

December 13, 2006

TO: Commissioners

FROM: Tom Wilson, Wilford Saunders, Lisa Steel, Tani Thurston, and Greg Trautman

SUBJECT: Pricelist Rulemaking – Changes to Proposed Rules
Docket No. UT-060676

RE: Rule Adoption Hearing – Comments on Proposed Rules (Supplemental CR-102) Adoption Hearing, December 13, 2006, 1:30 – 2:30 p.m.

Background

On March 30, 2006, the governor signed Substitute Senate Bill 6473, eliminating the use of price lists for competitively classified telecommunications services. The new law took effect on June 7.

On May 5 the commission issued a notice of opportunity to file written comments (CR-101) by June 30. Written comments were received from:

1. Trans National Communications International;
2. Verizon;
3. Qwest (including proposed modifications and rationale); and,
4. AT&T, TCG Seattle, TCG Oregon, Integra, and XO (Joint CLECs).

On July 26 draft rule revisions were issued in a CR-102 notice of opportunity to submit written comments by August 23 with notice of a proposed rule adoption hearing September 13. Written comments were received from:

1. Embarq;
2. Joint CLECs;
3. Verizon; and,
4. Qwest.

On October 13 a Supplemental CR-102 was issued with modified proposed rule language. Four written comments were received by the due date of November 14 from:

1. Embarq;
2. Verizon;
3. Qwest; and,
4. Public Counsel.

This memo summarizes comments and describes rule revisions accordingly.

Discussion

Analysis of general comments, and of specific major concerns, is discussed and final proposed changes are summarized in the memo. The marked up text of the rule proposal (including minor recommended edits as discussed below) is attached along with a comment summary matrix.

Revisions to existing rules governing price lists are proposed for three chapters of the administrative code in this rulemaking:

1. WAC 480-80 governing tariffs, prices lists and contracts;
2. WAC 480-120 governing telecommunications company operations; and,
3. WAC 480-121 governing registration, competitive classification, and price lists of telecommunications companies.

Current commission rules promoting customer-friendly operations and service quality are not changed other than to delete reference to the price list filing requirement. There are minor conforming edits as necessary to maintain the cohesive intent of the remaining rules that are applicable to competitive operations as a whole. No new obligations are created by the revisions.

Attention in drafting the revisions is given to removing all rule references applicable to services provided pursuant to competitive classification from WAC 480-80 because that is the chapter of the commission's rules dealing primarily with the procedures governing the filing of rates, terms and conditions of service under RCW 80.36.100. The new law specifically states at RCW 80.36.100(5) that competitive services cannot be subjected to tariff-like procedures. Some rules referencing price lists in WAC 480-80 have more to do with operations, so those rules were revised to delete the price list reference and moved into WAC 480-120 - for example, material was moved from WAC 480-80-202 to NEW SECTION WAC 480-120-266 with minor edits.

Several parties have actively participated and submitted comments during the rulemaking. Most of the comments focused on whether certain existing rules remain appropriate once the price list filing requirement is abolished. Parties submitted general comments about terminology throughout the revisions, as well as specific comments about particular issues such as in opposition to the proposed requirement to post information on an Internet Web site, and about how the commission would handle a complaint.

General Comments

“Competitive Contracts.”

Because the rules governing operations frequently reference the tariff or price list on file with the commission as a touch point for implementation of standards and guidelines, simply deleting reference to price lists became problematic in several instances. The revisions address this issue generally by deleting reference to the term “price list” and replacing it with references to concepts flowing from the phrase “information concerning intrastate telecommunications services” that are provided pursuant to competitive classification. Verizon’s comments focused, in part, on proposing use of the term “competitive contract” instead of price list where such revisions were necessary. The more conceptual framework developed in the rulemaking works better because it allows carriers the choice to offer competitive services via some form of sales channel other than individual written contracts.

Interim Rules.

Verizon also commented that there is an interim period from June 2006 until June 2007 during which carriers may continue to maintain price lists on file. Verizon noted that if the proposed rules in this rulemaking are made effective prior to the end of the interim period as planned, there will not be any rules governing the maintenance filing of price lists up until the end of the interim. Verizon recommends that the commission should adopt rules for carriers to follow when filing price lists after the proposed rules in this rulemaking take place but before the end of the interim period.

The proposed rules do not address the issue because the statute is clear enough and the commission can give weight to any issues that may arise in the petition form. Meantime, the commission will maintain a copy on the commission’s Internet Web site of all affected rules as they were effective prior to the revisions so that carriers who wish to maintain price lists until June 2007 will have guidelines to continue to follow.

Specific Major Concerns.

Investigations.

There was repeated concern in CR-102 and Supplemental CR-102 comments about proposed provisions in New Section WAC 480-120-266(1)(b). Several parties argued that the proposed rule impermissibly expands the scope of the statute because the statute limits the commission’s authority to investigate prices for services provided pursuant to competitively classification. As previously mentioned this is an example of current rules that were lifted out of the rules governing filing procedures for tariffs in WAC 480-80 and moved to WAC 480-120. The existing rule was adopted over similar opposition in Docket No. U-991301. In this proposed rulemaking, the phrase “price list” was deleted and replaced with a reference to information about competitive services, and the edited proposed rule was placed in a new section in WAC 480-120. The language in the proposed rule is:

(b) The commission will, when appropriate, investigate or complain against a rate, term or condition provided pursuant to competitive classification.

The commission's finding in U-991301 is still valid. That is to say, even though the price list filing requirement has been lifted, it is still important to recognize the fundamental differences between services provided under tariff and services provided pursuant to competitive classification.

Rebuttable Presumption.

Parties also strongly opposed proposed revisions to WAC 480-120-266(1)(c) issued in both the CR-102 and the Supplemental CR-102:

(c) If the commission determines that a rate, term or condition for service offered pursuant to competitive classification is ambiguous, there is a rebuttable presumption that the ambiguity should be construed in the favor of the customer.

Parties pointed out that the proposed language in (c) does not reflect a basic policy consistent with contract law that the ambiguity should only be construed against the drafter of the contract. Establishing this policy is important to eliminate uncertainty for regulated companies and provides incentives to avoid ambiguous or conflicting offers. Accordingly, the final proposal is amended to add appropriate language as follows:

c) If the commission determines that a rate, term or condition for service offered pursuant to competitive classification is ambiguous, there is a rebuttable presumption that the ambiguity should be construed in the favor of the customer unless the rate, term or condition was not proposed by the company.

The rebuttable presumption language in (c) also ensures that the facts of the case would be fully considered. The rule provision does not apply to alleged ambiguities; it applies to circumstances in which the commission determines that an ambiguity exists. The additional language conforms the rule to contract law.

Internet Posting.

New Section WAC 480-120-266(2) requiring an Internet Web page also drew considerable opposition as proposed in the CR-102 and as proposed with less explicit language again in the Supplemental CR-102. Even though the price list filing requirement was eliminated, proposals for New Section WAC 480-120-266(2) deal with ongoing needs to make information about competitive services available. Pursuant to SSB 6473, the commission's authority to require publication of rates, terms, and conditions is eliminated by RCW 80.36.100(5), and so, in consideration of written comments, we amend the proposal to make information concerning competitive services available upon request, and to make it so customers are informed about how to contact the commission concerning their competitive services. Thus, New Section WAC 480-120-266(2) is proposed to read as follows:

- (2) Following an inquiry or complaint from the public concerning rates, terms and conditions for competitive telecommunications services, a carrier shall specify where to obtain pertinent information, and how to contact the commission.

Description of Competitive Services.

Finally, Public Counsel offered that in light of the elimination of price lists being filed at the commission, new companies entering the market should still make available some minimal information for consumers and the commission. Public Counsel recommends that new companies should list the services they propose to offer and their initial recurring and non-recurring rates. For several years the commission's forms for registration of a new telecommunications company have had a place on them for companies to list such information. Adding the requirement to the rules that registration applicants must list the services they propose to offer is a good idea. However, in light of the clear statutory intent that competitive services be subject to minimal regulation and the specific prohibition under RCW 80.36.100(5) against treating such services like tariffs, the second part of Public Counsel's recommendation to require initial rates is not adopted. Thus, edits to WAC 480-121-020 governing requirements for applications for registration are proposed as follows:

- (2) Applications for registration:

- (a) Must be filed with a petition for competitive classification and a list of its services ~~(and an initial price list)~~ unless applicant will not be subject to effective competition;

Recommendation

Adopt the rule revisions as described in the Supplemental CR-102 subject to non-substantive modifications as discussed herein and in the attached rule modifications.

**ATTACHMENT –COMMENT SUMMARY
 UT-060676
 Price List Elimination Rulemaking
 Chapters 480-80, 480-120, and 480-121 Telecommunications Rules**

December 13, 2006

WAC/Issue	Interested Person	Comments	
General Comments	Verizon	In order to delete references to price lists Verizon recommends the use of the term competitive contract. Numerous rule revisions are affected.	
	Verizon	During the interim period June 2006 – June 2007 companies may maintain price lists on file with the commission yet these new rules will become effective in the mean-time, eliminating price list filing guidelines. The commission needs to retain price list rules in place for companies that have not yet withdrawn their price lists.	

WAC/Issue	Interested Person	Comments	
480-120-061 Refusal of Service			
The proposal removes the reference to “price list” in the rule and replaces it with a reference to “. . . rates, terms, and conditions pursuant to competitive classification”.	Qwest,	Qwest believes such a reference is necessary because SSB 6473 did not affect the application of WAC 480-120-061 to competitively classified services. Qwest does recommend that the reference be made clearer by restating it as follows: “. . . rates, terms and conditions <u>of services provided</u> pursuant to competitive classification . . .”	
480-120-104			
Paragraphs 1 and 2 of current rule require welcome packages to new customers and notices of material changes. The Supplemental CR-102 proposal maintains requirements and the exemption from the requirements for contracts pursuant to competitive classification but adds the qualifier that only written contracts are exempt.	Verizon , Qwest	Carriers asked that the exception to the requirements be maintained for competitive contracts and there was no opposition to adding the qualifier that the exception applies only to written comments.	
480-120-172 Discontinuing service – company initiated			
The proposal removes the reference to “price list” in the rule and replaces it with a reference to “. . . rates, terms, and conditions pursuant to competitive classification”.	Qwest	Qwest recommends the following changes to delete reference to rates: “(3) A company may discontinue service after providing proper notice, or may issue a discontinuation notice, if, and only if: (a) The company determines the customer has violated a rule, statute, service agreement, filed tariff, or rates, terms and conditions of competitively classified services; (c) The company determines the customer has not paid regulated charges or has not paid a deposit as provided in the tariff or rates, terms and conditions of	

