

STATE OF MINNESOTA
PUBLIC UTILITIES COMMISSION

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April 27, 1994

Ms. Maryanne Hruby
Director
Legislative Commission to Review Administrative Rules
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Enclosed pursuant to Minn. Stat. § 14.131 are copies of the Commission's proposed rules governing how telephone companies respond to customer requests for call tracing services and the statement of need and reasonableness for the proposed rules.

If you have questions or concerns, please do not hesitate to contact me.

Thank you.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Carol Casebolt".

Carol Casebolt
Staff Attorney

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Marshall Johnson
Cynthia A. Kitlinski
Dee Knaak

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Proposal to
Adopt Rules Governing Customer
Requests for Call Tracing

ISSUE DATE:

DOCKET NO. P-999/R-92-363

STATEMENT OF NEED AND
REASONABLENESS

I. Introduction

The Minnesota Public Utilities Commission proposes to adopt new rules governing customer requests for call tracing. The rules are necessary because the Legislature directed the Commission to adopt rules governing how telephone companies respond to requests for tracers made by persons who allege receiving harassing telephone calls.

Commission staff drafted the proposed rules in consultation with an Advisory Panel composed of representatives of local exchange carriers, state-wide and local law enforcement agencies, battered women's advocacy groups, the Residential Utilities Division of the Office of the Attorney General, and the Department of Public Service.

II. Statutory Authority for Proposed Rules

The Commission is authorized and required to adopt rules governing how telephone companies respond to customer requests for call tracers under Minn. Stat. § 237.069 (1992).

III. Statement of Need

The Administrative Procedure Act requires the Commission to establish the need for proposed rules by an affirmative presentation of facts. Minn. Stat. §§ 14.14, subd. 2 and 15.23 (1992). In this case, the Legislature determined that there was a need for rules governing how telephone companies respond to call tracer requests from customers and that there was a need for the rules to address when call tracing services could be delayed

or denied. The Commission developed specific rules to meet these legislatively defined needs. Section V discusses the need for specific rule provisions.

IV. Statement of Reasonableness

The Administrative Procedure Act also requires the Commission to establish that the proposed rules are a reasonable solution to the problem they are intended to address, that the Commission relied on evidence in choosing the approach adopted in the rules, and that the evidence relied upon bears a rational relation to the approach the Commission chose to adopt. Minn. Stat. § 14.23 (1992); Minn. Rules, part 2010.0700.

The proposed rules are a reasonable means of ensuring that customers who request call tracing services receive prompt, effective, and evenhanded assistance. They require prompt provision of call tracer services in emergencies and when a customer's request is supported by a law enforcement agency. They require clear standards for acting on call tracer requests not concurred in by law enforcement agencies. They require companies to establish a coherent policy on dealing with call tracer requests and to describe that policy in tariffs filed with the Commission.

The main body of evidence on which the Commission relied in developing the proposed rules was information submitted in response to its request for public comments, published in the State Register on June 1, 1992. (16 S.R. 2627.) The following parties filed comments: the Department of Public Service, the Minnesota Telephone Association, the Battered Women's Advocacy Project, the Domestic Abuse Project of the Hennepin County Attorney's Office, the Legal Aid Society of Minneapolis, one private citizen, and 26 local exchange carriers.

The Commission also relied on supplementary information from U S WEST on providing call tracing in a major metropolitan area and a supplementary letter from the Minnesota Police and Peace Officers Association on the role the Association believed law enforcement agencies should play in call tracing decisions.

Although the Commission retains responsibility for the final content of its rules, it often convenes advisory panels to help develop the factual and policy issues raised by particular rulemakings. Drawing upon the diverse experiences and perspectives of different stakeholders helps ensure informed decisionmaking. In this case the Commission considered an advisory panel especially appropriate because the rulemaking involves issues outside its standard areas of expertise and will affect persons (such as law enforcement agencies) outside its usual circle of stakeholders. The Call Tracer Advisory Panel was

composed of representatives of the following organizations: U S WEST, the Minnesota Telephone Association, the Minnesota Bureau of Criminal Apprehension, the Minnesota Police and Peace Officers Association, the Battered Women's Advocacy Project, the Department of Public Service, and the Residential and Small Business Utilities Division of the Office of the Attorney General.

