEM	83.90%	81.16%		
UM 158	DALLAS	INDEPENDENCE	51.60%	38.76%	NO	(2)
UM 158	INDEPENDENCE	DALLAS	64.30%	56.19%		
UM 158	FALLS CITY	INDEPENDENCE	56.70%	43.01%	NO	COMPLETED
UM 158	FALLS CITY	SALEM	78.50%	55.17%		
UM 185	ADRIAN	NYSSA	74.07%	69.00%		
UM 185	ADRIAN	ONTARIO	65.91%	56.95%		
UM 185	ADRIAN	VALE	24.16%	16.76%	N/A	
UM 187	CANYONVILLE	MYRTLE CREEK	83.60%	71.90%		
UM 187	DAYS CREEK	MYRTLE CREEK	77.80%	63.31%		
UM 187	RIDDLE	CANYONVILLE	73.40%	58.85%		
UM 187	MYRTLE CREEK	RIDDLE	55.40%	39.74%	NO	(3)
UM 187	RIDDLE	MYRTLE CREEK	88.40%	79.79%		
UM 187	CAVE JUNCTION	OBRIEN	33.90%		NO	(4)
UM 187	OBRIEN	CAVE JUNCTION	98.50%	92.51%		
UM 187	SELMA	CAVE JUNCTION	93.20%	84.28%		
UM 187	AZALEA	CANYONVILLE	68.00%	56.49%		

N/A = FAILED ON OTHER CRITERIA

(1),(2),(3) & (4) ACHIEVES STANDARD IN OTHER DIRECTION

SAMPLE = 60 EXCHANGE RELATIONSHIPS

3 FAIL PHASE 1

2 FAIL IN COMPLETED DOCKETS

Attachment C

Washington Utilities And Transportation
Commission

Docket No. UT-970545

General Order No. R-453

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Adopting) DOCKET NO. UT-970545
WAC 480-120-045)
Relating to Local Calling Areas) GENERAL ORDER NO. R-453
)
and Repealing)
WAC 480-120-400 through 480-120-435) ORDER REPEALING AND
Relating to Extended Area Service) ADOPTING RULES PERMANENTLY
)
.....)

STATUTORY OR OTHER AUTHORITY: The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 98-20-104 (supplemental to WSR # 98-03-011 and WSR #98-12-071), filed with the Code Reviser on October 7, 1998. The Commission brings this proceeding pursuant to RCW 80.01.040, 80.36.100; 80.36.140; 80.36.160; 80.36.170; and 80.36.180.

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 November 25, 1998.

CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:
The rule expresses a policy preference for competition and optional calling plans to meet individual customer telephone calling needs, but allows for local calling areas to be broadened to ensure that customers are able to make local calls to community medical facilities, government services, K-12 schools and a commercial center.

REFERENCE TO AFFECTED RULES: This rule repeals the following sections of the Washington Administrative Code relating to Extended Area Service:
WAC 480-120-400 Purpose.
WAC 480-120-405 Definition of extended area service.
WAC 480-120-410 Local calling capability.

- WAC 480-120-415 Determination of extended area service routes.
- WAC 480-120-420 Revenue requirements and rate design.
- WAC 480-120-425 Community calling fund.
- WAC 480-120-430 Impact on current compensation arrangements.
- WAC 480-120-435 Petition for waiver.

PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on April 9, 1997, at WSR # 97-09-023.

ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL

STATEMENT: The statement advised interested persons that the Commission was considering entering a rulemaking clarifying the mechanisms for ensuring that telephone subscribers have minimum reasonable local calling areas and opportunities to make interexchange calls at flat rates or rates less than statewide tariffed per minute toll rates. 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 telephone companies and the Commission's list of telephone attorneys, by publishing information on the Commission's world wide web site, and by sending notice to interested persons of prior proceedings involving extended area service and news media in communities that had expressed concern about a need for toll-free dialing to other communities. Pursuant to the notice, the Commission did engage in six workshops around the state to gather public comments on the general approach, several meetings with affected telephone companies, and developed consensus on a preferred approach.