WAC/Issue	Interested Person	Comments	
		competitively classified services . . .”	
480-120-161 Form of Bills			
Companies object to Web posting requirement and to requirement to print Web address on bills.	Qwest , Verizon, etc	This mandate is not authorized by law and would interfere with companies’ management of the contracting process for competitive services. While some companies may choose to use a web-based approach for some or all services, others may not.	
480-120-264 Prepaid calling services			
Requires conformance with companies’ service conditions.	Qwest	For clarity and grammar, Qwest recommends the following changes: “(3)(b) At the customer’s request, PPCS provider may add additional time to an existing account in exchange for an additional payment at a rate not to exceed those <u>in tariffs</u> on file on tariff with the commission or at rates, terms and conditions for services provided pursuant to competitive classification.”	
NEW SECTION 480-120-266			
(1)(b) The commission will, when appropriate, investigate or complain against a rate, term or condition provided pursuant to competitive classification. (1)(c) If the commission determines that a rate, term or condition for service offered pursuant to competitive classification is ambiguous, there is a rebuttable presumption that the ambiguity should be construed in the	Qwest, Verizon, Embarq Embarq	(1)(b-c) rule impermissibly expands the scope of the statute, which limits the Commission’s authority to investigate prices. Embarq suggests substitute language lifted from RCW 80.36.330(4): “The commission may investigate prices for competitive telecommunications services upon complaint. In any complaint proceeding initiated by	

WAC/Issue	Interested Person	Comments	
favor of the customer.		the commission, the telecommunications company providing the service shall bear the burden of proof of proving that the prices charged cover cost, and are fair, just, and reasonable.”	
480-120-266 (2)			
(2) requires companies to make information about service available the Internet	Verizon, Embarq, Qwest	<p>Parties claim that RCW 80.36.100(5) exempts competitive services from the requirement to publish information about intrastate services so this section continues to be the most problematic of the proposed rules because it would exceed the Commission’s jurisdiction. This proposed section should not be adopted.</p> <p>Embarq has no objection.</p> <p>Qwest says that while less explicit than the prior version, the proposal still appears to set forth commission requirements in connection with the communication of information about competitively classified services that are beyond the commission’s current authority.</p>	
480-120-266 (3)			
(3) price floor for competitive services under RCW 80.36.330 based upon cost of service.	Parties	Parties object to any references to the commission regulating competitive rates.	
WAC 480-121-020 (2)(a) Requirements for applications for registration			
2) Applications for registration must be filed with a petition for competitive classification. Revisions to the rules	Public Counsel	Reviewing amended WAC 480-121-020, Public Counsel notes that the term “price list” is removed without any substitution. Public Counsel suggests	

WAC/Issue	Interested Person	Comments	
strike the requirement to file a price list together with the application for registration.		<p>amending the rule to require that a newly registered, competitive company must still tell the Commission about its list of services.</p> <p>Public Counsel also recommends that a list of initial charges for services be provided.</p>	
<p>WAC 480-120-161 Form of bills. WAC 480-120-263 Pay phone service providers (PSPs). WAC 480-120-450 (3) Enhanced 911 (E911) obligation of local exchange companies. WAC 480-120-540 Terminating access charges.</p>			
	Qwest	<p>These rules all include references to revised proposed new WAC 480-120-266(2) and need to be modified consistent with any changes the Commission makes to WAC 480-120-266.</p>	

Chapter 480-80 WAC

UTILITIES GENERAL--TARIFFS(~~(, PRICE LISTS,)~~) AND CONTRACTS

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-80-010 Application of rules. (1) The rules in this chapter apply to any public service company that is subject to the jurisdiction of the commission as to rates and services under the provisions of Title 80 RCW.

(2) The tariffs(~~(, price lists,)~~) and contracts filed by public service companies must conform with these rules. If the commission accepts a tariff(~~(, price list,)~~) or contract 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 480-80-015 (Exemptions from rules in chapter 480-80 WAC). Tariffs(~~(, price lists,)~~) or contracts 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 public service company or customer by posing an informal complaint under WAC 480-07-910 (Informal complaints), or by filing a formal complaint under WAC 480-07-370 (Pleadings--General).

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

(5) Any tariff(~~(, price list,)~~) or contract on file and in effect or pending on the effective date of these rules is not required to be refiled to comply with these rules.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-80-015 Exemptions from rules in chapter 480-80 WAC. (1) The commission may grant an exemption from the provisions of any rule in this chapter, 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, giving a full explanation of the reason for requesting the exemption.

(3) The commission will assign the request a docket number, if 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 affected 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.

(5) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter 480-07 WAC.

~~((6) Competitive telecommunications companies previously granted exemptions from chapter 480-80 WAC Utilities general Tariffs, price lists, and contracts, are not exempt from Part I and Part III of this chapter. Exemptions from the provisions of chapter 480-80 WAC include only the provisions in effect at the time the exemption was granted. This subsection confirms that there is no change in exemptions previously granted to telecommunications companies that have been classified as competitive as a result of:~~

~~(a) Moving rules between chapters 480-80 and 480-120 WAC; and~~

~~(b) Renumbering sections within chapters 480-80 and 480-120 WAC.)~~

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-498, filed 5/14/02, effective 6/17/02)

WAC 480-80-030 Definitions. The definitions in this section apply throughout the chapter unless the context clearly requires otherwise:

"Advice number" means a number assigned by the applicant to a tariff filing or contract filing for internal tracking purposes.

"Banded rate" means a rate that has a minimum and maximum rate.

"Commission" means the Washington utilities and transportation commission.

"Competitive telecommunications company" means a telecommunications company that has been classified as competitive by the commission pursuant to RCW 80.36.310.

"Fax" means the transmittal of electronic signals over telephone lines for conversion into written text.

~~((**"Price list"** means a telecommunications company's standard offer to the general public or to other telecommunications companies of one or more intrastate telecommunications services that the commission has determined to be subject to effective competition.))~~

"Public service company" means every gas company, electric company, telecommunications company, water company, or irrigation plant that is subject to the jurisdiction of the commission as to rates and service.

"RCW" means the Revised Code of Washington.

"Tariff" is a document that sets forth terms and conditions of regulated service, including rates, charges, tolls, rentals, rules, and equipment and facilities, and the manner in which rates and charges are assessed for regulated services provided to customers, and rules and conditions associated with offering service.

"Unified Business Identifier (UBI) number" means the standard nine-digit sequential number issued by Washington state and used by all state agencies to uniquely identify a business entity. The department of licensing, department of revenue, and secretary of state's office are authorized to issue UBI numbers.

"Utility" means every public service company that has not been classified as competitive by the commission.

"WAC" means the Washington Administrative Code.

AMENDATORY SECTION (Amending Docket No. U-991301, General Order No. R-498, filed 5/14/02, effective 6/17/02)

WAC 480-80-031 Delivery of tariff(~~(, price list,)~~) and contract filings. (1) The commission records center will accept a tariff(~~(, price list,)~~) or contract filing delivered in person, by mail, fax, or (~~(when procedures are in place)~~) electronic means. The commission records center will stamp a filing received on Saturdays, Sundays, and state holidays, or after 5:00 p.m., Pacific time, as received on the next business day.

(2) In person or by mail.

(a) In order to be deemed received on a given day, the commission records center must receive an original and two copies of the filing(s) and a transmittal letter by 5:00 p.m., Pacific time.

(b) A filing delivered by mail must be free from all charges for postage. The commission records center will return any postage-due filing to the sender.

(3) Fax filing.

(a) The commission records center must receive an original and two copies of the filing the following business day.

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

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

(4) Electronic filing.

(a) An electronic filing must conform to commission procedures for electronic filing.

(b) After accepting an electronic filing, the commission records center will return an electronic mail message noting the receipt date.

~~((III. PRICE LISTS AND CONTRACTS: COMPETITIVE COMPANIES AND SERVICES))~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-80-201	Use of price lists.
WAC 480-80-202	Interpretation and application of price lists.
WAC 480-80-203	Transmittal letter.
WAC 480-80-204	Price lists format and content.
WAC 480-80-205	Effective date of price list filings.
WAC 480-80-206	Price list availability to customers.
WAC 480-80-241	Filing contracts for services classified as competitive.
WAC 480-80-242	Using contracts for services classified as competitive.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-120-011 Application of rules. (1) The rules in this chapter apply to any company that is subject to the jurisdiction of the commission as to rates and services under the provisions of RCW 80.01.040 and chapters 80.04 and 80.36 RCW.

(2) ~~((The)) Tariffs ((and price lists))~~ filed by companies must conform to these rules. If the commission accepts a tariff ~~((or price list))~~ that conflicts with these rules, the acceptance ~~((does))~~ is not ~~((constitute))~~ a waiver of these rules unless the commission specifically approves the variation consistent with WAC 480-120-015 (Exemptions from rules in chapter 480-120 WAC). Tariffs ~~((or 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 company or customer by posing an informal complaint under WAC 480-07-910 (Informal complaints), or by filing a formal complaint under WAC 480-07-370 (Pleading--General).

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

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-021 Definitions. The definitions in this section apply throughout the chapter except where there is an alternative definition in a specific section, or where the context clearly requires otherwise.

"Access charge" means a rate charged by a local exchange company to an interexchange company for the origination, transport, or termination of a call to or from a customer of the local exchange company. Such origination, transport, and termination may be accomplished either through switched access service or through special or dedicated access service.

"Access line" means a circuit providing exchange service between a customer's standard network interface and a serving switching center.

"Affiliate" means an entity that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another entity.

"Ancillary services" means all local service features excluding basic service.

"Applicant" means any person applying to a telecommunications company for new service or reconnection of discontinued service.

"Average busy hour" means a time-consistent hour of the day during which a switch or trunk carries the most traffic. This definition is applied on an individual switch and an individual trunk basis.

"Basic service" means service that includes the following:

- Single-party service;
- Voice grade access to the public switched network;
- Support for local use;
- Dual tone multifrequency signaling (touch-tone);
- Access to emergency services (E911);
- Access to operator services;
- Access to interexchange services;
- Access to directory assistance; and
- Toll limitation services.

"Business" means a for profit or not-for-profit organization, including, but not limited to, corporations, partnerships, sole proprietorships, limited liability companies, government agencies, and other entities or associations.

"Business days" means days of the week excluding Saturdays, Sundays, and official state holidays.

"Business office" means an office or service center provided and maintained by a company.

"Business service" means service other than residential service.

"Busy season" means an annual, recurring, and reasonably predictable three-month period of the year when a switch or trunk carries the most traffic. This definition is applied on an individual switch and an individual trunk basis.

"Call aggregator" means any corporation, company, partnership, or person, who, in the ordinary course of its operations, makes telephones available to the public or to users of its premises for telephone calls using a provider of operator services, including, but not limited to, hotels, motels, hospitals, campuses, and pay phones (see also pay phone service providers).

"Category of service" means local, data services such as digital subscriber line service, interexchange, or CMRS. Information about a customer's intraLATA and interLATA primary interexchange carrier freeze status is part of the local category.

"Central office" means a company facility that houses the switching and trunking equipment serving a defined area.

"Centrex" means a telecommunications service providing a customer with direct inward dialing to telephone extensions and direct outward dialing from them.

"Class A company" means a local exchange company with two percent or more of the access lines within the state of Washington. The method of determining whether a company is a Class A company is specified in WAC 480-120-034 (Classification of local exchange companies as Class A or Class B).