The Advisory Panel met twice. The members provided essential background information (e.g., a survey of existing call tracing practices by the Department of Public Service) and critical feedback (e.g., the Police and Peace Officers Association's report that local police lack the resources to handle the 52,000 telephone harassment complaints U S WEST receives each year). The Commission considered the concerns of all commenting parties and believes those concerns are addressed and reasonably accommodated in the proposed rules. None of the members of the Advisory Panel expressed serious disagreement with the final rules draft.

V. Analysis of Individual Rules

7813.0100 DEFINITIONS

Subp. 1. Scope.

This subpart was added by the Revisor and is necessary to introduce the definitional section of the rule.

Subp. 2. Call Tracing.

This term requires definition because it appears throughout the rules and has a specific meaning not commonly understood outside the contexts of telecommunications and police work. The proposed definition is reasonable because it clearly and adequately describes the service at issue.

Subp. 3. Customer.

It is necessary to define "customer" in these rules, because only "customers" are authorized to request call tracing services. The rules' broad definition (any person receiving service) is reasonable because a person receiving harassing calls should not need the permission of a third party (e.g., the person in whose name service is listed) to seek help in ending those calls.

Subp. 4. CLASS call tracing service.

The term requires definition because it appears throughout the rules and has a specific meaning not commonly understood outside telecommunications and regulatory contexts. The proposed definition is reasonable because it clearly and adequately describes what is meant by the term.

Subp. 5. Emergency.

It is necessary to define "emergency" because an emergency creates rights in the customer and duties in the telephone company under the rules. The definition is reasonable because it conforms with conventional usage and clearly and adequately defines what is meant by the term.

Subp. 6. Harassing telephone calls.

It is necessary to define "harassing telephone calls" because calls meeting that definition bring all the other provisions of the rules into play. The subpart defines the term reasonably by using existing definitions of the term under criminal law.

The rule defines "harassing telephone calls" using the same language the criminal code uses to define "obscene or harassing telephone calls," which are punishable as misdemeanors. Minn. Stat. § 609.79 (1992). These calls run the gamut from the obscene to the annoying. The definition adds calls threatening "injury to person or property," which are treated separately under the criminal code but are properly included with less serious offenses for call tracing purposes.

The definition is clear, reasonable, and neither over- nor under-inclusive. It had the unanimous support of the Advisory Panel.

Subp. 7. Investigative or law enforcement officer.

It is necessary to define this term because investigative or law enforcement officers play a crucial role in the operation of the rule. The term and its definition are the same as the ones used in the Privacy of Communications Act to describe persons charged with investigating and prosecuting telecommunications offenses. Minn. Stat. § 626A.01, subd. 7 (1992). The definition is appropriate and reasonable.

Subp. 8. Local exchange carrier.

The term requires definition because it appears throughout the rules and has a specific meaning not commonly understood outside the context of telephone regulation. The proposed definition is

reasonable because it clearly and adequately describes what is meant by the term.

Subp. 9. Trap and trace device.

The term requires definition because it appears throughout the rules and has a specific meaning not commonly understood outside the telecommunications and law enforcement contexts. The proposed definition is reasonable because it clearly and adequately describes what is meant by the term.

7813.0200 SCOPE

This section explains the range of activity the rule is intended to govern. It clarifies that it governs only how companies respond to customers who complain about harassing phone calls, not how they respond to court orders requiring or involving call tracing. It is necessary and reasonable for the rule to establish this frame of reference.

7813.0300 WHEN CALL TRACING MUST BE PROVIDED

This section requires companies to provide call tracing under the following circumstances: (1) call tracing has been requested by both the customer and a law enforcement agency and the customer has provided written consent or (2) it is an emergency and the customer has provided oral consent. In emergencies the company is required to refer the customer to law enforcement and to request written consent promptly.

The section is necessary to comply with the statutory directives that the Commission regulate how telephone companies respond to requests for call tracers and when call tracers can be delayed or denied.

The section is reasonable as well. Companies need clear guidelines on when they must provide call tracing services. Law enforcement involvement is a clear, easily applied, sound standard. Law enforcement officials have the training and expertise necessary to determine when harassing calls have reached a level of seriousness requiring call tracing. At the same time, it is reasonable to require call tracing without a law enforcement request in emergencies, i.e., situations involving threats to life or property. (See definition of emergency, part 7813.0100, subp. 4.) In those situations the need for immediate help is so clear it would be illogical to require a formal request from law enforcement authorities before rendering it.