NOTICE OF PROPOSED RULEMAKING: The Commission filed a notice of Proposed Rulemaking (CR-102) on October 7, 1998, at WSR # 98-20-104. The Commission scheduled this matter for oral comment and adoption under Notice WSR # 98-20-104 at 9:30 a.m., Monday, November 16, 1998, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The notice provided interested persons the opportunity to submit written comments to the Commission.

MEETINGS OR WORKSHOPS; ORAL COMMENTS: Commission Staff held workshops in six communities around the state to get public comment on the proposed rule.

<u>Location</u>	<u>Date</u>	<u>Number attending</u>
Dayton	February 17	15
Toppenish	February 18	30
Mount Vernon	February 23	50

Chimacum	February 24	30
Winlock	February 25	75
Waterville	March 3	300

At the public workshops, commenters expressed strong support for the proposed standard (i.e. local calling should meet basic community needs) and the need to expand local calling on a timely basis, but the rule should consider specific local circumstances.

COMMENTERS (WRITTEN COMMENTS): The Commission received written comments from the following parties:

Telephone Resellers Association (Andrew Isar) supports the rule and urges its adoption. The rule is a simple way to create local calling areas when absolutely necessary, which accomplishes two critical objectives: leaving the door open for expanding calling areas on an ad hoc basis, and continuing to promote competition by not foreclosing competitive choice.

Public Counsel (Simon ffitch) offered two suggestions for improving the rule. First, to make it clear that customers and others may petition for expansion of local calling areas, Public Counsel suggested adding the following sentence to the end of Section (1):

The Commission may consider expansion of a local calling area on its own motion, or upon a petition filed by customers, a local government entity, or a telecommunications company serving the existing calling area.

An existing statute - RCW 80.04.110 - specifies who can bring issues before the Commission, and how such complaints will be handled. Since this section of current law is consistent with Public Counsel's proposal, the Commission added a new subsection (3) to direct potential petitioners to this procedure.

Second, Public Counsel suggested adding a clause to make lack of available competition one of the criteria for exceptional circumstances by amending the last sentence of the rule to read:

In evaluating such requests, the Commission will consider the overall community of interest of the entire exchange, and may consider other pertinent factors such as customer calling patterns, and the availability and feasibility of optional calling plans, and the level of local and long distance competition.

The Commission has adopted this suggestion to amend Section (2) of the proposed rule as the proffered factor bears directly on whether alternatives are available through a market solution as opposed to a regulatory solution.

Washington Independent Telephone Association (WITA) (Terry Vann) and **GTE** support adopting the rule with a definition of exceptional circumstances ("a major shift in local calling needs, due to unusual and unforeseen circumstances, where usage and/or environment have changed"). They note a dictionary definition of "exceptional" as rare, unique, and extraordinary.

The Commission agrees that major shifts in political, social, or economic factors that affect calling patterns would certainly constitute exceptional circumstances. However, despite our best efforts to solve local calling problems once and for all, there may currently be exchanges whose calling would not be considered adequate. These could be considered unique, and so support consideration of expanded local calling as an exceptional circumstance, without demonstrating any change.

City of Uniontown (Peter Holland, Mayor, and Dale Miller, Planning Commission, via electronic mail) comment that the rule proposed in May would have solved problem for most small rural communities, but the commenters fear that the substitute plan will only work in larger urban areas. Uniontown and Colton are within 15 miles of both Pullman and Lewiston ID, but calls to these medical or retail centers carry per-minute toll charges. They ask the Commission to return to the concept of the May rule, perhaps restricting expansion to 30 miles of commercial or medical centers. At a minimum, they ask the Commission to revise Section (1) of the proposal by removing the phrase "only under the most exceptional circumstances", asserting that this would preserve the intent of relying on competition to solve the problem, but would allow the Commission to expand local calling areas where a reasonable person could determine that competitive services were not available.