"Class B company" means a local exchange company with less than two percent of the access lines within the state of Washington. The method of determining whether a company is a Class B company is specified in WAC 480-120-034 (Classification of local exchange companies as Class A or Class B).

"Commercial mobile radio service (CMRS)" means any mobile (wireless) telecommunications service that is provided for profit that makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public.

"Commission (agency)" in a context meaning a state agency, means the Washington utilities and transportation commission.

"Company" means any telecommunications company as defined in RCW 80.04.010.

"Competitively classified company" means a company that is classified as competitive by the commission pursuant to RCW 80.36.320.

"Customer" means a person to whom the company is currently providing service.

"Customer premises equipment (CPE)" is equipment located on the customer side of the SNI (other than a company) and used to originate, route, or terminate telecommunications.

"Discontinue; discontinuation; discontinued" means the termination or any restriction of service to a customer.

"Drop facilities" means company-supplied wire and equipment placed between a premises and the company distribution plant at the applicant's property line.

"Due date" means the date an action is required to be completed by rule or, when permitted, the date chosen by a company and provided to a customer as the date to complete an action.

"Emergency response facility" means fire stations, hospitals, police stations, and state and municipal government emergency operations centers.

"Exchange" means a geographic area established by a company for telecommunications service within that area.

"Extended area service (EAS)" means telephone service extending beyond a customer's exchange, for which the customer may pay an additional flat-rate amount per month.

"Facility or facilities" means lines, conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by a telecommunications company to facilitate the provision of telecommunications service.

"Force majeure" means natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; embargoes; epidemics; terrorist acts; riots; insurrections; explosions; and nuclear accidents.

"Interexchange" means telephone calls, traffic, facilities or other items that originate in one exchange and terminate in another.

"Interexchange company" means a company, or division thereof, that provides long distance (toll) service.

"Interoffice facilities" means facilities connecting two or more telephone switching centers.

"InterLATA" is a term used to describe services, revenues, functions, etc., that relate to telecommunications originating in one LATA and terminating outside of the originating LATA.

"IntraLATA" is a term used to describe services, revenues, functions, etc., that relate to telecommunications that originate and terminate within the same LATA.

"Local access and transport area (LATA)" means a local access transport area as defined by the commission in conformance with applicable federal law.

"Local calling area" means one or more rate centers within which a customer can place calls without incurring long-distance (toll) charges.

"Local exchange company (LEC)" means a company providing local exchange telecommunications service.

"Major outages" means a service failure lasting for thirty or more minutes that causes the disruption of local exchange or toll services to more than one thousand customers; total loss of service to a public safety answering point or emergency response

agency; intercompany trunks or toll trunks not meeting service requirements for four hours or more and affecting service; or an intermodal link blockage (no dial tone) in excess of five percent for more than one hour in any switch or remote switch.

"Missed commitment" means orders for exchange access lines for which the company does not provide service by the due date.

"Order date" means the date when an applicant requests service unless a company identifies specific actions a customer must first take in order to be in compliance with tariffs(~~(price lists,)~~) or commission rules. Except as provided in WAC 480-120-061 (Refusing service) and 480-120-104 (Information to consumers), when specific actions are required of the applicant, the order date becomes the date the actions are completed by the applicant if the company has not already installed or activated service.

When an applicant requests service that requires customer-ordered special equipment, for purposes of calculating compliance with the one hundred eighty-day requirement of WAC 480-120-112 (Company performance for orders for nonbasic service) the order date is the application date unless the applicant fails to provide the support structure or perform other requirements of the tariff (~~(or price list)~~). In the event the applicant fails to provide the support structure or perform the other requirements of the tariff (~~(or price list,)~~) a new order date is established as the date when the applicant does provide the support structure or perform the other requirements of the tariff (~~(or price list)~~).

"Pay phone" or **"pay telephone"** means any telephone made available to the public on a fee-per-call basis independent of any other commercial transaction. A pay phone or pay telephone includes telephones that are coin-operated or are activated by calling collect or using a calling card.

"Pay phone services" means provision of pay phone equipment to the public for placement of local exchange, interexchange, or operator service calls.

"Pay phone service provider (PSP)" means any corporation, company, partnership, or person who owns or operates and makes pay phones available to the public.

"Payment agency" means a physical location established by a local exchange company, either on its own premises or through a subcontractor, for the purpose of receiving cash and urgent payments from customers.

"Person" means an individual, or an organization such as a firm, partnership, corporation, municipal corporation, agency, association or other entity.

"Prior obligation" means an amount owed to a local exchange company or an interexchange company for regulated services at the time the company physically toll-restricts, interrupts, or discontinues service for nonpayment.

"Proprietary" means owned by a particular person.

"Provision" means supplying telecommunications service to a customer.

"Public access line (PAL)" means an access line equipped with features to detect coins, permit the use of calling cards, and such other features as may be used to provision a pay phone.

"Public safety answering point (PSAP)" means an answering location for enhanced 911 (E911) calls originating in a given area. PSAPs are designated as primary or secondary. Primary PSAPs receive E911 calls directly from the public; secondary PSAPs receive E911 calls only on a transfer or relay basis from the primary PSAP. Secondary PSAPs generally serve as centralized answering locations for a particular type of emergency call.

"Residential service" means basic service to a household.

"Restricted basic service" means either the ability to receive incoming calls, make outgoing calls, or both through voice grade access to the public switched network, including E911 access, but not including other services that are a part of basic service.

"Results of operations" means a fiscal year financial statement concerning regulated operations that include revenues, expenses, taxes, net operating income, and rate base. The rate of return is also included as part of the results of operations. The rate of return is the percentage of net operating income to the rate base.

"Service interruption" means a loss of or impairment of service that is not due to, and is not, a major outage.

"Service provider" means any business that offers a product or service to a customer, the charge for which appears on the customer's telephone bill.

"Special circuit" means an access line specially conditioned to give it characteristics suitable for handling special or unique services.

"Standard network interface (SNI)" means the protector that generally marks the point of interconnection between company communications facilities and customer's terminal equipment, protective apparatus, or wiring at a customer's premises. The network interface or demarcation point is located on the customer's side of the company's protector, or the equivalent thereof in cases where a protector is not employed.

"Station" means a telephone instrument installed for a customer to use for toll and exchange service.

"Subscriber list information (SLI)" means any information:

(a) Identifying the listed names of subscribers of a company and those subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned when service is established), or any combination of listed names, numbers, addresses, or classifications; and

(b) That the company or an affiliate has published, caused to be published, or accepted for publication in any directory format.

"Support structure" means the trench, pole, or conduit used to provide a path for placement of drop facilities.

"Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users to be effectively available directly to the public, regardless of the facilities used.

"Telemarketing" means contacting a person by telephone in an attempt to sell one or more products or services.

"Toll restriction" or **"toll restricted"** means a service that prevents the use of a local access line to initiate a long distance call using a presubscribed interexchange company.

"Traffic" means telecommunications activity on a telecommunications network, normally used in connection with measurements of capacity of various parts of the network.

"Trouble report" means a report of service affecting network problems reported by customers, and does not include problems on the customer's side of the SNI.

"Trunk" means, in a telecommunications network, a path connecting two switching systems used to establish end-to-end connection. In some circumstances, both of its terminations may be in the same switching system.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-480, filed 7/11/01, effective 8/11/01)

WAC 480-120-026 Tariffs ((and price lists)). Companies must file tariffs ((and price lists)) in accordance with chapter 480-80 WAC, Utilities general--Tariffs((, price lists,)) and contracts.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-480, filed 7/11/01, effective 8/11/01)

WAC 480-120-028 Registration. Companies must file registration applications as required by RCW 80.36.350 and in accordance with chapter 480-121 WAC, Registration, competitive classification (~~(and price lists)~~) of telecommunications companies.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-061 Refusing service. (1) A company may refuse to connect with, or provide service to, an applicant under the following conditions:

(a) When service will adversely affect the service to existing customers.

(b) When the installation is considered hazardous.

(c) When the applicant has not complied with commission rules, company tariff (~~(or price list)~~), or rates, terms and conditions of services provided pursuant to competitive classification, and state, county, or municipal codes concerning the provision of telecommunications service such as building and electrical codes.

(d) When the company is unable to substantiate the identity of the individual requesting service.

(i) Companies must allow the applicant to substantiate identity with one piece of identification chosen from a list, provided by the company, of at least four sources of identification. The list must include a current driver's license or other picture identification.

(ii) Company business offices and payment agencies, required under WAC 480-120-132 and 480-120-162, must provide a means for applicants to provide identification at no charge to the applicant.

(e) When the applicant has previously received service from the company by providing false information, including false statements of credit references or employment, false statement of premises address, or use of an alias or false name with

intent to deceive, until the applicant corrects the false information to the satisfaction of the company.

(f) When the applicant owes an overdue, unpaid prior obligation to the company for the same class of service, until the obligation is paid or satisfactory arrangements are made.

(g) When the applicant requests service at an address where a former customer is known to reside with an overdue, unpaid prior obligation to the same company for the same class of service at that address and the company determines, based on objective evidence, that the applicant has cooperated with the prior customer with the intent to avoid payment. However, a company may not deny service if a former customer with an overdue, unpaid prior obligation has permanently vacated the address.

(h) When all necessary rights of way, easements, and permits have not been secured. The company is responsible for securing all necessary public rights of way, easements, and permits, including rights of way on every highway as defined in RCW 36.75.010(11) or created under RCW 36.75.070 or 36.75.080. The applicant is responsible for securing all necessary rights of way or easements on private property, including private roads or driveways as defined in RCW 36.75.010(10). A private road or driveway is one that has been ascertained by the company not to be public.

(2) A company may not withhold or refuse to release a telephone number to a customer who is transferring service to another telecommunications company within the same rate center where local number portability has been implemented.

(3) A telecommunications company must deny service to a nonregistered telecommunications company that intends to use the service requested to provide telecommunications for hire, sale, or resale to the general public within the state of Washington. Any telecommunications company requesting service from another telecommunications company must state in writing whether the service is intended to be used for intrastate telecommunications for hire, sale, or resale to the general public. If the service is intended for hire, sale, or resale on an intrastate basis, the company must certify in writing, in the same manner as required by RCW 9A.72.085, that it is properly registered with the commission to provide the service.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-102 Service offered. (1) Classes of service. The classes of service are business and residential. Each local exchange company (LEC) must file with the commission, as part of its tariff (~~(or price list,~~) a description of the classes and types of service available to customers in each class. LECs must record for each access line whether local exchange service is residential or business class.

(2) Types of service. LECs must offer, at a minimum, flat-rate local exchange service. In addition, companies may offer service alternatives, such as measured service.

(3) Grade of service. Local exchange service offered by companies must be only one-party service.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-103 Application for service. (1) When contacted by an applicant, or when a company contacts a person, a company must:

(a) Accept and process applications when an applicant for service for a particular location has met all tariff (~~(or price list)~~) requirements and applicable commission rules;

(b) Establish the due date as the date requested by the applicant but is not required to establish a due date that is fewer than seven business days after the order date. If the company establishes a due date other than the date requested by the applicant, it must inform the applicant of the specific date when service will be provided or state that an estimated due date will be provided within seven business days as required by subsection (2) of this section; and

(c) Maintain a record in writing, or in electronic format, of each application for service, including requests for a change of service.

