

Chapter 480-121 WAC

**REGISTRATION, COMPETITIVE CLASSIFICATION, AND INITIAL PRICE LISTS OF
TELECOMMUNICATIONS COMPANIES**

WAC

480-121-010	Filing of registration application, competitive classification petition, and price list.
480-121-015	Exemptions from rules.
480-121-020	Requirements for <u>applications for registration applications, competitive classification petitions for competitive classification of telecommunications companies, and initial price lists.</u>
480-121-023	When a supplemental application is required.
480-121-026	Rejection <u>ng</u> of registration application, competitive classification petition, and price list <u>a filing.</u>
480-121-030	Additional information.
480-121-040	Granting or denial of <u>denying an application for registration.</u>
480-121-050	Cancellations.
480-121-060	Revocation <u>ing a</u> of registration.
480-121-061	<u>Classification proceedings General requirements to classify a telecommunications company as competitive or to classify a service provided by a telecommunications company as competitive.</u>
480-121-062	Content of <u>Requirements for filing a petition for competitive classification of competitive a telecommunications services and companies.</u>
480-121-063	Waiver of r <u>Regulatory requirements that may be waived for competitive competitively classified telecommunications companies.</u>
480-121-064	<u>Investigations Reclassifying a competitive telecommunications company or service.</u>
480-121-070	Petition for competitive classification.
<u>480-121-X01</u>	<u>Telefacsimile filing.</u>
<u>480-121-X02</u>	<u>Electronic filing.</u>

<u>480-121-X03</u>	<u>Price list availability to customers.</u>
<u>480-121-X04</u>	<u>Severability.</u>
<u>480-121-X05</u>	<u>Application of rules.</u>
<u>480-121-X06</u>	<u>Additional requirements.</u>
<u>480-121-X07</u>	<u>Name change.</u>

Chapter 480-121 WAC

REGISTRATION, COMPETITIVE CLASSIFICATION, AND INITIAL PRICE LISTS OF TELECOMMUNICATIONS COMPANIES

**WAC 480-121-010, 015, 020, 023, 026, 030, 040, 050, 060, 061,
062, 063, 064, 070, X01, X02, X03, X04, X05, X06, X07**

~~WAC 480-121-010 Filing of registration application, competitive classification petition, and price list.~~

~~Applications, petitions, and price lists must be filed at the office of the commission in Olympia, Washington, by mail or in person. Applicants must submit a declaration signed and dated by applicant or its attorney certifying the accuracy of the application, petition, and price list. Applications, petitions, and price lists will be assigned a docket number. All additional exhibits and data thereafter filed, and correspondence in connection with the filing, should bear that docket number. Applications for registration, petitions for competitive classification, and price lists must be submitted at the same time. The applicant must file with the commission an original application, petition, and price list and any additional copies as the commission may require.~~

WAC 480-121-015 Exemptions from rules.

(1) The commission may grant an exemption from the provision of any rule in this chapter, ~~when doing so is~~ if consistent with the public interest, the purposes underlying regulation, and applicable statutes.

(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought, and giving a full explanation of the reason for requesting the exemption ~~is requested~~.

(3) The commission will assign the request a docket number, if ~~needed~~ it does not arise in an existing docket, and will schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the hearing or open meeting when the commission will consider the request.

(4) In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the petitioner, of a degree or a kind different from hardship imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purposes of the rule.

(45) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter 480-09 WAC.

WAC 480-121-020 Requirements for applications for registration applications, competitive classification petitions for competitive classification, and initial price lists.

(1) Applications for registration, petitions for competitive classification, and initial price lists must:

(a) Must Be in the form prescribed by the commission;

(b) Must be filed at the same time;

(bc) Must Comply with the rules set forth in chapters 480-80 WAC and 480-120 WAC; and

(ed) Be accompanied by the applicant's current balance sheet, latest annual report, if any, and a description of the telecommunications service it intends to offer Must be filed at the office of the commission in Olympia, Washington;

(e) Must include a declaration signed and dated by the applicant or its attorney certifying the accuracy of the filing; and

(f) Will be assigned a docket number. All documents subsequently filed in the matter must bear that docket number.