It is inappropriate to return to the prior proposal. Deference to competition as a standard is appropriate, however, and the amendment to the Section (2) of the proposal will add availability of competition to the criteria for considering whether to expand local calling. The Commission rejected a provision in earlier drafts of the rule to consider a calling area size based on mileage from a commercial center, since this proved to have technical problems that would make it too difficult to enforce. Because the Commission believes that EAS is inappropriate for calling convenience as opposed to true community of interest, and because of problems with EAS requests, all parties (phone companies as well as the public) should be on notice that expanding local calling will require exceptional circumstances.

City of Buckley (John Blanusa, Mayor) requests that Section (2) be modified to include regional (rather than community) medical facilities, county (as well

as city) government, and to have the Commission consider "preferences expressed by local governments, citizen referendum or citizen petition".

Requiring local telephone exchanges to be able to reach regional medical facilities and county governments is inappropriate, as it would result in the Commission mandating county-wide local calling, a significant change in policy direction with costly consequences for telephone ratepayers. The Commission may consider preferences expressed in petitions it may receive under this rule.

Philip and Adrienne McClure (Silverdale, via email) - These citizens comment that there would be no need to expand local calling areas if telephone exchanges corresponded to political boundaries. They argue that phone service should fit population patterns.

The Commission agrees in principle that there would be advantages if phone service boundaries matched political boundaries. Unfortunately, each telephone exchange is the product of historical accident as well as other factors and is engineered to serve its current area. Redrawing exchange boundaries would be a significant and costly undertaking whose benefits would not rise to the level of its costs.

U S WEST is not opposed to adoption of a new or revised rule and it did sign the settlement agreement resulting in the current proposal. It has also submitted substantial comments which have been numbered below for ease of reference:

U S WEST 1. The Company argues that the proposed rule language is impermissibly vague and does not address several issues of concern to the Company and its customers. **U S WEST** shared this view at the time it signed the settlement agreement. *Response:* The new rule language is as specific and clear as it can be, given the unique characteristics of every community and telephone exchange in Washington. The language is sufficiently specific to guide parties' actions.

U S WEST 2. It is not clear why the proposed rule must limit future local calling area expansions to exceptional circumstances. *Response:* Mandatory expansion of local calling areas, and mandating rate increases to pay for such expansion, are not consistent with competition and customer choice. Customers who want expanded local calling, and who will use this rule to seek it, should be on notice about the Commission's policy priorities and expectations.

U S WEST 3. **U S WEST** argues that the proposed rule is in conflict with the Governor's Executive Order 97-02 because is not clear and concise. It merely

alludes to the standards considered, without giving clear direction and procedures to establish these standards, so is not consistent with the standards required by the Governor's Order. *Response:* The proposed rule replaces seven sections of rules with one. Although the current EAS rule provides standards which appear to be clear, these criteria were often not relevant to a given community's situation, and often did not result in a solution to calling problems. EAS standards require data which are increasingly difficult to obtain, given changes in long distance competition. The rule identifies appropriate factors to consider and provides a sufficient means of dealing with the exercise of judgment in very complex situations.

U S WEST 4. U S WEST argues that Section (1) of the proposed rule does not set forth clear standards and procedures under which the Commission will consider the creation of new EAS routes, compared with the existing rule. "Exceptional circumstance" is not defined and is therefore impermissibly vague. *Response:* Section (1) of the proposal must be read in conjunction with Section (2), which sets out criteria for considering petitions. In addition, we discussed the meaning of "exceptional circumstances" above, in conjunction with WITA's comments, as having the readily available dictionary definition of unique, unusual, extraordinary.

U S WEST 5. U S WEST argues that Section (2) makes the proposed rule even more vague, because no process is described for determining whether customers have or do not have the required local calling capability. It is not clear how the determination of a route deemed necessary due to "exceptional circumstance" occurs. If a customer petitions for additional EAS, stating that they cannot call their city government offices, what process will be utilized to determine if this situation meets the rule criteria? *Response:* RCW 80.04.110 outlines procedures for considering petitions. The Commission will compare the facts against the criteria in section (2) of the proposed rule, apply its expertise and its judgment, and reach a decision.

U S WEST 6. U S WEST argues that "Commercial center" should be defined, and that the proposed rule should also include specific definitions of each community service. It argues that decisions as to a given area's qualification for expanded area calling will be less arbitrary if all parties agree at the start on the definition of each community service. *Response:* Our experience dealing with this rule over the past eight months has led us to believe that it is not possible to define these terms precisely since they depend on the nature of each exchange and each community. Discretion is required in applying the terms, based on the facts of each request.

U S WEST 7. The proposed new rule does not contain a method for recovery of new costs imposed by this rule. The Commission ordered U S WEST to implement statewide average basic calling rates for its business and residential customers in Docket No. UT-950200. If this proposed rule becomes effective as

written, and future EAS charges are assessed only to participating customers, U S WEST would be required to return to various rate group pricing structures.

Response: Each of the 20 or so local exchange companies may wish to take a different approach to recovering any costs of expanded local calling areas. Mandating one single recovery mechanism is not consistent with competition, or providing decision-making flexibility to companies.

RULEMAKING HEARING: The rule proposal was considered for adoption, pursuant to the notice, at 9:30 a.m. on November 16 before Chairwoman Anne Levinson and Commissioner William R. Gillis. The meeting was continued on the record until 1:30 p.m. November 16, and was further continued on the record until 9:30 a.m. on November 25, 1998, before Chairwoman Anne Levinson and Commissioners Richard Hemstad and William R. Gillis. The Commission heard oral comments from Jeffrey Showman, representing Commission staff. At 9:30 a.m. on November 16, Mr. George Astler of Birch Bay made oral comments in support of expanded local calling at reasonable rates through optional calling plans rather than mandatory calling expansions. On November 16 at 1:30 p.m., Joyce Morris of U S WEST reiterated U S WEST's written comments, discussed above. On November 25, Terry Vann of the Washington Independent Telephone Association (WITA) and Simon ffitch of the Public Counsel section of the Attorney General spoke in favor of adopting the rule.

SUGGESTIONS FOR CHANGE THAT ARE REJECTED: The Commission discussed above the changes that it rejected, and explained the reasons for its action.

COMMISSION ACTION: After considering all of the information regarding this proposal, the Commission repealed WAC 480-120-400 through 480-120-435, inclusive, relating to Extended Area Service, and adopted the proposed rule.

CHANGES FROM PROPOSAL: The Commission adopted the proposal with the following changes from the text noticed at WSR #98-20-104:

Section (2) of the rule was amended to add the following factors to be considered in deciding whether to grant a petition for extended area service:

and the level of local and long distance competition.

A new subsection (3) was added to identify a process for seeking extended area service:

(3) Requests for expanded local calling areas shall be made pursuant to RCW 80.04.110 (the Commission's complaint statute).

Both of these suggestions are clarifying statements that would make the rule easier to understand and merely make explicit what was already implicit in the rule's language. This order discusses the reasoning for the changes, above.

STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: In reviewing the entire record, the Commission determines that WAC 480-120-400 through 480-120-435 should be repealed, and WAC 480-120-045 adopted, to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

ORDER

THE COMMISSION ORDERS That:

1. WAC 480-120-400 through 480-120-435 are repealed, and WAC 480-120-045 is adopted, to read as set forth in Appendix A, as a rule of the Washington Utilities and Transportation Commission, 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 rulemaking, and when it

considered adoption of this proposal, as supplemented by the text of this order, as its Concise Explanatory Statement of the reasons for adoption and for rejection of proposed changes, as required by RCW 34.05.025.

DATED at Olympia, Washington, this 15th day of December 1998.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ANNE LEVINSON, Chair

RICHARD HEMSTAD, Commissioner

WILLIAM R. GILLIS, Commissioner

- (2) Any subscriber to residential service may request a dual name primary directory listing which contains, in addition to the subscriber's surname, the given names or initials (or combination thereof) of the subscriber and (1) one other person with the same surname who resides at the same address; or (2) a second name, other than surname, by which the subscriber is also known, including the married name of a woman whose husband is deceased. Any additional directory listing requested by a subscriber pursuant to tariff provision shall also reflect said dual name listing if requested by the subscriber.
- (3) Each local exchange company shall furnish a copy of any required directory to each of its subscribers in each exchange. If that directory does not also contain such listings for all subscribers who can be called toll free from that exchange (excluding WATS), a copy of the directory or directories required for that coverage shall be furnished each subscriber upon request and without charge. If anyone requests a directory other than the one(s) provided for above, the company may apply a charge equal to, but not to exceed, its actual cost for the directory, plus freight, postage, and \$0.50.
- (4) Each local exchange company that is providing service in an area covered by a directory published pursuant to this rule may, upon request, have an informational listing of its name and telephone number placed in each such directory. Each directory publisher may impose reasonable requirements on the timing and format of informational listings, provided that these requirements do not discriminate between local exchange carriers.
- (5) Normally, telephone directories shall be revised annually; otherwise they shall be revised at least once every fifteen months, except when it is known that impending service changes require rescheduling of directory revision dates. The revision of directories may at times be required more often than specified to keep the directory correct and up to date. Exemptions from these requirements may be allowed by the commission upon application if it can be shown that it is unnecessary to revise the directory within the specified time limit for good cause and/or due to a relatively small number of changes resulting from new listings or changed numbers and if the exchange is equipped for adequate intercept in the case of dial exchanges.
- (6) In the event of an error in the listed number of any subscriber, the subscriber's local exchange company shall, until a new directory is published, intercept all calls to the incorrectly listed number to give the calling party the correct number of the called party, providing that this is permitted by existing central office equipment and the incorrectly listed number is not a number presently assigned to another subscriber. In the event of an error or omission in the name listing of a subscriber, such subscriber's correct name and telephone number shall be maintained in the files of the directory assistance operator, and the correct number shall be furnished the calling party upon request.
- (7) Whenever a subscriber's telephone number is changed for any reason after a directory is published, the local exchange company shall intercept all calls to the former number, if existing office equipment will permit, for a minimum period of thirty days or until a new directory is published, and give the calling party the new number for that subscriber unless the subscriber has requested that such referral not be made.
- (8) When additions or changes to plant or records are scheduled which will necessitate a large group of number changes, a minimum of six months notice shall be given to all subscribers then of record and so affected even though the additions or changes may be coincidental with the issuance of a new directory.

[Statutory Authority: RCW 80.01.040, 97-18-056 and 97-20-095 (Order R-442 and Order R-444, Docket No. UT-960942), § 480-120-042, filed 8/27/97 and 9/29/97 effective 9/29/97 and 10/30/97. Statutory Authority: RCW 80.01.040 and 1985 c 450, 85-23-001 (Order R-242, Cause No. U-85-56), § 480-120-042, filed 11/7/85; Order R-92, § 480-120-042, filed 2/9/77.]

WAC 480-120-045 Local calling areas. (1) The commission may expand local calling areas only under the most exceptional circumstances. The commission will generally rely on long distance competition, local competition, and optional calling plans that assess additional charges only to participating customers to meet customer demand for alternate or expanded calling.

(2) In evaluating requests for expanded local calling, the commission will consider whether the local

calling area is adequate to allow customers to call and receive calls from the following community services: Community medical facilities, police and fire departments, city or town government, elementary and secondary schools, libraries, and a commercial center. In evaluating such requests, the commission will consider the overall community of interest of the entire exchange, and may consider other pertinent factors such as customer calling patterns, the availability and feasibility of optional calling plans, and the level of local and long distance competition.

(3) Requests for expanded local calling areas shall be made pursuant to RCW 80.04.110 (the commission's complaint statute).

[Statutory Authority: RCW 80.01.040, 80.36.100, 80.36.140, 80.36.160, 80.36.170 and 80.36.180. 99-01-076 (Order R-453, Docket No. UT-970545), § 480-120-045, filed 12/15/98, effective 1/15/99.]