(2) If the company does not provide the applicant with a due date for installation or activation at the time of application as required in subsection (1)(b) of this section,

the company must state the reason for the delay. Within seven business days of the date of the application, the company must provide the applicant with an estimated due date for installation or activation. The standards imposed by WAC 480-120-105 and 480-120-112 are not altered by this subsection.

(3) When the company informs the customer that installation of new service orders requires on-premises access by the company, the company must offer the customer an opportunity for an installation appointment that falls within a four-hour period.

(4) When the application for service requires a service extension as defined in WAC 480-120-071, the requirement of subsection (1)(b) of this section does not apply and, for the purpose of determining when an extension must be completed, the order date is the application date or six weeks prior to the date the customer makes the required initial payment, whichever is later.

When a service extension is required, the company must inform the customer within six weeks of a request for service that it will construct the extension and also request payment from the customer according to WAC 480-120-071, or inform the customer in writing that it will request an exemption from the commission pursuant to WAC 480-120-071(7).

In the event a company informs the customer it will request an exemption, the company must submit the request to the commission within four weeks of informing the customer of its decision. A copy of the exemption request must be mailed to the customer not later than the date the request is filed.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-104 Information to consumers. (1) Except for services provided under written contract pursuant to ((~~WAC 480-80-241 (Filing contracts for services classified as competitive),~~) competitive classification, each company must provide an applicant for initial service with a confirming notice or welcome letter, either in writing or with permission of the customer, electronically. The confirming notice or welcome letter must be provided to the applicant or customer no later than fifteen days after installation of service and must provide, at a minimum:

(a) Contact information for the appropriate business office, including a toll-free telephone number, a TTY number, mailing address, repair number, electronic address if applicable, and business office hours, that the customer can contact if they have questions;

(b) Confirmation of the services being provided to the customer by the company, and the rate for each service. If the service is provided under a banded rate schedule, the current rate, including the minimum and maximum at which the customer's rate may be shifted; and

(c) If the application is for local exchange service, the LEC must either provide information required in WAC 480-120-251 (6)(a) through (f) or must inform the customer that additional information pertaining to local exchange service may be found in the consumer information guide of the local telephone directory as required in WAC 480-120-251.

(2) Except for services provided under written contract pursuant to ~~((WAC 480-80-241 (Filing contracts for services classified as competitive),))~~ competitive classification, each company must provide each customer a confirming notice, either in writing or, with permission of the customer, electronically, within fifteen days of initiating a material change in service which results in the addition of a service, a change from one rate schedule to another, or a change in terms or conditions of an existing service. The confirming notice must provide at a minimum, the following information in clear and conspicuous language:

(a) Contact information for the appropriate business office, including a toll-free telephone number, a TTY number, and business office hours, that customers can contact if they have questions; and

(b) The changes in the service(s), including, if applicable, the rate for each service.

(3) When a LEC is acting as an executing carrier under WAC 480-120-147, it must make the following information available upon request:

(a) The name of the intraLATA and interLATA interexchange company to which the customer's account is currently subscribed; and

(b) A minimum of six months' account history, when available, including the date of the changes and the name of the interexchange company.

(4) When an applicant or customer contacts the LEC to select or change an interexchange company, the LEC must notify the carrier of the customer's selection or recommend that the customer contact the chosen interexchange company to confirm

that an account has been or is being established by the interexchange carrier for the applicant.

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-122 Establishing credit--Residential services.

This section applies only to the provision of residential services.

(1) For a local exchange company (LEC) that offers basic service as part of any bundled package of services, the requirements of this subsection apply only to its lowest-priced, flat-rated residential basic service offering. The LEC may require an applicant or customer of residential basic service to pay a local service deposit only if:

(a) The applicant or customer has received two or more delinquency notices for basic service during the last twelve month period with that company or another company;

(b) The applicant or customer has had basic service discontinued by any telecommunications company;

(c) The applicant or customer has an unpaid, overdue basic service balance owing to any telecommunications company;

(d) The applicant's or customer's service is being restored following a discontinuation for nonpayment or acquiring service through deceptive means under WAC 480-120-172(1); or

(e) The applicant or customer has been disconnected for taking service under deceptive means as described in WAC 480-120-172(1).

(2) A LEC may, if provided for in its tariff or (~~price list~~) rates, terms and conditions of services provided pursuant to competitive classification, require an applicant or customer of ancillary services to demonstrate satisfactory credit by reasonable means, pay a deposit, or make advanced payments consistent with subsections (4) and (5) of this section.

The company must inform applicants that local service cannot be withheld pending payment of a deposit or advanced payments for ancillary services.

(3) An interexchange company may, if provided for in its tariff or (~~price list~~) rates, terms and conditions of services provided pursuant to competitive classification, require an applicant or customer of interexchange services to demonstrate satisfactory credit by reasonable means or pay a deposit consistent with subsections (4) and (5) of this section.

The company must inform applicants that local service cannot be withheld pending payment of a deposit for interexchange services.

(4) When a company requests a deposit from an applicant or customer, the amount of the deposit may not exceed two months' customary use for an applicant or customer with previous verifiable service of the same class, or two months' estimated use for an applicant or customer without previous verifiable service. Customary use is calculated using charges for the previous three months' service.

(5) When an applicant or customer is required to pay a basic service deposit or an interexchange deposit, but is unable to pay the entire amount in advance of connection or continuation of service, the company must offer the applicant or customer the following options:

(a) Pay no more than fifty percent of the requested deposit amount before installation or continuation of service, with the remaining amount payable in equal amounts over the following two months; or

(b) Where technology permits, the applicant or customer must have the option of accepting toll-restricted basic service in lieu of payment of the deposit. A company must not charge for toll restriction when it is used as an alternative to a deposit.

A company must remove toll restriction unless the customer requests to retain it when the customer makes full payment of the requested interexchange company deposit or pays fifty percent of the requested deposit and enters into payment arrangements as provided for in (a) of this subsection.

(6) A company may require an applicant or customer to pay a deposit or make advanced payments equal to two months' charges for ancillary service before providing or continuing ancillary services.

(7) A company may require an applicant or customer to pay a deposit if it finds that service was provided initially without a deposit based on incorrect information and the customer otherwise would have been required to pay a deposit.

(a) When a company requests a new deposit or a larger deposit amount after service has been established, the company must provide a written notice to the customer listing the reason(s) for the request, the date the deposit must be paid, and the actions the company may take if the deposit is not paid.

(b) Except for circumstances described in subsection (8) of this section, the deposit or additional deposit amount may not be due and payable before 5:00 p.m. of the sixth business day after notice of the deposit requirement is mailed or 5:00 p.m.

of the second business day following delivery, if the notice is delivered in person to the customer.

(8)(a) A company authorized by the commission to collect deposits or advanced payments may require a customer to pay unbilled toll charges or pay a new or additional deposit amount when the customer's toll charges exceed thirty dollars, or exceed customary use over the previous six months by twenty dollars or by twenty percent, whichever is greater. A company may toll-restrict a customer's services if the customer is unable to pay the toll or deposit amount.

(b) When a customer has exceeded the toll levels in (a) of this subsection, the company may require payment before the close of the next business day following delivery of either written or oral notice to the customer indicating that failure to pay one of the following may result in toll restriction of the customer's service. The company must give the customer the option to pay one of the following:

(i) All outstanding toll charges specified in the notice;
or

(ii) All toll charges accrued to the time of payment providing the customer was notified the customer would be liable for all unbilled toll charges that accrued between the time of the notice and time of the payment; or

(iii) Payment of a new or additional deposit in light of the customer's actual use based upon two months' customary use.

(c) When an applicant does not have a customary utilization amount from a previous service, the company may request that the applicant estimate the greatest monthly toll amount the applicant expects to use. If the company asks for an estimate, it must explain that if the customer's toll charges exceed the amounts in (a) of this subsection, the company may toll restrict or require a deposit as permitted in this subsection.

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-161 Form of bills. (1) **Bill frequency.** Companies must offer customers, at a minimum, the opportunity to receive billings on a monthly interval, unless subsection (11) of this section applies.

(2) **Length of time for payment of a bill.** Bill due dates must reflect a date which at a minimum allows a customer fifteen days from the date of mailing for payment.

(a) Upon showing of good cause, a customer may request and the company must allow the customer to pay by a date that is not the normally designated payment date on their bill. Good cause may include, but not be limited to, adjustment of the billing cycle to parallel receipt of income.

(i) A company may not assess late payment fees for the period between the regularly scheduled due date and the customer-chosen due date so long as the customer makes payment in full by the customer-chosen due date.

(ii) A company may refuse to establish a preferred payment date that would extend the payment date beyond the next normally scheduled payment or due date.

(b) If a company is delayed in billing a customer, the company must offer arrangements upon customer request or upon indication that a payment arrangement is necessary, that are equal to the length of time the bill is delayed beyond the regularly scheduled billing interval (e.g., if the bill includes two months delayed charges, the customer must be allowed to pay the charges over two months).

Companies may not charge a customer late payment fees on the delayed charges during the extended payment period.

(3) **Form of bill.** With the consent of the customer, a company may provide regular billings in electronic form if the bill meets all the requirements of this rule. The company must maintain a record of the customer's request, and the customer may change from electronic to printed billing upon request.

(4) **Bill organization.** Telephone bills must be clearly organized, and must comply with the following requirements:

(a) Bills may only include charges for services that have been requested by the customer or other individuals authorized to request such services on behalf of the customer, and that have been provided by the company;

(b) The name of the service provider associated with each charge must be clearly and conspicuously identified on the telephone bill;

(c) Where charges for two or more companies appear on the same telephone bill, the charges must be separated by service provider;

(d) The telephone bill must clearly and conspicuously identify any change in service provider, including identification of charges from any new service provider; and

(e) The telephone bill must include the internet address (uniform resource locator) of the web site containing the service provider's tariff (~~or price list, if the service provider is a telecommunications company required to publish its tariff or price list~~) pursuant to WAC (~~(480-80-206(2)) (Price~~

~~list availability to customers) or WAC 480-120-193 (Posting of tariffs for public inspection and review))~~ 480-120-193 (Posting of tariffs for public inspection and review). This requirement may be satisfied by including the address of a web site other than that of the telecommunications company itself, if the web site provides access to the tariff ~~((or price list))~~ that applies to the service being billed.

For purposes of this subsection, "new service provider" means a service provider that did not bill the customer for service during the service provider's last billing cycle. This definition includes only providers that have continuing relationships with the customer that will result in periodic charges on the customer's bill, unless the service is subsequently canceled.

For purposes of this subsection, "clearly and conspicuously" means notice that would be apparent to a reasonable customer.

(5) Descriptions of billed charges.

