



Written Comments - Docket UT-180831
Washington Utilities & Transportation Commission

(1) RCW 80.36.090 provides, in relevant part, “Every telecommunications company shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto suitable and proper facilities and connections for telephonic communication and furnish telephone service as demanded.”

a. Under what circumstances are persons “reasonably entitled” to “suitable and proper facilities and connections for telephonic communication”?

Originating in 1911, RCW 80.36.090 is rooted in the monopoly era of telecom regulation and was last updated in 1985. Since 1985, voice communication technology and competition has, and continues to, evolve dramatically. In addition to traditional Local Exchange Carriers (LECs) which fall under the Commission’s jurisdiction, voice communication is now provided by cable companies, interconnected Voice over Internet Protocol (VoIP) companies, nomadic VoIP companies, wireless companies and satellite companies. LEC’s also face competition from non-voice services such as email, and texting, and social networking sites such as Skype and FaceTime. These services provide users with the ability to communicate instantly across a wide variety of platforms and customer equipment. Wireless texts, email and other messaging services are now among the primary means of communications for many and have significantly reduced voice traffic and compete as substitutes for LEC provided voice calling. The Commission has already recognized the effective competition in the voice communication marketplace in its competitive classification and alternative regulatory treatment of the state’s two largest incumbent LEC’s. Supported by consumer acceptance of this modernization, LECs have expanded their offerings to include products embracing the modern age.

Accordingly, Frontier Communications submits that competitive market conditions exist to assure that customers are reasonably receiving voice services adequate to meet their needs. Any carrier providing voice service should be entitled to fully recover its costs regardless of technology employed as “reasonably entitled” implicitly protects carriers from state compelled uneconomic investments.

b. Should the Commission require local exchange companies (LECs) to furnish residential basic local telecommunications service to any applicant who resides within that company’s service territory in Washington? If not, why not?

A competitive marketplace necessitates the non-discriminatory treatment of all LECs, whether eligible telecommunications carriers (ETC’s) or non-ETCs within the same service territory. As stated in the previous response, the technology used to serve the customer



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should be left to the carrier's discretion. The condition to provide service should also be predicated on the ability to provide service under terms that are economically rationale, which may be supported by the availability of an explicit state support mechanism.

c. Should all LECs have the same obligation to furnish residential basic local telecommunications service upon request from an applicant within the company's service territory in Washington? If not, what obligations should different LECs have, and what is the basis for the varying obligations?

LECs should not have any obligation to make uneconomically viable investments, absent an explicit state support mechanism that makes the project financially viable. The carrier of last resort obligations of the LECs, were established in a single-provider environment with rate-of-return regulation when there was the ability to subsidize high-cost service areas with the funds generated from "captive" customers in low-cost areas. That environment has been subsumed by intermodal voice communications modernization and competition. As an alternative, and in the extreme event of market failure, the Commission could consider implementing a request-for-proposal or auction process whereby identified residential voice service requirements could be openly evaluated by all voice communications providers and, where uneconomic, supported through the availability of an explicit state support mechanism.

d. Should the Commission promulgate a rule that establishes the circumstances under which a company must furnish basic local telecommunications service upon request other than, or in addition to, WAC 480-120-071?

WAC 480-120-071 could be modified to provide for the aforementioned state support mechanism.

(2) What is a "carrier of last resort"? Should the Commission designate a carrier of last resort in each LEC's service territory in Washington? If so, what criteria, factors, or other considerations should the Commission use to make such a designation?

An explicit carrier of last resort (COLR) requirement is a vestige of monopoly era rate-of-return regulation where a carrier was subject to an affirmative build out requirement, regardless of cost, in exchange for an exclusive service franchise. Commonly, it describes a carrier that is mandated to provide basic local telephone service to all potential customers within a defined service territory when no other voice communication service is available in that location. The competitive marketplace largely negates the need for COLR obligations. When taking into consideration the manifold options for voice communications service, few (if any) Washington locations exist where there are not at



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least two options for voice communication service. In any circumstance where locations may be unserved, the imposition of mandatory build out obligations should be predicated on the availability of an explicit support mechanism ensuring that investments are economic. Otherwise, uneconomic mandates an any provider can be anti-competitive by diverting scarce resources, capital and otherwise, and undermining investments in new technologies. Given Frontier's services classification as a competitive company under RCW 80.36.320, "[t]he commission may waive any regulatory requirement under this title for competitive telecommunications companies when it determines that competition will serve the same purposes as public interest regulation."