WAC 480-120-046 Service offered.

(1) Classes of service - each utility shall file with the commission, as a part of its tariff, regulations enumerating and comprehensively defining the classes of service available to subscribers.

The classes of service are: Business and residence.

(2) Types of service - in general the principal types of service offered shall be flat rate, message rate and semipublic.

(3) Grades of service - in general the principal grades of service shall be individual, two-party, four-party, suburban and farmer line service. In general, individual, two-party and four-party service shall be available within the base rate area and suburban service provided in suburban areas outside the base rate area of the utility.

Within the base rate area, no utility shall place more than four subscribers on any local exchange line, except upon approval by the commission.

On rural lines where suburban service is provided, no more than 10 subscribers shall be connected to any one suburban service line and an effort should be made to reduce the number of subscribers on suburban service lines to 4. The utility may regroup stations as may be necessary to carry out the provisions of this rule.

No utility shall connect more subscribers to any one line than the number specified for the particular grade of service.

(4) Credit cards - no telephone utility shall issue a telephone credit card or telephone calling card to any person, firm or corporation unless such a person, firm or corporation is:

(a) A bona fide subscriber to the utility's exchange service, or

(b) A nonsubscriber to the utility's exchange service whose principal location is in the utility's exchange area and who is not a subscriber to any other utility's exchange service, or

(c) A nonsubscriber to the utility's exchange service where issuance has been authorized in writing by the commission through its secretary upon a showing in writing by the telephone utility that such issuance is reasonably required and is in the public interest.

When a telephone utility discovers that the foregoing conditions shall have ceased to exist, with respect to any credit card or calling card holder, it shall inform such holder that said credit card or calling card is void and that the same must be surrendered or destroyed.

[Statutory Authority: RCW 80.01.040. 83-11-020 (Cause No. U-83-22 and Order R-204), § 480-120-046, filed 5/11/83. Order R-32, § 480-120-046, filed 11/26/71; Order R-25, § 480-120-046, filed 5/5/71. Formerly WAC 480-120-100, 480-120-110, 480-120-120 and 480-120-330.]

WAC 480-120-051 Availability of service--Application for and installation of service.

Application for service may be made orally or in writing. However, a utility may require anyone desiring service to make application in writing on forms prescribed by the utility and in accordance with its filed tariff(s). An application for service shall clearly state the character of service for which application is being made. Application for service shall be deemed to be an expression of the applicant's

Attachment D

Washington Utilities And Transportation
Commission
RCW 80.04.110

RGW 80.04.110**Complaints -- Hearings -- Water systems not meeting board of health standards -- Drinking water standards -- Nonmunicipal water systems audits.**

(1) Complaint may be made by the commission of its own motion or by any person or corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation, or by the public counsel section of the office of attorney general, or its successor, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of law or of any order or rule of the commission: PROVIDED, That no complaint shall be entertained by the commission except upon its own motion, as to the reasonableness of the schedule of the rates or charges of any gas company, electrical company, water company, or telecommunications company, unless the same be signed by the mayor, council or commission of the city or town in which the company complained of is engaged in business, or not less than twenty-five consumers or purchasers of such gas, electricity, water or telecommunications service, or at least twenty-five percent of the consumers or purchasers of the company's service: PROVIDED, FURTHER, That when two or more public service corporations, (meaning to exclude municipal and other public corporations) are engaged in competition in any locality or localities in the state, either may make complaint against the other or others that the rates, charges, rules, regulations or practices of such other or others with or in respect to which the complainant is in competition, are unreasonable, unremunerative, discriminatory, illegal, unfair or intending or tending to oppress the complainant, to stifle competition, or to create or encourage the creation of monopoly, and upon such complaint or upon complaint of the commission upon its own motion, the commission shall have power, after notice and hearing as in other cases, to, by its order, subject to appeal as in other cases, correct the abuse complained of by establishing such uniform rates, charges, rules, regulations or practices in lieu of those complained of, to be observed by all of such competing public service corporations in the locality or localities specified as shall be found reasonable, remunerative, nondiscriminatory, legal, and fair or tending to prevent oppression or monopoly or to encourage competition, and upon any such hearing it shall be proper for the commission to take into consideration the rates, charges, rules, regulations and practices of the public service corporation or corporations complained of in any other locality or localities in the state.