The written consent requirement is reasonable because it confirms

the seriousness of the customer's request, protects customers and companies from bogus requests, and protects the company from charges of invasion of privacy. It is reasonable to proceed without written consent in emergencies, for the same reasons it is reasonable to proceed without a formal law enforcement request. Obtaining consent in emergencies, even though call tracing has already been initiated, is reasonable for the reasons cited above.

7813.0400 REQUESTS FOR CALL TRACING BY CUSTOMERS ONLY

Subp. 1. When call tracing services may be provided.

This section allows companies to provide call tracing services without law enforcement involvement if they wish. The customer must claim to be receiving harassing phone calls within the meaning of the rules and must provide written consent. The subpart is reasonable because it gives individual companies the flexibility to require or not require law enforcement involvement before providing call tracing services, depending upon the needs of their service areas.

Companies other than U S WEST have predominantly rural service areas and typically require law enforcement involvement before providing call tracing services. U S WEST has a predominantly urban service area and does not require law enforcement involvement. Instead, the company screens calls from customers alleging telephone harassment, refers severely threatening calls to the police, and suggests basic self-help techniques for nuisance calls. For calls between the two extremes, the Company either installs trap and trace equipment, planning to make a police referral when the originating number is identified, or monitors the situation, planning to install trap and trace equipment if it worsens. Under current U S WEST procedures, law enforcement is not involved unless the situation is gravely threatening or trap and trace equipment has already yielded the originating number of harassing calls.

The first working draft of these rules required companies to involve law enforcement agencies before providing call tracing in non-emergency situations. The Commission changed the draft in response to information provided by U S WEST and the law enforcement representatives on the Advisory Panel. The Company stated that during the first ten months of 1992 it received 52,306 requests for assistance with harassing phone calls. Law enforcement representatives stated metropolitan police departments do not have the resources to effectively handle all these calls. It seemed likely that requiring law enforcement involvement in the metropolitan exchanges would work against the intent of the legislation by overburdening law enforcement agencies and making call tracing more difficult to obtain. The

Commission concluded it was reasonable to allow U S WEST to continue its present practice, subject to guidelines designed to guard against mistakes and abuse.

Subp. 2. Standards for considering requests.

This subpart sets standards for acting on call tracer requests when there is no law enforcement involvement. (If there is law enforcement involvement, section 7813.0300 requires companies to provide call tracing.) The section is necessary to fulfill the statutory directive to address when requests for call tracers may be delayed or denied. There was no opposition or controversy among Advisory Panel members on this subpart.

The standards give the telephone companies a fair amount of discretion. This is necessary because, best efforts notwithstanding, there will be times when the amount of call tracing equipment available is less than the number of customers requesting the service. During the Gulf War, for example, and during Prime Minister Gorbachev's visit to the Twin Cities, all of U S WEST's call trace equipment was constantly in use. When new requests for tracing services came in, the company had to decide, in conjunction with law enforcement authorities, which customers had the greatest need. The purpose of this subpart is to set standards for such situations.

The subpart requires companies to weigh the likelihood that alternatives to call tracing will stop the calls, the degree of harm caused by the calls, the technical difficulty of tracing the calls, the amount of call tracing equipment available, and the number of competing requests for call tracing services. The standards are reasonable. They reflect the realities of limited resources and the need to devote available resources to cases involving the greatest harm and the greatest potential for success.

One of the great advantages of CLASS call tracing services, which are discussed in part 7813.1100, is that they offer virtually unlimited call tracing capacity. CLASS call tracing technology is new, however. It may have drawbacks which are not immediately obvious, and it may never be deployed in every exchange in the state. Under these circumstances it is important to set standards for the use of traditional call tracing equipment.

Subp. 3. Customers referred to law enforcement.

This subpart requires companies to inform customers who are denied call tracing services that those services will be provided if a law enforcement officer concurs in their request. This is a necessary and reasonable safeguard. It protects the customer and

the company from the consequences of errors in judgment by company personnel. It dignifies the customer's concerns by acknowledging that violations of the law are properly the concern of law enforcement authorities. It reminds everyone involved in the process that the expertise of law enforcement personnel is available and should be drawn upon as necessary.

7813.0500 CUSTOMER ASSISTANCE WITH ALTERNATIVES TO CALL TRACING

This section requires companies to explain alternatives to call tracing to customers who report receiving annoying calls but do not consider call tracing necessary and to customers whose requests for call tracing are denied. Alternatives to call tracing include hanging up on the caller, changing telephone numbers, and using an unlisted or unpublished telephone number. Company representatives on the Advisory Panel advised that customers usually find these measures effective in dealing with annoying calls.

This requirement is necessary to provide effective assistance to two groups of customers: those receiving annoying calls that do not qualify for call tracing services under the rules and those who believe formal legal action or direct confrontation is not the best way to deal with specific harassing calls. The means employed to accomplish these goals (requiring companies to provide advice on self-help techniques) are reasonable -- direct, inexpensive, and likely to accomplish their desired ends.

7813.0600 COMPANIES TO PROVIDE CONSENT FORMS

This section requires companies to provide forms for customers to use to grant consent to call tracing, prohibits companies from inserting in those forms any agreements or obligations other than consent, and requires companies to accept as written consent any writing signed by the customer consenting to having incoming calls traced.

The requirement for companies to provide consent forms is reasonable and necessary to expedite the call tracing process. The prohibition against inserting agreements or obligations other than consent is reasonable and necessary to prevent overreaching and to ensure that control of the call tracing process remains with the customer. It is important, for example, that consent forms not address liability issues, which are more properly considered in tariff filings or other venues. It is also important that consent forms not include agreements to prosecute, since this could chill customers' decisions to request the service. The requirement for companies to accept any written consent signed by the customer is reasonable and necessary to avoid delays which could otherwise result from miscommunication,

mail delays, or similar occurrences.

7813.0700 TIME FOR RESPONDING TO REQUESTS

Subp. 1. Answering time.

This subpart requires that companies maintain adequate staffing levels to ensure that 90% of calls requesting call tracing are answered within 20 seconds by a company representative ready to render assistance. There was no opposition to this requirement. It tracks the general standard that companies answer 90% of repair calls and calls to their business offices within 20 seconds. Minn. Rules, part 7810.5200. The requirement is reasonable and necessary because it upholds existing quality of service standards.

Subp. 2. Deadlines for activating tracing service.

This subpart sets deadlines for activating call tracing service once the service is required under the rules. In emergencies, the deadline is four hours. In non-emergencies, it is 48 hours. Deadlines for activating call tracing are necessary to ensure prompt action on behalf of persons receiving harassing calls. The specific deadlines are reasonable and reasonably reflect the different interests at stake in emergencies and non-emergencies.

The four-hour deadline balances the need for prompt responses to life- or property- threatening situations with the realities of providing service in remote or rural areas. Exchanges serving these areas may not have technical personnel on duty 24 hours a day and may not have technical personnel living in the exchange where call tracing is required. Under these circumstances four hours is a reasonable time frame for installing call trace equipment.

The 48 hour period is based on a similar balancing process. In non-emergencies, companies need time to install trap and trace equipment, complete internal documentation and recordkeeping, explain logging procedures to the customer, and supply the customer with a log. In non-emergencies, the Advisory Panel considered 48 hours a reasonable outside limit for completing these tasks.

7813.0800 STANDARDS FOR PROVIDING CALL TRACING SERVICE

Subp. 1. Customer assistance required.

This subpart requires companies to provide logs to customers

whose incoming calls are being traced using trap and trace technology, so they can record the date and time of harassing calls. It also requires companies to maintain logs of the dates, times, and originating numbers of calls these customers identify as harassing. The logging requirements are basic steps that have to be followed for trap and trace technology to work. They are therefore reasonable and necessary. It is also reasonable and necessary to require the companies to provide logs for their customers to expedite the call tracing process and avoid confusion.

Subp. 2. Treatment of identified numbers.