(3) Are there any populated areas in Washington in which a LEC is the only source of reliable basic local telecommunications service? If so, where?

Not in Frontier's service territory, given its Commission-granted competitive classification. Frontier has no information on areas outside its defined service territory. Consumers have defined "reliable basic local telecommunications service" to include all forms of voice communications platforms. Despite most voice communications providers being unregulated by the Commission, consumers have not been dissuaded from seeking these options in earnest. In fact, a substantial majority of Washington consumers have subscribed to wireless service exclusively to meet their household voice service needs. In any areas where wireless service may not meet the consumers' needs, satellite service is a widely used alternative.

(4) WAC 480-120-071(4) requires each LEC that receives federal high-cost universal service support to "allow for an extension of service within its service territory up to one thousand feet at no charge to the applicant. The company may allow for an extension of service for distances over the allowance," but "[t]he applicant is responsible for the cost of that portion of the extension of service, if any, that exceeds the allowance."

a. Should the Commission continue to require these or any other LECs to provide an extension of service for up to 1,000 feet at no charge to the applicant? If not, why not? Would a different distance be more appropriate? If so, why?

The 1000' free extension of service requirement is no longer appropriate given the current competitive marketplace. Any mandatory build-out requirement is inconsistent with a competitive market by undermining efficient capital allocation decisions, especially when applied to a single segment of the market. In addition, the present service extension requirement bears no relation to the actual cost of the extension or overall economics of providing the service to the customer. For example, costs in an

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area with available rights of way, and no road, bridge or other natural or artificial obstacles are likely substantially different than an extension in an area which must cross waterways, major roads or other adverse physical terrain. For these reasons, the requirement to extend service is discriminatory because it applies only to certain LECs and therefore should be eliminated.

b. Under what circumstances should an applicant be responsible for the costs of an extension of service?

Absent an explicit state support mechanism, the applicant should be solely responsible for all costs the provider determines to be uneconomic.

c. Should the Commission continue to exclude “developments,” as that term is defined in the rule, from extensions of service? If so, under what terms and conditions? If not, why not, and should the Commission modify the definition of “developments”?

WAC 480-120-071 defines a development as land which is divided or proposed to be divided into four or more lots. The line extension rule excludes developers, and this should be maintained. If it is not maintained, the Commission will be forcing a LEC to subsidize the developer’s for-profit venture with the availability of some amount of free line extension. Without state subsidies, a LEC operating outside rate-of-return regulation in Washington’s competitive market would not recover the costs of financially unreasonable line extensions. The Commission should clarify that the exclusion applies to individual housing units on individual lots after the development is complete. That said, if the Commission were to eliminate free line extension allowances altogether, then the developer exclusion would become unnecessary because the applicants would bear the portion of the line extension the provider deems financially unwise.

d. Should the Commission revise its rules to require all LECs to keep records of instances in which they have denied requests for residential basic local telecommunications service due to lack of facilities?

Given the competitive state of the marketplace and the recognition of this fact by the Commission, this requirement is financially burdensome and would impose an additional regulatory administrative requirement on competitively-classified Frontier services, despite the language in RCW 80.36.320 which mandates minimal regulation.

e. Should the Commission otherwise modify WAC 480-120-071? If so, how and why?

Frontier Communications does not have a specific proposal at this time but will provide more specific recommendations following the stakeholder workshop.



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(5) Should the Commission modify or repeal any other rules in chapter 480-120 WAC with respect to telecommunications companies' obligation to provide service on demand or request? If so, please identify those rules and explain how and why the Commission should modify or repeal them.

Frontier has no recommended changes at this time to other commission rules that govern the provisioning of new service.