~~(2) Petitions for competitive classification must meet the requirements of WAC 480-120-023.~~

~~(3) Price lists must meet the requirements of WAC 480-120-027.~~

~~(42) As a condition to registration, with or without hearing, t~~The commission may require, with or without hearing, that an applicant for registration clearly show that:

(a) ~~The applicant possesses a~~Adequate financial resources to provide the proposed service;

(b) ~~The applicant possesses a~~Adequate technical competence to provide the proposed service; and

~~(c) The applicant is in c~~Compliance with all applicable federal, state, and local telecommunications technical and business regulations.

~~(53)~~ The commission may request that an applicant to provide information regarding the applicant's regulatory performance in other states ~~in which~~ where it operates.

~~(6)~~ Applicants ~~intending to collect customer prepayments must meet the requirements of WAC 480-120-058.~~

~~(7)~~ Applicants ~~collecting customer deposits pursuant to WAC 480-120-056 may be required to procure a bond or establish a federally insured interest-bearing trust account.~~

~~WAC 480-121-023 When a supplemental application is required.~~

~~Supplemental registration applications, competitive classification petitions, and price lists are required if a telecommunications company intends to amend its registration to include collecting deposits or providing alternate operator services, local exchange services, or prepaid calling services.~~

~~WAC 480-121-026 Rejectionng of registration application, competitive classification petition, and price list a filing.~~

~~Registration applications, competitive classification petitions, and price lists not in substantial compliance with these rules and chapter 480-120 WAC will be rejected by the commission and returned to the applicant.~~

The commission may reject any filing not in compliance with commission rules.

~~WAC 480-121-030 Additional information.~~

~~The commission may require additional information to supplement the registration application, competitive classification petition, and price list. Unless a different time is specified, such information shall be provided within ten days of the written request.~~

~~WAC 480-121-040 Granting or denial of denying petitions for registration.~~

~~(1) An application~~ The commission may grant an application for registration may be granted without hearing upon a determination by when the commission has determined that the application is consistent with the public interest, and that the applicant meets

the requirements of this section and RCW 80.36.350 and that the applicant has provided adequately for the protection of customer deposits or prepayments.

~~(2) The commission may set an application for registration may be set for hearing in accordance with notice issued by the commission. If, ~~a~~After hearing, the application will be denied if the commission finds that: registration is not consistent with the public interest, or~~

~~(a) that the a~~Applicant does not meet the requirements of these rules and RCW 80.36.350; ~~or that customer deposits or prepayments cannot be adequately protected, it will deny the application.~~

~~(b) Services and charges to be offered by an alternate operator services company are not for the public convenience and advantage.~~

~~The commission will deny an application for registration submitted by an alternate operator services provider if, after hearing, the commission finds that the operator services offered by the company or the charges for those services are not consistent with the public convenience and advantage.~~

~~WAC 480-121-050 Cancellations.~~

~~(1) A request to cancel registration as a telecommunications company must be submitted in writing to the commission.~~

~~(2) Registered telecommunications companies collecting prepayments that cease operations must comply with WAC 480-120-058(10).~~

Note: Moved to 480-120-083

~~WAC 480-121-060 Revocationking a of registration.~~

~~(1) The commission may revoke a registration, after notice and opportunity for a hearing, for good cause. Good cause includes, but is not limited to, failure to:~~

~~(1a) File an annual report;~~

~~(2b) Pay regulatory fees;~~

~~(3) Comply with the requirements of WAC 480-120-058;~~

~~(4c) Provide adequate service;~~

~~(5d) Maintain correct contact information, including the telecommunications companies current address and telephone number; or~~

~~(6e) Complying with all applicable federal, state, and local telecommunications and business and technical regulations; or.~~

~~(7) Comply with applicable federal, state, and local technical regulations imposed on the carrier.~~

WAC 480-121- 061 Classification proceedings General requirements to classify a telecommunications company as competitive or to classify a service provided by a telecommunications company as competitive.

