

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET NO. UT-042046
)	
TELEWISE, LLC, f/k/a DIALTEK, LLC,)	ORDER NO. 01
)	
Petitioner,)	
)	ORDER GRANTING
For Exemption from WAC 480-120- 540 Terminating Access Charges)	CONDITIONAL EXEMPTION
)	FROM WAC 480-120-540
.....)	

BACKGROUND

- 1 On November 19, 2004, TeleWise, LLC, f/k/a DialTek, LLC (TeleWise or the Company) filed a petition requesting exemption from WAC 480-120-540. On February 15, 2005, and on April 14, 2005, the Company submitted supplements to its original petition.

- 2 WAC 480-120-540(2) requires that the rates charged “for terminating access service offered by price list must not exceed the rates charged by the incumbent local exchange company for terminating access service in the comparable geographic area. For purposes of this subsection, the rates charged by the incumbent local exchange company include any universal service rate charged . . . “

- 3 TeleWise stated that it is a facilities-based telecommunications company. TeleWise is registered, classified as a competitive telecommunications company, and authorized to provide local and interexchange telecommunications services throughout the state of Washington.

- 4 TeleWise is planning to compete with Qwest Corporation (Qwest) in the provision of local exchange services. TeleWise states that it qualifies for the

FCC's *Rural Exemption* in connection with federal access rate caps and, consequently, charges interstate access rates normally reserved for NECA (National Exchange Carriers Association) companies. .

- 5 In Docket UT-990307, the Commission granted a waiver of WAC 480-120-540 to five competitively classified local exchange carriers subject to conditions. The Commission has incorporated the effect of that order into the rule under new subsection (2), effective February 10, 2005. TeleWise's request for exemption of WAC 480-120-540 goes beyond the waiver granted in Docket UT-990307 and the new subsection (2). TeleWise wishes to charge more than Qwest's intrastate access charges, rates that would otherwise be allowed by the rules as it is now written.
- 6 TeleWise has not begun operations in Washington, and therefore was unable to provide cost support with its petition. The Company originally proposed to charge rates which match certain rate elements charged by the Washington Exchange Carrier Association (WECA) companies. Staff worked with the Company to reach a compromise on its proposed request for terminating access rates. In Docket UT-011719, the Commission allowed another local exchange company to file a tariff with the rates established by NECA for use when serving as a competitor to customers in Qwest's territory; this tariff has not been formally complained against. After several discussions, the Company agreed to amend its petition and to use the lower NECA rates. Establishing intrastate rates based on the NECA rates also has the effect of keeping the interstate and intrastate access rates the same.
- 7 Commission Staff has reviewed the request, supplemental information, and revised request, and recommends granting TeleWise's revised request for exemption, subject to the following two conditions. The Commission will require TeleWise to file price lists for terminating access service at rates not to

exceed those charged by NECA companies as outlined in its February 15, 2005, supplemental information. The Commission will also require TeleWise to notify the Commission within 20 days if its FCC *Rural Exemption* status changes. Thereby allowing the Commission to take further action under this docket if necessary.

FINDINGS AND CONCLUSIONS

- 8 (1) The Washington Utilities and Transportation Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, accounts, securities, and transfers of public service companies, including telecommunications companies. *RCW 80.01.040; Chapter 80.04 RCW and Chapter 80.36 RCW.*
- 9 (2) TeleWise is engaged in the business of providing telecommunications services within the state of Washington and is a public service company subject to the jurisdiction of the Commission under the provisions of Chapter 80.36 RCW.
- 10 (3) TeleWise is subject to the provisions of WAC 480-120-540(2) that requires that the rates charged “for terminating access service offered by price list must not exceed the rates charged by the incumbent local exchange company for terminating access service in the comparable geographic area. For purposes of this subsection, the rates charged by the incumbent local exchange company include any universal service rate charged . . . “
- 11 (4) WAC 480-120-015 provides that the Commission may grant an exemption from the provisions of any rule in Chapter 480-120 WAC, if consistent with the public interest, the purposes underlying regulation and applicable statutes.

- 12 (5) This matter was brought before the Commission at its regularly scheduled meeting on April 27, 2005.
- 13 (6) After review of the petition filed in Docket UT-042046 by TeleWise on November 19, 2004, and supplemented on February 15, 2005, and April 14, 2005; and giving due consideration, the Commission finds that the revised request for exemption is reasonable and should be granted consistent with the conditions detailed in the text of this order.

ORDER

THE COMMISSION ORDERS:

- 14 (1) After the effective date of this Order, TeleWise, LLC, f/k/a Dialtek, LLC, is granted a conditional exemption from WAC 480-120-540, Terminating access charges.
- 15 (2) This exemption is subject to the following two conditions. TeleWise, LLC, f/k/a Dialtek, LLC is required to file price lists for terminating access service at rates not to exceed those charged by NECA companies as outlined in its February 15, 2005, supplemental information. The Commission will also require TeleWise, LLC, f/k/a Dialtek, LLC to notify the Commission within 20 days if its FCC *Rural Exemption* status changes. Thereby allowing the Commission to take further action if necessary.
- 16 (3) The Commission retains jurisdiction over the subject matter and TeleWise, LLC, f/k/a Dialtek, LLC, to effectuate the provisions of this Order.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

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DATED at Olympia, Washington, and effective this 27th day of April, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary