

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Eligible  
Telecommunications  
Carrier  
(ETCs)  
Rulemaking.

DOCKET NO. UT-053021

**Comments of Public Counsel  
Attorney General of Washington**

**November 14, 2005**

**I. INTRODUCTION**

The Public Counsel section of the Washington State Attorney General's Office (Public Counsel) files these comments in response to the Washington Utilities and Transportation Commission's (Commission) October 21, 2005 *Notice of Opportunity to File Written Comments*. Public Counsel supports the Commission's efforts to clarify its obligations under federal law and to clarify the Federal Communications Commission's (FCC) recent actions regarding Eligible Telecommunications Carrier (ETC) designation through revisions to chapter 480-123 WAC.

**II. COMMENTS**

As a general matter, Public Counsel incorporates by reference its previously filed comments of June 1<sup>st</sup>, 2005. The proposed new sections for chapter 480-123 WAC meaningfully improve the status quo.

Public Counsel would encourage the Commission to create for the workshop on November 28<sup>th</sup>, 2005 a matrix of the comments received to date, including the answers to the

questions previously posed so that parties can ascertain which issues or comments have been addressed in these draft rules, and which have not.

WAC 480-123-0020

A general point is that these proposed rules do not seem to directly address the FCC's final issue of all ETC's accepting that they may become a provider of last resort for the area for which they are certified as an ETC. Public Counsel believes the Commission should require all prospective (and current) ETCs to certify their acknowledgement in their application (or on-going reporting) that they accept the obligation to possibly become the "provider of last resort."

WAC 480-123-0020(1)(g)

Public Counsel supports the Commission's reporting requirements regarding proposed ETC's ability to remain functioning in emergency situations. However, Public Counsel would encourage the Commission to also require reporting by proposed ETC's in their Petition (and in on-going reporting by existing ETCs) of how they plan to assure continuity of service beyond the period that their back-up power supplies are expected to last.

For example, does the proposed ETC have local work crews (or a contract with a local telecommunications firm) that are capable of replacing or refreshing drained batteries and refilling the fuel tanks on generators? Does the proposed ETC intend to install generators that can safely be refueled while running or would refueling require shutting down the generator, and thus risking losing service (particularly if a generator refuses to restart, as not uncommonly happens for infrequently used back-up equipment).

Public Counsel recommends including the following language in subsection (g):

“a brief statement of their contingency plans for maintaining on-going support for their network infrastructure (battery replacement, refueling generators, etc.) until normal power and operations are restored,”

WAC 480-123-0020 (1)(h)

Public Counsel reiterates its concern that the so-called “Consumer Code” provides consumers of cellular service little substance and less value. Public Counsel encourages the Commission to enact meaningful consumer protections consistent with our prior comments in this dockets and others.

#### IV. CONCLUSION

Public Counsel looks forward to working with the Commission’s staff and all interested persons in this rulemaking process including participating in the workshop on November 28<sup>th</sup>, 2005.