~~(1) Rules of practice and procedure applicable. The rules of practice and procedure before the commission, chapter 480-08 WAC, shall apply generally to proceedings to classify a telecommunications company as a competitive telecommunications company or a service as a competitive telecommunications service.~~

~~(21) Initiation of classification proceedings. A telecommunications company shall initiate a requesting competitive classification proceeding by must filing a petition with the commission. The commission may initiate a competitive classification proceeding on its own motion by order instituting investigation.~~

~~(3) Notice to affected companies and public counsel. The commission shall serve a copy of the petition or its order upon all telecommunications companies which may be affected by the proceeding, and upon the public counsel section of the office of the attorney general. Service by the commission shall be made as provided in WAC 480-08-060(4). Alternatively, the commission may direct petitioner to serve a copy of the petition upon such parties as the commission directs. Service by petitioner shall be made in accordance with WAC 480-08-060(3).~~

~~(4) Notice to customers of classification proceeding. The commission may require a telecommunications company to give notice of the pendency of the classification proceeding. The commission shall determine the manner and distribution of notice.~~

~~(52) Appearances and intervention. Any person desiring to participate in a competitive classification proceeding may petition to intervene as provided in WAC 480-08-070 480-09-430.~~

~~(6) Commission may require appearance. (3) Additional parties. In any competitive classification proceeding the commission may require all regulated telecommunications companies potentially affected by the proceeding to appear as parties to determine their the proper classification of the affected companies.~~

~~(74) Burden of proof. In any competitive classification proceeding, the telecommunications company shall have has the burden of demonstrating that the company or specific service(s) at issue are subject to effective competition. Effective competition means that customers of the service have reasonably available alternatives and that the service is not provided to a significant captive customer base. In determining whether a service is competitive, factors the commission shall consider include, but are not limited to:~~

~~(a) The number and size of alternative providers of services;~~

~~(b) The extent to which services are available from alternative providers in the relevant market;~~

~~(c) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and~~

~~(d) Other indicators of market power, which may include:~~

~~(i) mMarket share,;~~

~~(ii) gGrowth in market share,;~~

~~(iii) eEase of entry,; and~~

~~(iv) tThe affiliation of providers of services.~~

~~A telecommunications company will not be classified as competitive unless it demonstrates that the telecommunications services it offers are subject to effective competition.~~

(5) Effective competition. Effective competition means that customers of the service(s) have reasonably available alternatives and that the company does not have a significant captive customer base for the service(s). The commission will consider the factors outlined in RCW 80.36.320 (1) (a) - (d) when determining whether a company is competitive.

WAC 480-121-062 Content of Requirements for filing a petition for competitive classification of competitive a telecommunications services and companies.

~~In addition to the requirements of WAC 480-08-050(13), a petition for classification of a competitive telecommunications service or a competitive telecommunications company shall, at a minimum, be accompanied with the following:~~

A petition for competitive classification of a telecommunications service must, at a minimum, include:

~~(1) Name and address of the petitioner~~ petitioning company;

~~(2) Name and telephone number of regulatory contact;~~

~~(23) A description of the services it offers;~~

~~(34) Names and addresses of any entities which that would be classified as "affiliated interests" of the petitioner pursuant to as defined in RCW 80.16.010; and~~

~~(45) A statement of the services the petitioner contends are subject to effective competition, and with respect to each such service the following information shall be provided: A description of the service the petitioner proposes to classify as competitive. With respect to each service, the petitioner must provide the following information:~~

~~(a) Descriptions A description of all functionally equivalent or substitute services in the petitioner's definition of the relevant market for the service;~~

