

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

RE: Rules relating to Commission General )  
- Tariffs: Chapter 480-80 WAC ) Docket No. UT-991301  
)

INITIAL COMMENTS OF THE  
TELECOMMUNICATIONS RESELLERS ASSOCIATION

The Telecommunications Resellers Association ("TRA"),<sup>1</sup> on behalf of its members and pursuant to the Washington Utilities and Transportation Commission's (Commission's) September 14, 1999 *Notice of Opportunity to File Written Comments* in the above-captioned proceeding, submits these initial comments regarding the Commission's current tariff rules, Chapter 480-80 WAC ("WAC 480-80"). The Commission has solicited comment regarding whether certain tariff rules should be retained in WAC 480-08, or otherwise moved to regulated industry chapters. The Commission has also allowed comment on the need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost, and fairness of these rules, consistent with the mandate of Governor Locke's Executive Order No. 97-02. This proceeding provides an excellent opportunity to ensure that a clear distinction is created between conventional tariff regulation and more flexible price list regulation available to competitively classified telecommunications providers than what currently exists.

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<sup>1</sup> A national industry association, TRA represents more than 700 entities engaged in, or providing products and services in support of, the provision of telecommunications services, primarily on a resold basis. TRA was created, and carries a continuing mandate, to foster and promote telecommunications resale, to support the telecommunications resale industry, and to protect and further the interests of entities engaged in the resale of telecommunications services. TRA is the largest association of competitive carriers in the United States, numbering among its members not only the large majority of providers of domestic interexchange and international services, but the majority of competitive local exchange carriers.

## I. INTRODUCTION

WAC 480-80-041, Tariff, explicitly exempts companies classified as competitive telecommunications companies from the requirement to submit tariffs. Such companies are authorized to submit price lists pursuant to WAC 480-120-027. Few TRA members are directly governed by WAC 480-80, accordingly. Nevertheless, the instant proceeding should serve as an opportunity to clarify potentially ambiguous tariff provisions to remove any uncertainty as to their applicability to competitive, non-dominant service providers. It is regarding such a clarification that TRA focuses its initial comments.

## II. COMPETITIVELY CLASSIFIED TELECOMMUNICATIONS COMPANIES SHOULD BE EXPLICITLY EXEMPT FROM WAC 480-80.

### A. WAC 480-80-010 Should Contain an Explicit Exemption for Competitively Classified Companies.

Pursuant to WAC 480-80-041, competitively classified companies, "are exempt from the requirement to file tariffs." It is not entirely clear, however, whether competitively classified companies are subject to the remaining provisions of WAC 480-80-041, or to WAC 480-80 generally.<sup>2</sup> The Legislature and Commission have for more than a decade determined that conventional tariff regulation is no longer appropriate for competitive entities. By establishing price list provisions, competitive companies were accorded added regulatory flexibility inherently lacking in conventional tariff regulation. The separation

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<sup>2</sup> TRA notes, for example, that WAC 480-80-049, Caller Identification Service, presumably applies to competitive local exchange carriers ("CLECs"), regardless of whether the CLEC is granted competitive company classification. This provision has little apparent relation to tariff rules and appears misplaced in WAC 480-80. Its inclusion in WAC 480-80 contributes to the uncertainty over what tariff provisions, if any, should apply to competitively classified companies.

between competitively classified companies subject to price list regulation, and those who remain subject to tariff regulation should be explicit and clear in Commission rules.

To aid in the elimination of any uncertainty as to potential obligations that competitively classified companies might retain under WAC 480-80, a specific exemption should be added to rule WAC 480-80-010, Application of rules, which removes competitively classified telecommunications companies from the provisions of WAC 480-80 altogether.<sup>3</sup> Such a provision would obviate the need for the tariff exemption currently in WAC 480-80-041.

B. Competitively Classified CLECs should be exempt from Access Charge Tariff Filing Requirements in WAC 480-80-047 or Alternatively Opt Into WECA Tariffs

Further contributing to the uncertainty of whether certain provisions of WAC 480-80 apply to competitively classified companies, are the provisions of WAC 480-80-047 which impose access charge tariff review and update requirements on "[a]ll local exchange telecommunications companies in the state of Washington."<sup>4</sup> A plain language reading of this requirement would suggest that even competitively classified CLECs who are otherwise exempt from tariff filing requirements, are not exempt from access charge tariff filing obligations. This provision appears inconsistent with the exemption in WAC 480-80-041, and underscores the need for a blanket tariff filing exemption for all competitively classified companies from tariff filing requirements.

If CLEC access rates, terms, and conditions are to be published, the Commission should allow CLECs to incorporate access-related provisions in their price lists.

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<sup>3</sup> TRA also presumes that WAC 480-80-330, Telecommunications Contracts, would not apply to competitively classified companies as the rule applies to the submission of contracts for "regulated intrastate telecommunications service which contain or state rates or conditions not in conformance with any applicable *tariff* [emphasis supplied]."

<sup>4</sup> WAC 480-80-047(1).

If, however, the Commission maintains that competitively classified CLECs may not be relieved of access tariff filing requirements under WAC 480-80-047, CLECs, including those who are not Washington Exchange Carrier Association ("WECA") members, should be accorded the option to concur with approved WECA tariffs in lieu of filing an access tariff under WAC 480-80-048 when mirroring WECA tariffed access rates, terms, and conditions. To the extent that a CLEC must file an access tariff or price list, it should have the option of concurring with the WECA access tariff to eliminate the need to prepare and submit a separate access tariff or price list provisions. Alternatively, a CLEC should be able to incorporate provisions of WECA's access tariff or price list into its own when concurring with specific provisions<sup>5</sup>

### III. CONCLUSION

The inapplicability of the Commission's tariff rules to competitively classified CLECs and interexchange carriers is relatively well established in WAC 480-80-041. Yet some ambiguity regarding the applicability of other WAC 480-80 provisions on competitively classified companies remains. The Commission's review of WAC 480-80 offers an excellent opportunity to remove any such ambiguity and clarify that its provisions do not apply to competitively classified companies through an explicit exemption in WAC 480-80-010.

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<sup>5</sup> Should CLECs be required to file access tariffs, CLECs should not be subject to the notice requirements in WAC 480-80-120 *et seq.*, nor the tariff maintenance at designated business offices requirements (WAC 480-80-090) or related rules such as WAC 480-80-100 and 480-80-110. These rules are meant to specifically to ensure that the public is informed of tariff changes, and is able to have access to tariffs at a provider's place of business. Because CLEC access tariffs apply exclusively to other carriers and not to services provided to the public, such notice and posting requirements would have no benefit to the public while imposing an unnecessary burden on CLECs.

Respectfully submitted,

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