

Decision No. C92-1124

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

THE RULES GOVERNING THE COLLECTION)	
AND DISCLOSURE OF PERSONAL)	
INFORMATION OBTAINED BY PUBLIC)	
UTILITIES, 4 CODE OF COLORADO)	DOCKET NO. 92R-249T
REGULATIONS 723-7, PROPOSED NEW RULE)	
5.6, CONCERNING BLOCKING OF LAST CALL)	
RETURN CUSTOM LOCAL AREA SIGNALING)	
SERVICE FEATURE.)	

COMMISSION STATEMENT OF ADOPTION OF
NEW RULE CONCERNING LAST CALL RETURN.

 Adopted date: August 26, 1992
 Effective date of new rule: September 30, 1992¹

The Colorado Public Utilities Commission ("PUC" or "commission") hereby gives the following statement of adoption of adoption for its new Privacy Rule 5.6, entitled "Last Call Return." The commission's privacy rules, officially, the Rules Governing The Collection And Disclosure Of Personal Information Obtained By Public Utilities, published in 4 Code Of Colorado Regulations 723-7 ("Privacy Rules").

I. Factual and Procedural Background.

On May 15, 1992, the Colorado Secretary of State published in the Colorado Register the Notice Of Proposed Rulemaking which commenced this rulemaking docket,

1. See Colorado Revised Statutes § 24-4-103(5) (1988 Repl. Vol.10A). ("A rule shall become effective twenty days after publication of the rule as finally adopted ... [.]"). The Colorado Secretary of State will publish this rule in the Colorado Register on September 10, 1992.

Docket No. 92R-249T. The commission, sitting en banc, held a properly noticed rulemaking hearing, and considered written comments filed by

Last Call Return is a custom local area signaling service, one of a series of call management features proposed by U S West Communications, Inc. ("U S West") in Docket No. 91S-548T. In Decision No. C92-566 (May 21, 1992), the Colorado PUC approved all the proposed call management features proposed by U S West in Docket No. 91S-548T -- caller identification (number only); caller identification (name and number); call rejection; continuous redial; per line blocking; priority call; selective call forwarding -- but did not approve last call return. The commission instituted this rulemaking in order to secure the basis to also approve last call return, as a general rule applicable to all telecommunications companies, not merely in the specific application proposed by U S West in Docket No. 91S-548T.

U S West, in the tariff sheets attached to Advice Letter No. 2211 in Docket No. 91S-548T, describes its last call return feature as follows:

Last call return

Allows a customer to dial a code that will cause the feature to automatically redial the number of the last incoming call to that line, whether the call was answered or not. The customer does not have to know the number of the calling party. If the called number is busy, the feature will redial the called number for a limited period of time. A tone alerts the customer when the called line is available.

The commission took administrative notice of all matters filed in consolidated docket numbers: (1) Docket No. 91A-462T, Caller ID and other custom local area signaling services, waiver application of Privacy Rule 5; (2) Docket No. 91S-548T, Caller ID and other custom local area signaling services, Advice Letter No. 2211, suspended tariff filing; and, (3) Docket No. 92S-040T, Call Trace custom local area signaling service, Advice Letter No. 2235, suspended tariff filing. The decision approving Caller ID and

Call Trace was Decision No. C92-566, issued today May 21, 1992 (hereinafter, the three dockets will be referred to collectively as "Caller ID dockets.")

II. Discussion.

At the rulemaking hearings on the Caller ID dockets, the commission heard testimony from the Colorado Domestic Violence Coalition, and the City and County of Denver, expressing concern about the danger of last call return as presently designed. Last call return automatically redials numbers sent as "private" (blocked) calls. Thus, a criminal could redial an undercover policeman's number, and an abusing spouse could redial a safe house -- even if the police and safe house victim took the care to send the call as a private call. John Scott, U S West's witness at the Caller ID hearing in January 1992, testified that U S West does not have the software technology to stop last call return from redialing blocked calls at present. He stated, however, that the technology should be available within 18 months, or sooner. In various filings, U S West has indicated that it will offer last call return in a modified form, preventing last call return from redialing blocked calls, as soon as that technological refinement becomes available.