(a) The bill must include a brief, clear, nonmisleading, plain language description of each service for which a charge is included. The bill must be sufficiently clear in presentation and specific enough in content so that the customer can determine that the billed charges accurately reflect the service actually requested and received, including individual toll calls and services charged on a per-occurrence basis.

(b) The bill must identify and set out separately, as a component of the charges for the specific service, any access or other charges imposed by order of or at the direction of the Federal Communications Commission (FCC).

(c) The bill must clearly delineate the amount or the percentage rate and basis of any tax assessed by a local jurisdiction.

(6) Charges for which service can be discontinued. Where a bill contains charges for basic service, in addition to other charges, the bill must distinguish between charges for which nonpayment will result in loss of basic service. The bill must include telephone numbers by which customers may inquire or dispute any charges on the bill. A company may list a toll-free number for a billing agent, clearinghouse, or other third party, provided such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve the customer's complaints on the company's behalf. Where the customer does not receive a paper copy of the telephone bill, but instead accesses that bill only by e-mail or internet, the company may comply with this requirement by providing on the bill an e-mail or web site address. Each

company must make a business address available upon request from a customer.

(7) **Itemized statement.** A company must provide an itemized statement of all charges when requested by a customer, including, but not limited to:

(a) Rates for individual services;

(b) Calculations of time or distance charges for calls, and calculations of any credit or other account adjustment; and

(c) When itemizing the charges of information providers, the name, address, telephone number, and toll-free number, if any, of the providers.

(8) **Methods of payment.**

(a) Companies must, at a minimum, allow the following methods of payment: Cash, certified funds (e.g., cashier check or money order), and personal checks.

(b) Upon written notice to a customer, companies may refuse to accept personal checks when that customer has tendered two or more nonsufficient-funds checks within the last twelve months.

(9) **Billing companies.** A company may bill regulated telecommunications charges only for companies properly registered to provide service within the state of Washington or for billing agents. The company must, in its contractual relationship with the billing agent, require the billing agent to certify that it will submit charges only on behalf of properly registered companies; and that it will, upon request of the company, provide a current list of all companies for which it bills, including the name and telephone number of each company. The company must provide a copy of this list to the commission for its review upon request.

(10) **Crediting customer payments.** Unless otherwise specified by the customer, payments that are less than the total bill balance must be credited first to basic service, with any remainder credited to any other charges on the bill.

For purposes of this subsection, basic service includes associated fees and surcharges such as FCC access charges. Basic service does not include ancillary services such as caller identification and custom calling features.

(11) **Exemptions from this rule.** Prepaid calling card services (PPCS) are exempt from subsections (1) through (10) of this section.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-171 Discontinuing service--Customer requested.

(1) This section applies to residential, business, and resale services discontinued at the customer's request. The customer must notify the company of the date the customer wishes to discontinue service. If the customer moves from the service address and fails to request discontinuation of service, the customer must pay for service taken at the service address until the company can confirm that the customer has vacated the premises or a new party has taken responsibility for the service.

(2) A company must stop a customer's monthly recurring or minimum charges effective on the requested discontinuation date. The customer may be held responsible for use charges incurred after the requested discontinuation date when the company can prove that the calls were made or authorized by the customer of record. This section does not preclude a company from collecting minimum service commitment penalties when a customer disconnects service prior to fulfilling the tariff(~~(, price list,~~) or contract commitment.

(3) The company must discontinue service as follows:

(a) For services that do not require a field visit, the company must discontinue service not later than one business day from the date requested by the customer; and

(b) For services that require a premises visit to complete the request, the company must disconnect service no later than two business days from the date requested by the customer.

(4) When a customer directs the local exchange company (LEC) to discontinue service, the LEC must either notify the customer's presubscribed interLATA and intraLATA toll carriers of the discontinuation or inform the customer that it is the customer's obligation to contact those carriers directly.

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-172 Discontinuing service--Company initiated.

(1) A company may discontinue service without notice or without further notice when after conducting a thorough investigation, it finds the customer has used deceptive means to initiate or continue service including, but not limited to:

(a) Tampering with the company's property;

(b) Using service through an illegal connection; or

(c) Unlawfully using service or using service for unlawful purposes.

(2)(a) A company may discontinue service without notice or without further notice when after conducting a thorough investigation, it determines the customer has:

(i) Vacated the premises without informing the company;

(ii) Paid a delinquent balance in response to a delinquency notice as described in subsection (7) of this section with a check or electronic payment that is subsequently dishonored by the bank or other financial institution; or

(iii) Failed to keep payment arrangements agreed upon in response to a delinquency notice as described in subsection (7) of this section.

(b) The company must restore service once the customer has corrected the reason for discontinuance as described in subsection (2)(a) of this section.

(c) The company may require a deposit from a customer that it has disconnected due to the reasons described in subsection (2)(a) of this section.

(3) A company may discontinue service after providing proper notice, or may issue a discontinuation notice, if, and only if:

(a) The company determines the customer has violated a rule, statute, service agreement, filed tariff, or ~~((price list))~~ terms and conditions of competitively classified services;

(b) The company determines the customer has used customer-owned equipment that adversely affects the company's service to its other customers;

(c) The company determines the customer has not paid regulated charges or has not paid a deposit as provided in the tariff or ~~((price list))~~ terms and conditions of competitively classified services of the company or another company with which

it has a billing and collection agreement, except for nonpayment of charges incurred from information delivery services as provided for in WAC 480-120-254 (Telephone solicitation) or disputed third party-billed charges;

(d) The company is unable to substantiate the identity of the individual requesting service:

(i) Companies must allow the applicant to substantiate identity with one piece of identification chosen from a list, provided by the company, of at least four sources of identification. The list must include a current driver's license or other picture identification;

(ii) Company business offices and payment agencies, required under WAC 480-120-132 (Business offices) and 480-120-162 (Cash and urgent payments), must provide a means for applicants to provide identification at no charge to the applicant;

(e) The company determines the customer has received service from the company by providing false information, including false statements of credit references or employment, false statement of premises address, use of an alias or false name with intent to deceive, or rotation of service among roommates or persons living together for the purpose of avoiding the debts of one or more persons; or

(f) The company determines the customer is receiving service at an address where a former customer is known to reside with an overdue, unpaid prior obligation to the same company for the same class of service at that address and there is evidence that the applicant lived at the address while the overdue, unpaid prior obligation was incurred and helped incur the obligations. However, a company may not deny service if a former customer with an overdue, unpaid prior obligation has permanently vacated the address.

(4) Except as provided in subsections (1), (2), and (3) of this section, a company may discontinue:

(a) Basic service only for nonpayment of basic service charges;

(b) Ancillary services only for nonpayment of ancillary charges or if the company properly discontinues basic service;

(c) Interexchange access only for nonpayment of interexchange charges or if the company properly discontinues basic service:

(i) At its discretion, the company may permit access to toll-free numbers while a customer's interexchange access service is discontinued or restricted;

(ii) The company may not charge fees for toll restriction when it has discontinued or restricted the customer's interexchange access service under this section;

(d) A company must not shift a rate plan as a discontinuation method.

(5) When a company discontinues service to a customer, it must also discontinue billing for service as of the date of the discontinuation.

(6) **Medical emergencies.**

(a) When a local exchange company (LEC) has cause to discontinue residential basic service or has discontinued service, it must postpone total service discontinuation or reinstate toll-restricted basic service that permits both making and receiving calls and access to E911 for a grace period of five business days after receiving either oral or written notice of the existence of a medical emergency, as described in (b) of this subsection. The LEC must reinstate service during the same day if the customer contacts the LEC prior to the close of the business day and requests a same-day reconnection. Otherwise, the LEC must restore service by 12:00 p.m. the next business day. When service is reinstated, the LEC cannot require payment of a reconnection charge or deposit before reinstating service but may bill the charges at a later date.

(b) The LEC may require that the customer submit written certification from a qualified medical professional, within five business days, stating that the discontinuation of basic service or restricted basic service would endanger the physical health of a resident of the household. "Qualified medical professional" means a licensed physician, nurse practitioner, or physician's assistant authorized to diagnose and treat the medical condition without supervision of a physician. Nothing in this subsection precludes a company from accepting other forms of certification, but the maximum the company can require is written certification. If the company requires written certification, it may require only:

(i) The address of the residence;

(ii) An explanation of how discontinuation of basic service or restricted basic service would endanger the physical health of the resident;

(iii) A statement of how long the condition is expected to last; and

(iv) The title, signature, and telephone number of the person certifying the condition.

(c) The medical certification is valid only for the length of time the medical professional certifies the resident's health

would be endangered, but no longer than ninety days unless renewed.

(d) A medical emergency does not excuse a customer from paying delinquent and ongoing charges. The company may require that, within the five-day grace period, the customer pay a minimum of twenty-five percent of the delinquent basic service balance or ten dollars, whichever is greater, and enter into an agreement to pay the remaining delinquent basic service balance within ninety days, and agree to pay subsequent bills when due.

Nothing in this subsection precludes the company from agreeing to an alternate payment plan, but the company must not require the customer to pay more than this section prescribes and must send a notice to the customer confirming the payment arrangements within two business days.

(e) The company may discontinue basic service or restrict basic service without further notice if, within the five-day grace period, the customer fails to provide an acceptable medical certificate or pay the amount required under (d) of this subsection. The company may discontinue basic service or restrict basic service, without further notice, if the customer fails to abide by the terms of the payment agreement.

(f) The company must ensure that the records of medical emergencies are used or disclosed only for the purposes provided for in this section.

(7) **Discontinuation notice requirements.** The company must provide the customer notice before discontinuing service in accordance with (a) through (c) of this subsection, except as provided in subsection (1) of this section, and except as provided in WAC 480-120-122(8).

(a) Each company must provide a written discontinuation notice to the customer either by first class mail, personal delivery to the customer's service address, or electronically delivered when the company has the technical capability and the customer consents to this delivery method. A company must provide delivered notice by handing the notice to a person of apparent competence in the residence; to a person employed at the place of business of the customer if it is a business account; or attached to the primary door of the residential unit or business office where service is provided if no person is available to receive notice. The discontinuation notice must include, at a minimum:

(i) A discontinuation date that is not less than eight business days after the date the notice is mailed, transmitted electronically, or personally delivered;

(ii) The amount(s) owing for the service(s) that is subject to discontinuation or restriction;

(iii) A statement that clearly indicates the amount a customer must pay to maintain basic service or restricted basic service, regardless of the full amount owed by the customer;

(iv) Instructions on how to correct the problem to avoid the discontinuation;

(v) Information about any discontinuation or restoration charges that may be assessed;

(vi) Information about how a customer can avoid disconnection under the medical emergency rules described in subsection (6) of this section; and

(vii) The company's name, address, toll-free number, and TTY number where the customer may contact the company to discuss the pending discontinuation of service.

(b) If the company discovers that the information provided on the notice failed to meet the requirements of (a) of this subsection, or if the company discovers it provided incorrect information on the notice, the company must restore service and issue a second notice with accurate information as described in this section.