This subpart limits release of the originating numbers of calls identified as harassing to law enforcement officials and prohibits their release to customers receiving call tracing services. This is the current practice of all companies. It is necessary and reasonable to ensure that call tracing services are not abused -- for example, used to obtain properly unobtainable telephone numbers. It is also reasonable and necessary to discourage amateur police work by persons who are receiving or believe they are receiving harassing calls. Trained law enforcement officers are better equipped to handle confrontations with persons making harassing calls than are persons receiving such calls. Advisory panel members unanimously agreed the rules should continue the current practice of limiting disclosure of identified numbers to law enforcement personnel.

Subp. 3. Duration of call tracing services.

This subpart requires companies to work with local law enforcement agencies to determine how long call tracing services should be provided both in general and in particular cases. Given the different needs of urban and rural customers, it was impossible to establish a single standard for how long call tracing services should be provided. At the same time, it seemed unreasonable to leave that determination solely to the companies. The rule therefore requires companies to confer with law enforcement agencies to determine how long they will normally leave call tracing equipment in place. The next rule, 7813.0900, requires them to state in their call tracing tariffs the result of those discussions.

7813.0900 CALL TRACING TARIFFS REQUIRED

This section requires companies to file tariffs describing their provision of call tracing services, their standards for acting on requests for call tracing services not concurred in by law enforcement authorities (if the company chooses to accept such

requests), and their standards for determining the duration of call tracing services. The section is intended to ensure that companies develop coherent call tracing policies, that the policies be readily available to customers, and that the policies be subject to Commission review. These purposes are reasonable and necessary; the means employed to achieve them are reasonable and likely to achieve the desired result.

7813.1000 DIRECTORY INFORMATION ON DEALING WITH HARASSING CALLS

This section requires companies to include in their directories an explanation of how to request call tracing services and the telephone number of a company representative who can provide further information. The requirement is necessary to avoid customer confusion and is a reasonable means of achieving that goal.

7813.1100 CLASS CALL TRACING

Subd. 1. Alternative to traditional technologies.

This subpart allows companies to use CLASS call tracing service instead of traditional trap and trace technologies if the company has authority to provide CLASS services and if CLASS call tracing will function as accurately as traditional technologies. CLASS technology allows a customer to trace any call by dialing a three or four digit code after the call ends and before another call is placed or received. The originating number of the traced call is captured and recorded at the central office, where company personnel hold it for release to law enforcement authorities.

CLASS call tracing has major advantages over traditional call tracing technologies. It can trace calls after disconnection. It does not require the customer to keep a log of the dates and times of harassing calls. It does not result in a record of every call made to the customer's number. Once a central office is CLASS-equipped, every customer of that office has access to call tracing service; there is no need to ration call tracing capacity as there generally is when trap and trace equipment is used. Given these advantages, it is reasonable and necessary to allow companies to substitute CLASS call tracing technology for traditional trap and trace technology. It is also reasonable and necessary, given inexperience with CLASS technology to date, to limit its use to situations in which CLASS services will function as accurately as trap and trace devices.

Subp. 2. Express consent unnecessary.

This subpart states that a customer's decision to activate CLASS

call tracing service constitutes consent under the provisions of these rules and that CLASS call tracing may be carried out without the prior written consent of the customer. CLASS technology is designed to allow customers to trace the last call received by dialing a specific code. No involvement by company personnel is necessary. Since CLASS call tracing is wholly within the customer's control, there is no need for the customer's prior written consent. This subpart makes those common sense principles explicit, which is necessary and reasonable to avoid confusion.

VI. Small Business Considerations in Rulemaking

Minn. Stat. § 14.115, subd. 2 requires the Commission, when proposing rules that may affect small business, to consider the following methods for reducing their impact on small businesses:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

These methods are to be used to the extent feasible unless using them would be contrary to the statutory objectives on which the rulemaking is based. Minn. Stat. § 14.115, subd. 3 (1992). Small local exchange companies are small businesses within the meaning of the statute. The Commission has therefore considered the above-listed methods for reducing the rules' impact on them.

Methods (a), (b), and (c) address compliance and reporting requirements. The rules contain no reporting requirements. They do, of course, contain compliance requirements, in the form of requirements to provide call tracing services under specified circumstances and within specified time frames.