Last call return should not be allowed until blocked calls cannot be redialed. The potential danger of last call return, as presently configured, outweighs its benefits. Under the public utility law, the PUC is required to assure that public utilities provide services which "shall promote the safety, health, comfort, and convenience of its patrons, employees and the public," Colorado Revised Statutes § 40-3-101(2) (1984 Rep. Vol.17). In balancing the convenience of the service with the safety needs of battered women, undercover police officers and others, we conclude that the introduction of the last call return custom local area signaling service should await software improvements before it is allowed, in order to prevent last call return from returning blocked calls.

We enact this rule pursuant to Part 2 of the 1987 Colorado Telecommunications Act,² concerning basic telephone service, specifically Colorado Revised Statutes § 40-15-201(1992 Cum.Supp. Vol.17), which states that "the commission may promulgate such rules and regulations as are necessary for the purpose of implementing the provision of this section." Among the services enumerated as Part 2 services subject to full, traditional regulation, are "white page directory listing" and "local exchange listed telephone number service. Last call return allows calls to be returned to unlisted numbers, thereby affecting the status of listed numbers, which is subject to full regulation. Furthermore, a measured service subscriber who takes Call Detail, will have all last call return numbers listed on the monthly telephone bill. Unlisted numbers, and blocked calls would be printed on the Call Detail bill, unless the software is re-configured, again affecting listed number service which is subject to full regulation under Part 2 of the 1987 Telecommunications Act, Colorado Revised Statutes §§ 40-15-201 through 40-15-208 (1992 Cum.Supp. Vol.17). The commission's legal authority for this rulemaking also is derived from the rulemaking power of state agencies in the State Administrative Procedure Act, Colorado Revised Statutes §§ 24-4-101 through 24-4-108 (1988 Repl. Vol.10A & 1992 Cum.Supp.); the rulemaking power in the Public Utility Law, Colorado Revised Statutes § 40-2-108 (1984 Rep. Vol.17), and the 1987 Telecommunications Act.

We hereby enact the attached rule, pursuant to the above-cited legal authority, as in the public interest of the people of Colorado. Because this is a rulemaking, this statement of adoption is not subject to rehearing, reargument, or reconsideration under the State Administrative Procedure Act.

² H.B. 87-1336 codified at Colorado Revised Statutes §§ 40-15-101 - 40-15-404 (1992 Cum.Supp. Vol.17), Article 15 of Title 40 of the Colorado Revised Statutes.

ADOPTED IN OPEN MEETING August 26, 1992.



BEST: A TRUE COPY

Bruce N. Smith
 Bruce N. Smith
 Executive Secretary

THE PUBLIC UTILITIES COMMISSION
 OF THE STATE OF COLORADO

ROBERT E. TEMMER

GARY L. NAKARADO

CHRISTINE E. M. ALVAREZ

Commissioners

Last Call Return Rulemaking
DOCKET NO. 92R-249T
Appendix 1 to Decision No. C92-1124
Adopted date: August 26, 1992
Publication date in Colorado Register: September 10, 1992
Effective date: September 30, 1992

THE RULES GOVERNING THE COLLECTION AND DISCLOSURE
OF PERSONAL INFORMATION OBTAINED BY PUBLIC UTILITIES
4 Code of Colorado Regulation 723-7

Rule 5.6 Last Call Return

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Any public utility, or other telecommunications services provider, offering a last call return service, or offering any comparable service which allows a customer to dial a code that will cause the feature to automatically redial the number of the last incoming call to that line, including a feature which automatically redials the number of the last incoming call to that line whether the call was answered or not, shall offer per call blocking and per line blocking as services available to customers, and shall prevent last call return-type features from making automatic redial of blocked calls.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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THE RULES GOVERNING THE COLLECTION)
AND DISCLOSURE OF PERSONAL)
INFORMATION OBTAINED BY PUBLIC)
UTILITIES, 4 CODE OF COLORADO) DOCKET NO. 92R-249T
REGULATIONS 723-7, PROPOSED NEW RULE)
5.6, CONCERNING BLOCKING OF LAST CALL)
RETURN CUSTOM LOCAL AREA SIGNALING)
SERVICE FEATURE.)

**COMMISSION ORDER GIVING NOTICE OF PROPOSED RULEMAKING
CONCERNING LAST CALL RETURN; and NOTICE OF RULEMAKING
HEARING FOR JUNE 19, 1992 AT 9 A.M.**

Adopted date: April 29, 1992

The Colorado Public Utilities commission ("PUC" or "commission") hereby gives notice of proposed rulemaking for new Rule 5.6, entitled "blocking of last call return," in the Commission's "privacy rules," the Rules Governing The Collection And Disclosure Of Personal Information Obtained By Public Utilities, 4 Code Of Colorado Regulations 723-7.