(b) ~~The N~~Names and addresses of all providers of ~~such~~ the services known or reasonably knowable to the petitioner;

(c) ~~The P~~Prices, terms, and conditions under which ~~such~~ the services are offered to the extent known or reasonably knowable to the petitioner;

(d) A geographical ~~delineation~~ description of the relevant market;

(e) An estimate of the petitioner=s market share ~~and any past or projected change in market share~~;

(f) A description of ease of entry into the market;

(g) A statement of whether the petitioner has a significant captive customer base and the basis for any contention that it does not; and

(h) A verifiable cost of service study supporting the contention that the price or rate charged for the service covers its cost. ~~A petition which contends that all of a company=s services are competitive and does not seek classification for some services if others are denied classification is exempted from this requirement;~~

(i) ~~The manner by which notice of price list changes will be provided to customers and the commission.~~

WAC 480-121-063 ~~Waiver of r~~Regulatory requirements that may be waived for competitive competitively classified telecommunications companies.

(1) The commission may waive ~~in writing~~ regulatory requirements for ~~competitive telecommunications companies~~ that it has classified as competitive if it ~~is determined~~ determines that competition will serve the same purposes as public interest regulation.

~~(2) Any telecommunications company seeking competitive classification shall include as part of its petition for classification any requests for waivers of regulatory requirements. Requests for waiver not included in a classification petition shall be granted or denied in writing. The commission reserves the right to set any such request for hearing at its discretion. Any request for waiver of regulatory requirements must include a statement as to how competition will serve the same purposes as public interest regulation.~~

~~(3) The commission may revoke waivers of regulatory requirements in the same manner in which they were granted if ~~such~~ it determines that revocation would protect the public interest.~~

(3) The commission will issue revocation of the waivers in writing.

(4) Unless the commission determines otherwise, the following regulatory requirements are waived for competitively classified companies:

(a) RCW 80.04.300 Budgets to be filed by companies-Supplementary budgets;

(b) RCW 80.04.310 Commission's control over expenditures;

- (c) RCW 80.04.320 Budget rules;
- (d) RCW 80.04.330 Effect of unauthorized expenditure-Emergencies;
- (e) RCW 80.04.360 Earnings in excess of reasonable rate-Consideration in fixing rates;
- (f) RCW 80.04.460 Investigation of accidents;
- (g) RCW 80.04.520 Lease of utility facilities;
- (h) RCW 80.36.100 Tariff schedules to be filed and open to public;
- (i) RCW 80.36.110 Tariff changes-Statutory notice-Exception;
- (j) Chapter 80.08 RCW Securities (except RCW 80.08.140, State not obligated);
- (k) Chapter 80.12 RCW Transfers of Property;
- (l) Chapter 80.16 RCW Affiliated Interests;
- (m) Chapter 480.80 WAC Tariffs, price lists, and contracts (except 480-80-035 price lists and 480-80-325 contract for service);
- (n) Chapter 480-140 WAC Budgets;
- (o) Chapter 480-143 WAC Transfers of Property;
- (p) Chapter 480-146 WAC Securities and Affiliated Interests;
- (q) WAC 480-120-031 Accounting;
- (r) WAC 480-120-032 Expenditures for political or legislative activities;
- (s) WAC 480-120-043 Notice to the public of tariff changes;
- (t) WAC 480-120-046 Services offered;
- (u) WAC 480-120-131 Reports of accidents;
- (v) WAC 480-120-541 Access charges;
- (w) WAC 480-120-542 Collective consideration of Washington intrastate rate, tariff, or service proposals;
- (x) WAC 480-120-543 Caller identification service; and
- (y) WAC 480-120-544 Mandatory cost changes for telecommunications companies.

WAC 480-121-064—Investigations Reclassifying a competitive telecommunications company or service.