(2) All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of complaints or grievances or misjoinder of parties; and in any review of the courts of orders of the commission the same rule shall apply and pertain with regard to the joinder of complaints and parties as herein provided: PROVIDED, All grievances to be inquired into shall be plainly set forth in the complaint. No complaint shall be dismissed because of the absence of direct damage to the complainant.

(3) Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the person or corporation complained of, which shall be accompanied by a notice fixing the time when and place where a hearing will be had upon such complaint. The time fixed for such hearing shall not be less than ten days after the date of the service of such notice and complaint, excepting as herein provided. The commission shall enter its final order with respect to a complaint filed by any entity or person other than the commission within ten months from the date of filing of the complaint, unless the date is extended for cause. Rules of practice and procedure not otherwise provided for in this title may be prescribed by the commission. Such rules may include the requirement that a complainant use informal processes before filing a formal complaint.

(4) The commission shall, as appropriate, audit a nonmunicipal water system upon receipt of an administrative order from the department, or the city or county in which the water system is located, finding that the water delivered by a system does not meet state board of health standards adopted under RCW 43.20.050(2)(a) or standards adopted under chapters 70.116 and 70.119A RCW, and the results of

the audit shall be provided to the requesting department, city, or county. However, the number of nonmunicipal water systems referred to the commission in any one calendar year shall not exceed twenty percent of the water companies subject to commission regulation as defined in RCW 80.04.010.

Every nonmunicipal water system referred to the commission for audit under this section shall pay to the commission an audit fee in an amount, based on the system's twelve-month audited period, equal to the fee required to be paid by regulated companies under RCW 80.24.010.

(5) Any customer or purchaser of service from a water system or company that is subject to commission regulation may file a complaint with the commission if he or she has reason to believe that the water delivered by the system to the customer does not meet state drinking water standards under chapter 43.20 or 70.116 RCW. The commission shall investigate such a complaint, and shall request that the state department of health or local health department of the county in which the system is located test the water for compliance with state drinking water standards, and provide the results of such testing to the commission. The commission may decide not to investigate the complaint if it determines that the complaint has been filed in bad faith, or for the purpose of harassment of the water system or company, or for other reasons has no substantial merit. The water system or company shall bear the expense for the testing. After the commission has received the complaint from the customer and during the pendency of the commission investigation, the water system or company shall not take any steps to terminate service to the customer or to collect any amounts alleged to be owed to the company by the customer. The commission may issue an order or take any other action to ensure that no such steps are taken by the system or company. The customer may, at the customer's option and expense, obtain a water quality test by a licensed or otherwise qualified water testing laboratory, of the water delivered to the customer by the water system or company, and provide the results of such a test to the commission. If the commission determines that the water does not meet state drinking water standards, it shall exercise its authority over the system or company as provided in this title, and may, where appropriate, order a refund to the customer on a pro rata basis for the substandard water delivered to the customer, and shall order reimbursement to the customer for the cost incurred by the customer, if any, in obtaining a water quality test.

[1995 c 376 § 12. Prior: 1991 c 134 § 1; 1991 c 100 § 2; prior: 1989 c 207 § 2; 1989 c 101 § 17; 1985 c 450 § 11; 1961 c 14 § 80.04.110; prior: 1913 c 145 § 1; 1911 c 117 § 80; RRS § 10422.]

NOTES:

Findings -- 1995 c 376: See note following RCW 70.116.060.

Severability -- Legislative review -- 1985 c 450: See RCW 80.36.900 and 80.36.901.

Drinking water standards: Chapters 43.21A, 70.119A, and 80.28 RCW.