It would undermine the purpose of the statute to apply less stringent requirements or time frames to small telephone companies. The purpose of the statute is to ensure that telephone companies respond promptly and effectively to customers

receiving harassing calls. These calls are deeply disturbing. They are often obscene and often threaten harm to person or property. In the absence of clear legislative guidance to the contrary, the Commission assumes the legislature intends to provide the same level of protection against harassing calls to all Minnesotans, whether they are served by large or small telephone companies. Methods (a), (b), and (c) would, in the Commission's judgment, conflict with this statutory intent.

Method (d), requiring performance standards instead of design or operational standards, is feasible, will not conflict with statutory objectives, and has been employed in the rules. The rules do not impose design or operational standards, such as installation of CLASS software or specified staffing levels. Instead, they require performance at specified levels, e.g., maintaining average answering times of no more than 20 seconds, providing tracing services on-line within 48 hours of receipt of written consent, etc. Method (d) is feasible, does not conflict with statutory intent, and has been employed.

Finally, method (e), exempting small companies from any or all of the rule's provisions, would conflict with statutory objectives in the same ways as methods (a), (b), and (c), discussed above.

The Commission notes that this rule is unlikely to cause problems for small telephone companies. For the most part, they are already in compliance. It is usually not the small companies that face call tracing problems, but the large ones. It is in the metropolitan areas that call tracing requests exceed the capacity of law enforcement agencies to deal with them individually and strain the companies' ability to deal with them promptly, effectively, and sensitively.

VII. List of Witnesses and Exhibits

A. Witnesses

In the event that an administrative rulemaking hearing is necessary, this Statement of Need and Reasonableness contains the Commission's verbatim affirmative presentation of the need for and reasonableness of the proposed rules.

The following members of the Commission staff and the Office of the Attorney General will be available at the hearing to answer questions about the proposed rules or to briefly summarize all or a portion of this Statement of Need and Reasonableness if requested by the Administrative Law Judge.

1. Carol Casebolt
Staff Attorney

2. Marc Fournier
Rates Analyst
3. Deborah Smith
Consumer Mediator
4. Margie Hendriksen
Assistant Attorney General
Public Utilities Commission Division

B. Exhibits

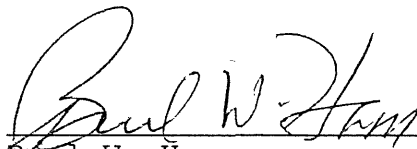
In support of the need and reasonableness of the proposed rules, the following documents will be entered into the hearing record by the Commission:

<u>Exhibit No.</u>	<u>Document</u>
1.	Notice of Intent to Solicit Outside Information (16 S.R. 2627, June 1, 1992).
2-28.	Comments in Response to Notice of Intent to Solicit Outside Information submitted by the Department of Public Service, the Domestic Abuse Project of the Hennepin County Attorney's Office, the Minnesota Coalition for Battered Women, the Legal Aid Society of Minneapolis, the Minnesota Telephone Association, U S WEST Communications, Inc., Vista Telephone Company, GTE Minnesota, Mankato Citizens Telephone Company, Madelia Telephone Company, Spring Grove Cooperative Telephone Company, Halstad Telephone Company, Sherburne County Rural Telephone Company, Kasson-Mantorville and Rock Dell Telephone Companies, Interstate Telecommunications Cooperative, Inc., Benton Cooperative Telephone Company, Rothsay Telephone Company, Winnebago Cooperative Telephone Association, Melrose Telephone Company, Scott-Rice Telephone Company, Arvig Telephone Company, Bridge Water Telephone Company, Park Region Mutual Telephone Company, Lismore Cooperative Telephone Company, New Ulm Telecom, Inc., Hancock Telephone Company, Chester Telephone Company and Solon Springs Telephone Company, and Dale L. Swanson.

29. Letter of March 2, 1993 from Dennis J. Flaherty, Executive Director, Minnesota Police and Peace Officers Association.
30. Letter of March 17, 1993, with accompanying materials, from Sandra A. Becker, Manager - Regulatory, U S WEST Communications.

VIII. Conclusion

The proposed rules governing customer requests for call tracing are necessary and reasonable for the reasons set forth above.



Burl W. Haar
Executive Secretary

Office of the Revisor of Statutes

Administrative Rules



TITLE: Proposed Permanent Rules Relating to Customer Requests
for Telephone Call-tracing Services

AGENCY: Public Utilities Commission

MINNESOTA RULES: Chapter 7813

The attached rules are approved for
publication in the State Register

A handwritten signature in cursive script that reads "Ron Ray".