Last Call Return is a custom local area signaling service, one of a series of call management features proposed by U S West Communications, Inc. ("U S West") in Docket No. 91S-548T. In Decision No. C92-566, the Colorado PUC will approve all the proposed call management features proposed by U S West in Docket No. 91S-548T -- caller identification (number only); caller identification (name and number); call rejection; continuous redial; per line blocking; priority call; selective call forwarding -- but did not

approve last call return. We institute this rulemaking in order to secure the basis to also approve last call return.

U S West, in the tariff sheets attached to Advice Letter No. 2211 in Docket No. 91S-548T, describes its last call return feature as follows:

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Allows a customer to dial a code that will cause the feature to automatically redial the number of the last incoming call to that line, whether the call was answered or not. The customer does not have to know the number of the calling party. If the called number is busy, the feature will redial the called number for a limited period of time. A tone alerts the customer when the called line is available.

The commission hereby takes administrative notice of all matters filed in consolidated docket numbers: (1) Docket No. 91A-462T, Caller ID and other custom local area signaling services, waiver application of Privacy Rule 5; (2) Docket No. 91S-548T, Caller ID and other custom local area signaling services, Advice Letter No. 2211, suspended tariff filing; and, (3) Docket No. 92S-040T, Call Trace custom local area signaling service, Advice Letter No. 2235, suspended tariff filing. The decision approving Caller ID and Call Trace is Decision No. C92-566, issued today, April 30, 1992 (hereinafter, the three dockets will be referred to collectively as "Caller ID dockets.")

At the rulemaking hearings on the Caller ID dockets, the commission heard testimony from the Colorado Domestic Violence Coalition, and the City and County of Denver, expressing concern about the danger of last call return as presently designed. Last call return automatically redials numbers sent as "private" (blocked) calls. Thus, a criminal could redial an undercover policeman's number, and an abusing spouse could redial a safe house — even if the police and safe house victim took the care to send the call as a private call. John Scott, U S West's witness at the hearing, stated that U S West does not have the software technology to stop last call return from redialing blocked calls at

THEREFORE THE COMMISSION ORDERS THAT:

1. The Executive Secretary of the Colorado Public Utilities Commission shall file with the Colorado Secretary of State the necessary documents to allow for notice of the new Rule 5.6, entitled "blocking of last call return," in the Commission's Rules Governing The Collection And Disclosure Of Personal Information Obtained By Public Utilities, 4 Code Of Colorado Regulations 723-7. to be published in the Colorado Register on May 10, 1992.

2. The commission will conduct public hearings on the proposed rules as follows:

Date: Friday June 19, 1992.

Time: 9:00 o'clock a.m.

Place: Colorado Public Utilities Commission
Logan Tower
1580 Logan Street, Office Level 2
Commission Hearing Room "A"
Denver, Colorado 80203

3. All parties wishing to participate in this docket may file an Entry of Appearance to be on the commission's official mailing list, and shall do so by June 1, 1992. It is not necessary to petition to intervene. This notice of proposed rulemaking will be sent to all parties in (1) Docket No. 91A-462T, Caller ID and other custom local area signaling services, waiver application of Privacy Rule 5; (2) Docket No. 91S-548T, Caller ID and other custom local area signaling services, Advice Letter No. 2211, suspended tariff filing; and, (3) Docket No. 92S-040T, Call Trace custom local area signaling service, Advice Letter No. 2235, suspended tariff filing. This parties need not file petitions to intervene; they are automatically parties in this rulemaking.

4. Initial comments on the proposed rules shall be filed on or before Friday June 5, 1992.

ADOPTED IN OPEN MEETING ON April 29, 1992.

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Bruce N. Smith
Executive Secretary
and Division Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ARNOLD H. COOK

GARY L. NAKARADO

CHRISTINE E. M. ALVAREZ

Commissioners

Last Call Return Rulemaking

Docket No. 92R-249T

Appendix 1

Notice Of Proposed Rulemaking April 30, 1992

Publication date in Colorado Register May 10, 1992

THE RULES GOVERNING THE COLLECTION AND DISCLOSURE
OF PERSONAL INFORMATION OBTAINED BY PUBLIC UTILITIES,
4 CODE OF COLORADO REGULATIONS 723-7.

Rule 5.6 Last Call Return

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