~~(1) Information to the commission. The commission may require competitive telecommunications companies or telecommunications companies providing competitive services to submit periodically information relating to the factors set forth in WAC 480-120-027(7).~~

~~(2) Reclassification.~~ After notice and hearing, the commission may reclassify any competitive telecommunications company or service if such it determines that reclassification would protect the public interest. ~~In any such hearing the burden shall rest on the telecommunications~~ The telecommunications company to must demonstrate that the existing competitive classification is proper and consistent with the public interest.

~~(3) Refunds.~~ If the commission finds after notice and hearing that any class of subscribers to a noncompetitive telecommunications service has paid excessive rates because of below cost pricing of competitive telecommunications services, the commission may order refunds or credits.

~~WAC 480-121-070 Petition for competitive classification.~~

~~(1) In addition to meeting the requirements of WAC 480-120-023, a petition for competitive classification must state an effective date no sooner than thirty days from the filing date.~~

~~(2) The petitioner must provide notice in the same manner as provided in WAC 480-80-120 for tariff changes.~~

WAC 480-121-X01 Telefacsimile filing.

(1) The commission will accept an application, petition for competitive classification, and initial price list by telefacsimile, if:

(a) The filing complies with all other requirements imposed by statute and rule;
and

(b) The commission receives an original and two copies of the filing the following business day.

(2) The commission will use the date and time the telefacsimile is received and printed at the records center as the official file date.

(3) The commission records center must receive a telefacsimile filing in its entirety by 5:00 p.m. Pacific time, Monday through Friday, excluding state holidays, to be considered received on that business day.

WAC 480-121-X02 Electronic filing.

The commission will accept for filing an application, petition for competitive classification, and initial price list submitted electronically in accordance with commission procedures.

(1) Electronic filings must comply with applicable rules.

(2) After accepting an electronic filing, the commission will return an electronic mail message of acknowledgement noting the receipt date.

WAC 480-121-X03 Price list availability to customers.

(1) Each telecommunications company must establish and maintain a complete copy of the price list that is on file with the commission on a web site accessible to the public using standard web browser software.

(2) Each telecommunications company must include in each customer bill or notice the Internet address (uniform resource locator) of the web site containing its price list.

(3) Each telecommunications company must provide to any customer making a written or oral request a copy of the price list applicable to that customer's service. The telecommunications company must provide the price list at no charge to the customer. This subsection does not apply if the telecommunications company makes available for public inspection, at a location within the customer's exchange, a complete copy of the price list.

WAC 480-121-X04 Severability

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

WAC 480-121-X05 Application of rules.

(1) The rules in this chapter apply to any telecommunications company that is subject to the jurisdiction of the commission as to rates and services under the provisions of RCW 80.04.010 and chapter 80.36 RCW.

(2) The price list provisions filed by the telecommunications company must conform with these rules. If the commission accepts a price list that conflicts with these rules, the acceptance does not constitute a waiver of these rules unless the commission specifically approves the variation consistent with WAC 480-121-015. Price lists that conflict with these rules without approval are superseded by these rules.

(3) Any affected person may ask the commission to review the interpretation of these rules by a telecommunications company or customer by posing an informal complaint under WAC 480-09-150, Informal complaints, or by filing a formal complaint under WAC 480-09-420, Pleadings and briefs--Application for authority--Protests.

(4) No deviation from these rules is permitted without written authorization by the commission. Violations will be subject to penalties as provided by law.

WAC 480-121-X06 Additional requirements.

(1) These rules do not relieve any telecommunications company from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains the authority to impose additional or different requirements on any telecommunications company in appropriate circumstances, consistent with the requirements of law.

WAC 480-121-X07 Name change.

(1) A telecommunications company must notify the commission when changing its name.

(2) A telecommunications company changing its name must provide the commission with the following:

(a) A transmittal letter identifying the change in name;

(b) A revised price list reflecting the new name; and

(c) Proof that the new name is properly registered with the department of licensing, office of the secretary of state, or other agencies as may be required.