Ron Ray
Senior Assistant Revisor

1 Public Utilities Commission

2

3 Proposed Permanent Rules Relating to Customer Requests for
4 Telephone Call-tracing Services

5

6 Rules as Proposed (all new material)

7 7813.0100 DEFINITIONS.

8 Subpart 1. Scope. Terms used in this chapter have the
9 meanings given them in this part.

10 Subp. 2. Call tracing. "Call tracing" means identifying
11 and recording the numbers of the telephones originating some or
12 all incoming calls to the telephone line of a customer who has
13 complained of receiving harassing calls and has requested that
14 those calls be traced.

15 Subp. 3. Customer. "Customer" means a person, firm,
16 partnership, limited liability company, corporation,
17 municipality, cooperative association or organization,
18 governmental agency, or other entity receiving
19 telecommunications service.

20 Subp. 4. CLASS call-tracing service. "CLASS call-tracing
21 service" means a customer-activated, call-specific form of
22 call-tracing service available in technologically upgraded
23 exchanges as part of a set of services called Custom Local Area
24 Signaling Services.

25 Subp. 5. Emergency. "Emergency" means a situation that
26 appears to present immediate danger to person or property.

27 Subp. 6. Harassing telephone calls. "Harassing telephone
28 calls" means telephone calls in which the caller:

29 A. threatens injury to person or property;

30 B. makes any comment, request, suggestion, or
31 proposal that is obscene, lewd, or lascivious;

32 C. repeatedly makes telephone calls, whether or not
33 conversation ensues, with intent to abuse, threaten, or harass;

34 or

35 D. makes or causes the telephone of another person to

1 ring repeatedly or continuously, with intent to harass a person
2 at the called telephone number.

3 Subp. 7. Investigative or law enforcement officer.

4 "Investigative or law enforcement officer" means an officer of
5 the United States, a state, or a political subdivision of the
6 United States or a state, or a University of Minnesota peace
7 officer, who is empowered by law to investigate or make arrests
8 for crimes related to communications, or an attorney authorized
9 by law to prosecute those crimes.

10 Subp. 8. Local exchange carrier. "Local exchange carrier"
11 means a telephone company furnishing local telephone service.

12 Subp. 9. Trap and trace device. "Trap and trace device"
13 means a device that captures the incoming electronic or other
14 impulses that identify the originating number of an instrument
15 or device from which a wire or electronic communication was
16 transmitted.

17 7813.0200 SCOPE.

18 This chapter governs how local exchange carriers respond to
19 requests for call tracing made by persons who state they are
20 receiving harassing telephone calls. It does not govern how
21 local exchange carriers respond to court orders requiring or
22 involving call tracing.

23 7813.0300 WHEN CALL TRACING MUST BE PROVIDED.

24 Subpart 1. Request by customer and officer. Local
25 exchange carriers must provide call-tracing services when
26 requested by both a customer and an investigative or law
27 enforcement officer and the customer has provided written
28 consent.

29 Subp. 2. Emergency request. In emergencies, local
30 exchange carriers shall provide call-tracing services when
31 requested by a customer and the customer has provided oral
32 consent. In emergencies, local exchange carriers shall request
33 written consent promptly and shall advise the customer to seek
34 the assistance of an investigative or law enforcement officer.

1 7813.0400 REQUESTS FOR CALL-TRACING SERVICES BY CUSTOMERS ONLY.

2 Subpart 1. When call-tracing services may be provided.
3 Local exchange carriers may provide call-tracing services
4 without a request from an investigative or law enforcement
5 officer when a customer alleges receiving harassing telephone
6 calls and provides written consent.

7 Subp. 2. Standards for considering requests. In deciding
8 whether to grant or deny nonemergency requests for call-tracing
9 services from customers who have not involved investigative or
10 law enforcement officers, local exchange carriers shall weigh
11 the following factors:

- 12 A. the likelihood that alternatives to call tracing
- 13 will stop the calls;
- 14 B. the degree of harm caused by the calls;
- 15 C. the technical difficulty of tracing the calls;
- 16 D. the amount of call-tracing equipment available;
- 17 and
- 18 E. the number of competing requests for call-tracing
- 19 services.

20 Subp. 3. Customers referred to law enforcement. Local
21 exchange carriers shall tell customers who request call-tracing
22 services and are denied them that call-tracing services will be
23 provided upon the request of an investigative or law enforcement
24 officer and receipt of the customer's written consent.

25 7813.0500 CUSTOMER ASSISTANCE WITH ALTERNATIVES TO CALL TRACING.

26 Local exchange carriers shall explain alternatives to call
27 tracing to customers who report receiving annoying calls but do
28 not believe law enforcement assistance is necessary, and to
29 customers whose requests for call-tracing services are denied.
30 These alternatives may include hanging up on the caller,
31 changing telephone numbers, or using an unlisted or unpublished
32 telephone number.

33 7813.0600 COMPANIES TO PROVIDE CONSENT FORMS.

34 Local exchange carriers shall prepare, and provide to
35 customers upon request, forms for granting consent to having

1 their incoming calls traced. Carriers shall not insert any
2 agreements or obligations beyond such consent in those forms.
3 Carriers shall accept as written consent any writing signed by
4 the customer consenting to having incoming calls traced.

5 7813.0700 TIME FOR RESPONDING TO REQUESTS.

6 Subpart 1. Answering time. Local exchange carriers shall
7 maintain adequate staffing levels to ensure that 90 percent of
8 calls from customers requesting call tracing are answered within
9 20 seconds. "Answered" means that the operator or
10 representative is ready to render assistance or accept the
11 information necessary to handle the call. Acknowledging that
12 the customer is waiting on the line and will be served in turn
13 is not an adequate answer.

14 Subp. 2. Deadlines for activating tracing service. In
15 emergencies, local exchange carriers shall activate call-tracing
16 services as soon as possible, but no later than four hours after
17 receiving a request and oral consent from the customer. In
18 other cases in which call tracing must be provided under part
19 7813.0300, local exchange carriers shall activate call-tracing
20 services within 48 hours of receiving written consent of the
21 customer or the request of an investigative or law enforcement
22 officer, whichever is later.

23 7813.0800 STANDARDS FOR PROVIDING CALL-TRACING SERVICE.

24 Subpart 1. Customer assistance required. Local exchange
25 carriers shall assist customers whose calls are being traced
26 using trap and trace technology by providing logs to record the
27 dates and times of harassing calls and by maintaining a log of
28 the dates, times, and originating telephone numbers of calls
29 identified as harassing by the customer.

30 Subp. 2. Treatment of identified numbers. Local exchange
31 carriers shall release the originating telephone numbers of
32 calls identified as harassing only to investigative or law
33 enforcement officers, not to customers receiving call-tracing
34 services. Local exchange carriers shall work with investigative
35 or law enforcement officers to develop time frames for

1 transmitting those originating telephone numbers to them.

2 Subp. 3. Duration of call-tracing services. Local
3 exchange carriers shall work with investigative or law
4 enforcement officers to determine how long call-tracing services
5 should be provided, both in general and in particular cases.

6 7813.0900 CALL-TRACING TARIFFS REQUIRED.

7 Local exchange carriers shall file and maintain tariffs
8 explaining the provision of call-tracing services, their
9 standards for determining whether to grant or deny call-tracing
10 requests not accompanied by requests from investigative or law
11 enforcement officers, and their standards for determining the
12 duration of call-tracing services.

13 7813.1000 DIRECTORY INFORMATION ON DEALING WITH HARASSING CALLS.

14 Local exchange carriers shall include in their directories
15 an explanation of how to request call-tracing services and the
16 telephone number of a company representative who can provide
17 further information.

18 7813.1100 CLASS CALL TRACING.

19 Subpart 1. Alternative to traditional technologies. Local
20 exchange carriers may respond to call-tracing requests by
21 providing CLASS call-tracing services where that service is
22 available and approved by the commission and will function as
23 accurately as installing a trap and trace device.

24 Subp. 2. Express consent unnecessary. A customer's
25 decision to use CLASS call-tracing service to trace a specific
26 call constitutes consent under this chapter. Written consent of
27 the customer is not necessary for the customer to use CLASS
28 call-tracing service.