(c) If the company has not discontinued service within ten business days of the first day the discontinuation may be implemented, the discontinuation notice is void, unless the customer and the company have entered into a mutually acceptable payment agreement with payment dates that exceed the ten-day period. Upon a void notice, the company must provide a new discontinuation notice to the customer if the company intends to discontinue service at a later date.

(8) In addition to the notice required in subsection (7) of this section, a company must attempt to make personal contact with a customer prior to discontinuing service. Any of the following methods will satisfy the personal contact requirement:

(a) **Delivered notice.** A company must provide delivered notice handing the notice to a person of apparent competence in the residence; to a person employed at the place of business of the customer if it is a business account; or attached to the primary door of the residential unit or business office where service is provided if no person is available to receive notice. The notice must state a scheduled discontinuation date that is not earlier than 5:00 p.m. of the next business day after the date of delivery;

(b) **Electronically issued notice.** If the company has the technical capability to provide electronic notice and the customer has agreed to receive notice in electronic form, the notice sent by the company must state a scheduled discontinuation date that is not earlier than 5:00 p.m. of the second business day after the date of delivery;

(c) **Mailed notice.** The notice mailed by the company may not include a scheduled discontinuation date that is earlier than 5:00 p.m. of the third business day after the date of mailing. The date of mailing is not the first day of the notice period; or

(d) **Telephone notice.** The company must attempt at least two times to contact the customer during regular business hours. If the company is unable to reach the customer on the first attempt, the company must attempt to contact the customer using any business or message number provided by the customer as a contact number. The company must keep a log or record of the calls for a minimum of ninety calendar days showing the telephone number called, the time of the call, and details of the results of each attempted call. The disconnection must not take place before 5:00 p.m. of the next business day after the phone calls or attempts.

(e) A company need not attempt personal contact as provided for in (a) through (d) of this subsection when the company has had cause, in any two previous billing periods during a consecutive twelve-month period, to attempt such contact and the company has notified the customer in writing that such contact will not be attempted in the future before effecting a discontinuation of services.

(9) Except in case of danger to life or property, companies may not discontinue service on days that it is not fully staffed to discuss discontinuation and reestablish service to the customer on the same or the following day.

(10) When the company has reasonable grounds to believe that service is to other than the party of record, the company must make reasonable efforts to inform the occupants at the service address of the impending discontinuation. Upon request of one or more service users, the company must allow a minimum period of five business days to permit the service user to arrange for continued service.

The company is not required to allow the additional five days when a thorough investigation indicates there is deceptive activity at the service address.

(11) LECs must provide notice of pending local service discontinuation to the secretary, Washington state department of social and health services, and to the customer, where it provides service to a facility with resident patients including, but not limited to, hospitals, medical clinics, or nursing homes. Upon request from the secretary or a designee, the company must allow a delay in discontinuation of no less than five business days from the date of notice so that the

department may take whatever steps are necessary in its view to protect the interests of patients living within the facilities.

(12) **Remedy and appeals.** The company must not discontinue or restrict service while a customer is pursuing any remedy or appeal provided for by these rules, if the customer pays any amounts not in dispute when due and the customer corrects any conditions posing a danger to health, safety, or property. The company must inform the customer of these provisions when the customer is referred to a company's supervisor or the commission.

During a dispute a company may, upon authorization from commission staff, discontinue service when a customer's toll charges substantially exceed the amount of any deposit or customary use and it appears the customer may incur excessive, uncollectible toll charges while an appeal is being pursued. A customer whose service is subject to discontinuation may maintain service pending resolution of any dispute upon payment of outstanding toll charges subject to refund if the dispute is resolved in the customer's favor.

(13) **Payment at a payment agency.** Payment of any past-due amounts to a designated payment agency of the company constitutes payment to the company when the customer informs the company of the payment and the company verifies the payment.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-255 Information delivery services. (1) For purposes of this section:

"Information-delivery services" means telephone recorded messages, interactive programs, or other information services that are provided for a charge to a caller through an exclusive telephone number prefix.

"Information provider" means the persons or corporations that provide the information, prerecorded message, or interactive program for the information-delivery service.

"Interactive program" means a program that allows a caller, once connected to the information provider's announcement machine, to access additional information by using the caller's telephone.

(2) Local exchange companies (LECs) offering access to information-delivery services must provide each residential customer the opportunity to block access to all information

delivery services offered by that company. Companies must fulfill an initial request for blocking free of charge. Companies may charge a (~~tariffed or price listed fee~~) rate set forth in the tariff or in the rates, terms and conditions of competitively classified services for subsequent blocking requests (i.e., if a customer has unblocked his or her access).

(3) The LEC must inform residential customers of the blocking service through a single-topic bill insert and publication of a notice in a conspicuous location in the consumer information pages of the local white pages telephone directory. The LEC must include in the notice and bill insert the residential customers' rights under the law, the definition of "information delivery services" as defined in subsection (1) of this section, and a statement that these services often are called "900" numbers. The LEC must include notice that customers have the right under Washington law to request free blocking of access to information-delivery services on their residential telephone lines, that blocking will prevent access to information-delivery services from their residential telephone line, that customers may request free blocking of access to information-delivery services on their residential telephone lines by calling the LEC at a specified telephone number, that the Washington utilities and transportation commission is authorized under RCW 80.36.500 to enforce this law, and that customers may contact the commission for further information. The LEC must include the commission's address, toll-free telephone number, and web site:

Washington Utilities and Transportation Commission
Consumer Affairs Section
1300 South Evergreen Park Drive, SW
P.O. Box 47250
Olympia, WA 98504-7250
1-800-562-6150
www.wuttc.wa.gov

(4) Any company that provides billing, customer service, or collection services for an information provider must require, as a part of its contract for that service, that the information provider include in any advertising or promotion a prominent statement of the cost to the customer of the information service.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-263 Pay phone service providers (PSPs). (1) A local exchange company (LEC) within the state of Washington must allow pay phone service providers (PSPs) to connect pay phones to its network, and a LEC must file a tariff (~~(or price list)~~) with the commission to include the rates and conditions applicable to providing service to pay phones via its network. For services provided to pay phones pursuant to competitive classification, information about such services must be made available in accordance with WAC 480-120-266 (Information about telecommunications services provided pursuant to competitive classification).

(2) **Registration and application of rules.**

(a) PSPs operating a pay phone within the state of Washington must register by:

(i) Submitting a master business application to the master license service, department of licensing; and

(ii) Obtaining a unified business identifier (UBI) number. A PSP that already has a UBI number need not reapply.

(b) Except where pay phone services or PSPs are specifically referenced, the rules of general applicability to public service companies or telecommunications companies do not apply to pay phone services. This does not exempt PSPs from rules applicable to complaints and disputes (WAC 480-120-165), or remedies or sanctions for violations of rules applicable to PSP operations.

(3) **Access.** At no charge to the calling party, pay phones must provide access to:

(a) Dial tone;

(b) Emergency services by dialing 911 without the use of a coin or entering charge codes;

(c) Operator;

(d) Telecommunications relay service calls for the hearing-impaired;

(e) All available toll-free services; and

(f) All available interexchange companies, including the LEC.

(4) **Disclosure.** PSPs must post clearly and legibly, in an unobstructed location on or near the front of the pay phone:

(a) The rate for local calls, including any restrictions on the length of calls in thirty point or larger type print or a different and contrasting color;

(b) Notice that directory assistance charges may apply, and to ask the operator for rates;

(c) Notice that the pay phone does not make change, if applicable;

(d) The emergency number (E911);

(e) The name, address, phone number, and unified business identifier (UBI) number of the owner or operator;

(f) A toll-free number to obtain assistance if the pay phone malfunctions, and procedures for obtaining a refund;

(g) The name, address, and toll-free number of all presubscribed operator service providers (OSPs), as registered with the commission. This information must be updated within thirty days of a change in the OSP. Refer to WAC 480-120-262 for OSP definition and rules;

(h) Notice to callers that they can access other long distance companies;

(i) The phone number of the pay phone, including area code. When the pay phone is in an area that has had an area code change, the area code change must be reflected on the pay phone within thirty days of the area code conversion; and

(j) In contrasting colors, the commission compliance number for customer complaints, to include the following information:

"If you have a complaint about service from this pay phone and are unable to resolve it by calling the repair or refund number or operator, please call the commission at 1-888-333-WUTC (9882)."

(5) **Operation and functionality.** A PSP must order a separate public access line (PAL) for each pay phone installed. The commission may waive this requirement if a company demonstrates that technology accomplishes the same result as a one-to-one ratio by means other than through a PAL, that the service provided to customers is fully equivalent, and that all emergency calling requirements are met. This PAL must pass the appropriate screening codes to the connecting company to indicate that the call is originating from a pay phone. In addition:

(a) The pay phone, if coin operated, must return coins to the caller in the case of an incomplete call and must be capable of receiving nickels, dimes, and quarters.

(b) Pay phone keypads must include both numbers and letters.

(c) Where enhanced 911 is operational, the address displayed to the public safety answering point (PSAP) must be

that of the phone instrument if different from the public access line demarcation point and the phone number must be that of the pay phone. To comply with this subsection, PSPs must provide an emergency response location (ERL) to the LEC supplying the PAL within two working days of establishing the location, or changed location, of the phone instrument. The ERL must provide sufficient information to aid emergency personnel in the rapid location of the phone instrument, e.g., building floor number, compass quadrant (e.g., northeast corner), and room number.

(d) Extension telephones may be connected to a PAL only for the purpose of monitoring emergency use. The pay phone must be clearly labeled to indicate that "911 calls are monitored locally." An extension phone must be activated only when 911 is dialed from the pay phone, and must be equipped with a "push to talk" switch or other mechanism to prevent inadvertent interruption of the caller's conversation with the PSAP.

(e) Cordless and tabletop pay phones may be connected to the telephone network only when the bill is presented to the user before leaving the premise where the bill was incurred, unless the customer requests that the call be alternatively billed.

(f) Pay phones may not restrict the number of digits or letters that can be dialed.

(g) Pay phones may provide credit-only service, or coin and credit service.

(h) Pay phones must provide two-way service, and no charge may be imposed by the PSP for incoming calls. Exceptions to two-way service are allowed under the following circumstances:

(i) Service provided to hospitals and libraries where a telephone ring might cause undue disturbance;

(ii) Service provided within a building on the premises of a private business establishment, at the discretion of the business owner. For purposes of this section, premises where people have access to public transportation such as airports, bus and train stations are not considered private business establishments; and

(iii) Service at locations where local governing jurisdictions or law enforcement find that incoming calls may be related to criminal or illicit activities and have provided proper notice under subsection (6) of this section. Each pay phone restricted to one-way service must be clearly marked on or near the front of the pay phone with information detailed in subsection (6) of this section.

(6) **Restrictions.** A PSP may only limit the operational capabilities of a pay phone when a local governing jurisdiction or other governmental agency submits a notice to the commission

using prescribed forms a minimum of ten days prior to the restriction. Restrictions may include, but are not limited to, blocking incoming calls, limiting touch-tone capabilities, and coin restriction during certain hours. The notice must be signed by an agent of the local governing jurisdiction in which the pay phone is located who has authority to submit the request, and must state the jurisdiction's reasons for the restriction. A copy of the notice must also be served on the PSP no later than ten days prior to the restriction.

The requestor must post a notice prominently visible at the pay phone(s) ten days prior to the proposed restriction. The notice must explain what is proposed and how to file an objection with the governing agency.

Once the restriction is in place, the PSP must post on or near each restricted pay phone, in legible and prominent type, a description of each limitation in effect, the times when the restrictions will be in effect, and the name and toll-free number of the governmental agency recommending the restriction.

(7) **Telephone directories.** The provider of the PAL must furnish without charge one current telephone directory each year for each PAL. The PSP must ensure that a current directory is available at every pay phone.

(8) **Malfunctions and rule violations.** The PSP must correct, within five days, malfunctions of the pay phone or rule violations reported to the repair or refund number or the commission.

AMENDATORY SECTION (Amending Docket No. A-030832, General Order No. R-509, filed 10/29/03, effective 11/29/03)

WAC 480-120-264 Prepaid calling services. (1) For the purposes of this section, prepaid calling services (PPCS) means any transaction in which a customer pays for service prior to use and applies only to those services where the number of available minutes decreases as the customer uses the service. Prepaid calling services do not include flat-rated basic local service that is billed in advance of use.

(a) PPCS may require the use of an access number or authorization code.

(b) This section excludes credit cards and cash equivalent cards. Services provided at pay telephones using these cards are regulated under the provisions of WAC 480-120-263 (Pay phone service providers (PSPs)).

(2) PPCS providers must provide customers a without-charge telephone number staffed by personnel capable of:

(a) Responding to technical problems or questions related to their service twenty-four hours a day, seven days a week;

(b) Responding to general account-related questions during regular business hours; and

(c) Providing the commission's toll-free number and address to dissatisfied customers as required by WAC 480-120-165 (Customer complaints).

(3) Billing requirements for PPCS.

(a) A PPCS provider may charge only for the actual time a circuit is open for conversation. The (~~price list or~~) tariff and presale document must define billing increments. The provider must not round up the length of conversation time for less than a full billing increment beyond that full increment.

(i) If a PPCS provider uses an increment based on a time measurement, the increment must not exceed one minute.

(ii) If a PPCS provider bills usage in "unit" measurements, it must clearly define units using both equivalent dollar amounts and time measurement. Unit billing increments cannot exceed the equivalent one minute rate.

(b) At the customer's request, a PPCS provider may add additional time to an existing account in exchange for an additional payment at a rate not to exceed those on file in tariff with the commission or at rates, for services provided pursuant to competitive classification. The PPCS provider must inform the customer of the new rates at the time of the recharge request.

(4) PPCS providers must maintain the following call-data for a minimum of twenty-four months:

(a) Dialing and signaling information that identifies the inbound access number called or the access identifier;

(b) The number of the originating phone when the information is passed to the PPCS provider;

(c) The date and time the call was originated;

(d) The duration or termination time of the call;

(e) The called number; and

(f) The personal identification number (PIN), or account number.

(5) Disclosure requirements - Prepaid calling services.

(a) A PPCS provider must disclose, prior to the sale, the following information:

(i) The PPCS provider's name as registered with the commission;

(ii) The "doing business as" name as registered with the commission, if applicable;

(iii) The maximum charge per billing increment. A PPCS provider charging varying rates for intrastate and interstate calls must ~~((provide))~~ disclose all applicable rates ~~((The rates disclosed must be no more than those in its price list or tariff on file with the commission at the time of purchase))~~;

(iv) Charges for all services, including any applicable surcharges, fees, or taxes, and the method of application;

(v) Expiration date, if applicable. If a card expires after a set period of time from activation, the PPCS provider must specify the expiration date on the card. If an expiration date is not disclosed on the card it will be considered unexpired indefinitely; and

(vi) Recharge policy, if applicable. If a PPCS provider does not disclose the expiration date at the time service is recharged, the service will be considered unexpired indefinitely.

(b) A PPCS provider must disclose, at the time of purchase, the following information:

(i) The without-charge telephone number(s) a customer may use to resolve technical problems, service-related questions, and general account-related questions; and

(ii) Authorization code, if required, to access the service or, if applicable, the without-charge telephone number used to establish access capability.

(c) If the PPCS provider is not the entity that packages the services for sale to the public, it must require the company that does so, through a written agreement, to comply with the disclosure requirements of this section.

(6) Time of use disclosure requirements. The PPCS provider must:

(a) Announce at the beginning of each call the time remaining on the prepaid account or prepaid calling card; and

(b) Announce the time remaining at least one minute before the prepaid account balance is depleted.

(7) When a PPCS provider has failed to provide service at rates disclosed prior to the sale or quoted at the time an account is recharged, or the PPCS provider has failed to meet performance standards, it must provide refunds for any unused service or provide equivalent service credit when requested by a customer. Refunds or credits must equal the value remaining on the prepaid calling account. The customer may choose either the refund or equivalent service credit option.

(8) Performance standards for prepaid calling services. Each PPCS provider must ensure that:

(a) Customers can complete a minimum of ninety-eight percent of all call attempts to the called party's number. The

PPCS provider will consider any busy signals or unanswered calls as completed calls.

(b) Customers can complete a minimum of ninety-eight percent of all call attempts to the PPCS provider. The PPCS provider will not consider any busy signals or unanswered calls as completed calls.

NEW SECTION

WAC 480-120-266 Information about telecommunications services provided pursuant to competitive classification. (1) Rates, terms and conditions for telecommunications services offered pursuant to competitive classification must conform to all applicable laws, rules, and orders.

(a) The commission does not review or approve rates, terms and conditions of services offered pursuant to competitive classification.

(b) The commission will, when appropriate, investigate or complain against a rate, term or condition provided pursuant to competitive classification.

(c) If the commission determines that a rate, term or condition for service offered pursuant to competitive classification is ambiguous, there is a rebuttable presumption that the ambiguity should be construed in the favor of the customer unless the rate, term or condition was not proposed by the company.

(2) Following an inquiry or complaint from the public concerning rates, terms and conditions for competitive telecommunications services, a carrier shall specify where to obtain pertinent information, and how to contact the commission.

(3) The rates, charges, and prices of services classified as competitive under RCW 80.36.330 must cover the cost of providing the service. Costs must be determined using a long-run incremental cost analysis, including as part of the incremental cost, the price charged by the offering company to other telecommunications companies for any essential function used to provide the service, or any other commission-approved cost method.

AMENDATORY SECTION (Amending Docket No. A-021178 and TO-030288, General Order No. R-518, filed 2/28/05, effective 3/31/05)

WAC 480-120-352 Washington Exchange Carrier Association (WECA). (1) The Washington Exchange Carrier Association (WECA) may:

(a) File petitions with the commission;
(b) Publish and file tariffs with the commission; and
(c) Represent before the commission those members that so authorize. WECA's rules of procedure are on file with the commission under Docket No. UT-920373, and may be obtained by contacting the commission's records center.

(2) Subject to all the procedural requirements and protections associated with company filings before the commission, WECA must submit to the commission:

- (a) All initial WECA tariffs; and
- (b) All changes to the tariffs.
- (3) A member of WECA may file directly with the commission:
 - (a) Tariffs(~~(, price lists,)~~) and contracts;
 - (b) Revenue requirement computations;
 - (c) Revenue objectives;
 - (d) Universal service support cost calculations;
 - (e) Total service long run incremental cost studies;
 - (f) Competitive classification petition;
 - (g) Other reports; or
 - (h) Any other item it or the commission deems necessary.

(4) The commission has the authority to supervise the activities of WECA. However, such supervision will not compromise the independent evaluation by the commission of any filing or proposal that must be submitted to the commission for approval.

(5) To the extent that WECA is involved in the collection and redistribution of funds under commission orders authorizing certain revenue sharing arrangements under common tariff, it must maintain, provide, and report to the commission annual financial reports, by July 1 of each year, relating to the arrangements. Annual financial reports must include:

- (a) Actual fund collections and distributions to each member company;
- (b) The basis upon which the collection and distribution is made;
- (c) Board membership;

(d) Special committee membership; and

(e) The status and description of any open WECA docket proceedings.

(6) Each local exchange company in the state of Washington has the option of using WECA as its filing agent, tariff bureau, or both. Companies using WECA collectively may file intrastate rates, tariffs, or service proposals.

(7) Nothing in this section will be construed as amending or modifying WECA's current methods of administration. WECA's access charge pooling administration plan is on file with the commission and may be obtained by contacting the commission's records center and requesting the "Ninth Supplemental Order in Docket No. UT-971140 with Attachment" dated June 28, 2000.

AMENDATORY SECTION (Amending Docket No. UT-990146, General Order No. R-507, filed 12/12/02, effective 7/1/03)

WAC 480-120-436 Responsibility for drop facilities and support structure. (1) **Initial provision of service to a premise with no existing drop facilities.** Companies are responsible for designating the route of the drop facility and the type of support structure.

(a) Provision of drop facilities. The company is responsible for all work and materials associated with drop facilities.

(b) Provision of support structure. The company may require the applicant to provide a support structure that meets company standards. Once the company provides service, the company is responsible for maintenance and repair of the existing drop facilities and support structure as provided for in WAC 480-120-437.

(c) Nothing in this rule prohibits the company from offering the applicant an alternative to pay the company a tariffed (~~or price listed~~) rate or rate pursuant to competitive classification for provision of the support structure.

(2) **Requests for initial service or additional service at a premise where all existing pairs within a drop facility are not in use.** A company is responsible for all work and materials associated with the drop facilities and if applicable the support structure so long as the total number of lines requested by the customer does not exceed the original capacity of the drop facility.

Any work or materials associated with repair of abandoned or defective pairs is considered maintenance and repair under WAC 480-120-437.

(3) Requests for additional service to premises where all existing pairs within a drop facility are not in use or where the total number of lines requested by a customer exceeds the original capacity of the existing drop facility.

(a) The company is responsible for all costs, including the costs of work and materials, associated with placement of additional drop facilities.

(b) The company may require the applicant to provide a support structure for placement of the new drop facility.

(c) A company must use an existing support structure for placement of the new drop facility when:

(i) The support structure it is large enough to support placement of the new facility; and

(ii) It follows a path which remains suitable to the company; and

(iii) The customer makes the support structure accessible to the company (e.g., uncovers the entry to the conduit and removes any items that would impede the use of the conduit, such as tree roots).

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-450 Enhanced 9-1-1 (E911) obligations of local exchange companies. "Private branch exchange (PBX)" means customer premises equipment installed on the customer's premises that functions as a switch, permitting the customer to receive incoming calls, to dial any other telephone on the premises, to access a tie trunk leading to another PBX or to access an outside trunk to the public switched telephone network.

"Data base management system (DBMS)" means a data base used by local exchange companies (LECs) to provide automatic location information (ALI) to public safety answering points (PSAPs).

"Emergency location identification number (ELIN)" means a telephone number that is used to route the call to a PSAP and is used to retrieve the automatic location information (ALI) for a PSAP.

"Emergency response location (ERL)" means a location to which a 911 emergency response team may be dispatched.

(1) Local exchange companies (LECs) must provide enhanced 9-1-1 (E911) services including:

(a) For single line service, the ability for customers to dial 911 with the call and caller's ELIN transmitted to the E911 selective router serving the location associated with the ERL for that line;

(b) For multiline customers, the ability for customers to dial 911 with common signal protocols available which permit the call and caller's ELIN to be transmitted to the E911 selective router serving the location associated with the ERL for that line;

(c) For pay phones served by pay phone access lines (PALs) the ability for customers to dial 911 with the call and the ELIN transmitted to the E911 selective router serving the location of the ERL for that line. The ELIN must be that of the pay phone.

(2)(a) LECs that provide or make available E911 data base management, whether directly or through contract, must provide to all PBX owners or their agents (including LECs) a simple, internet-based method to maintain customer records in the E911 data base, and the LEC may provide an option of a secure dial up access method for the PBX owner or agent to maintain customer records in the E911 data base. The method must use a generally accepted national format for customer record information.

(b) LECs that provide or make available E911 data base management, whether directly or through contract, must provide or make available to all other LECs a simple, internet-based method to maintain customer records in the E911 data base for their non-PBX customers, and the LEC may provide an option of a secure dial up access or direct data link method for LECs to maintain customer records in the E911 data base. The LEC may offer methods for maintaining station location information that are not internet-based in addition to the required internet-based method.

(c) LECs that provide pay phone access lines must maintain customer record information, including ELIN and ERL information, for those access lines using a method required by (b) of this subsection. The LEC must forward the records to the data base manager within one business day of a record's posting to the company records system.

(d) For single line services, PBX main station lines, and pay phone lines, LECs must transmit updated location information records to the data base management system (DBMS) within one business day of those records being posted to the company record system.

The LEC must correct records that do not post to the DBMS because of address errors within two working days. If

modifications are necessary to the audit tables of the master street address guide, the LEC must resubmit the record within one business day of notification that the master street address guide has been updated.

(e) The LEC or its agent administering the data base must resolve E911 data base errors and inquiries, including selective routing errors, reported by county E911 data base coordinators or PSAPs within five working days of receipt.

(3) LECs choosing to provide E911 services including selective routing, data base management and transmission of the call to a PSAP must file with the commission tariffs and supporting cost studies (~~(or price lists, whichever applies,)~~) that specify the charges and terms for E911 services.

(4)(a) The LEC must permit PBX customers who choose to maintain their own E911 data base or contract that maintenance to a third party, if the customer maintains the data in a generally accepted national format for customer record information.

(b) PBX customers who choose to not use LEC data base management may transmit, or have a third-party transmit, customer record information to their LEC's national data service gateway at no additional charge.

AMENDATORY SECTION (Amending Docket No. UT 040015, General Order No. R-516, filed 1/10/05, effective 2/10/05)

WAC 480-120-540 Terminating access charges. (1)(a) Except for any universal service rate allowed pursuant to subsection (1)(b) of this section, the rates charged by a local exchange company for terminating access service offered by tariff must not exceed the lowest rate charged by the local exchange company for the comparable local interconnection service (in each exchange), such as end office switching or tandem switching. If a local exchange company does not provide local interconnection service (or does so under a bill and keep arrangement), the rates charged for terminating access must not exceed the cost of the terminating access service being provided.

(b) If a local exchange company is authorized by the commission to recover any costs for support of universal access to basic telecommunications service through access charges, it shall recover such costs as an additional, explicit universal service rate element applied to terminating access service.

(2) The rates charged by a local exchange company for terminating access services ((offered by price list)) that are classified as competitive pursuant to RCW 80.36.320 or 80.36.330 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 pursuant to subsection (1)(b) of this section.

(3) The cost of the terminating access must be determined based on the total service long-run incremental cost of terminating access service plus a reasonable contribution to common or overhead costs. Local loop costs are considered "shared" or "joint" costs and must not be included in the cost of terminating access. However, nothing in this rule prohibits recovery of local loop costs through originating access charges (including switched, special, and dedicated as defined in subsection (4)(a) of this section).

(4) Definitions.

(a) "Access charge" means a rate charged by a local exchange company to an interexchange company for the origination, transport, or termination of a call to or from a customer of the local exchange company. Such origination, transport, and termination may be accomplished either through switched access service or through special or dedicated access service.

(b) "Terminating access service" includes transport only to the extent that the transport service is bundled to the end office or tandem switching service. Dedicated transport unbundled from switching services is not subject to subsection (1) of this section.

(c) "Bill and keep" (also known as "mutual traffic exchange" or "payment in kind") is a compensation mechanism where traffic is exchanged among companies on a reciprocal basis. Each company terminates the traffic originating from other companies in exchange for the right to terminate its traffic on that company's network.

(5) The requirement of subsection (1) of this section that any terminating rate be based on cost must not apply to any local exchange company that is a small business, or to any local exchange company that is competitively classified, if it concurs in the terminating rate of any local exchange company that has filed a terminating rate that complies with the requirements of subsection (1) of this section. For the purposes of this subsection, "small business" has the same meaning as it does in RCW 19.85.020.

(6) Any local exchange company that is required to lower its terminating access rates to comply with this rule may file tariffs or (~~price lists (as appropriate)~~) to increase or restructure its originating access charges. The commission will approve the revision as long as it is consistent with this rule, in the public interest and the net effect is not an increase in revenues.

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-120-560 Collocation. (1) Definitions.

"CLEC" means a competing local exchange carrier that orders collocation from an ILEC.

"Collocation" means the ability of a CLEC to place equipment, including microwave equipment, within or upon an ILEC's premises.

"Deliver" or "delivery date" means the point when the ILEC turns the collocation space and related facilities over to the CLEC and the space and facilities are ready for service. Deliver or delivery includes, but is not necessarily limited to, providing the CLEC with access to the collocation space for collocation other than virtual collocation, as well as providing power, telephone service, and other services and facilities ordered by the CLEC for provisioning by the delivery date.

"ILEC" means an incumbent local exchange carrier that is required to provide collocation.

"ILEC premises" means an ILEC wire center, central office, or any other location owned and/or controlled by the ILEC at which interconnection with the ILEC's network or access to ILEC unbundled network elements is technically feasible.

"Points of interface (POI)" means the demarcation between the networks of an ILEC and a CLEC. The POI is the point where the exchange of traffic takes place.

(2) ILEC response to CLEC order for collocation. Within ten calendar days of receipt of an order for collocation, an ILEC must notify the CLEC whether sufficient space exists in the ILEC premises to accommodate the CLEC's collocation requirements. As part of that notification, the ILEC must also notify the CLEC of any circumstance that may delay delivery of the ordered collocation space and related facilities.

(3) Provisioning collocation. If the ILEC notifies a CLEC that sufficient space exists to accommodate the CLEC's order for collocation, the following procedures apply:

(a) Within twenty-five calendar days of receipt of the order, the ILEC must provide the CLEC with a written quote detailing the nonrecurring and recurring charges applicable to provisioning the ordered collocation. After providing the written quote and upon reasonable notice of a request by the CLEC, the ILEC must permit the CLEC at least one accompanied site visit to the designated collocation space without charge to the CLEC, to enable the CLEC to verify and inspect the space the ILEC offers for collocation. The CLEC's acceptance of the written quote and payment of one-half of the nonrecurring charges specified in the quote must be within seven calendar days and does not preclude the CLEC from later disputing the accuracy or reasonableness of those charges.

(b) If the ordered collocation space was included in a periodic forecast submitted by the CLEC to the ILEC at least three months in advance of the order, the ILEC must complete construction of, and deliver, the ordered collocation space and related facilities within forty-five calendar days after the CLEC's acceptance of the written quote and payment of one-half of the nonrecurring charges specified in the quote.

(c) If the ordered collocation space was not included in a periodic forecast submitted by the CLEC to the ILEC at least three months in advance of the order, the commission declines to apply the forty-five calendar day interval in (3)(b) and the national standards adopted by the FCC shall apply.

(d) Following any initial notification as required in section (2) above, the ILEC must notify the CLEC of any change in circumstances as soon as the ILEC is aware of those circumstances and must take all reasonable steps to avoid or minimize any delays caused by those circumstances, including but not limited to joint provisioning of collocation elements by the ILEC and CLEC, or sole construction by the CLEC, through a mutually acceptable third party contractor.

(e) If the ILEC fails to deliver the collocation space by the required delivery date, the ILEC must credit the CLEC in an amount equal to one-tenth of the total nonrecurring charge for the ordered collocation for each week beyond the required delivery date. Recurring charges will not begin to accrue for any element until the ILEC delivers that element to the CLEC. To the extent that a CLEC self-provisions any collocation element, the ILEC may not impose any charges for provisioning that element.

(f) The ILEC must provide periodic notices to the CLEC during construction of the CLEC's collocation space, including scheduled completion and delivery dates. At least thirty calendar days prior to the scheduled delivery date, the ILEC must provide the CLEC with sufficient information to enable the ILEC and the CLEC to establish firm Common Language Location Identifier (CLLI) codes and any other codes necessary to order interconnection and cross-connection circuits for the equipment the CLEC intends to collocate, and the ILEC must accept and process CLEC orders for such circuits. The ILEC must provision points of interface (POIs) and other circuits concurrent with delivery of the collocation space and related facilities, unless the CLEC agrees to a later date.

(g) The ILEC must conduct an inspection with the CLEC of the collocation space at least five business days prior to completion of construction of the collocation space. The ILEC must correct any deviations to the CLEC's original or jointly amended requirements after the inspection, at the ILEC's sole expense.

(h) Upon order of the CLEC and concurrent with delivery of the collocation space and related facilities, the ILEC must provide basic telephone service to the collocation space under the rates, terms, and conditions of the ILEC's current tariff (~~(or price list)~~) offering for the service ordered. The ILEC must also provide CLEC employees, contractors, and representatives with reasonable access to basic facilities, such as restroom facilities and parking, while at the ILEC premises.

(4) Denial of order for collocation. If the ILEC notifies a CLEC that insufficient space exists to accommodate the CLEC's order for collocation, the following procedures apply:

(a) As part of its notification of lack of space, the ILEC must notify the CLEC if any space is available for collocation and, if so, how much space is available. The ILEC must also verify that the ILEC cannot reclaim space for collocation by consolidating or removing inactive or underutilized equipment.

(b) The ILEC must permit the CLEC to tour the ILEC premises within fourteen calendar days of the CLEC's written request.

(c) If the CLEC notifies the ILEC that it contests the denial of an order for collocation, the ILEC must, within twenty-five calendar days of the notification, file a petition asking the commission to determine that the space requested by the CLEC is not available. Upon request and execution of an appropriate confidentiality agreement, the ILEC must also provide a copy of the petition to the CLEC. The ILEC must prepare the petition at its sole expense, and the petition must include the following information:

- (i) Central Office CLLI, where applicable;
 - (ii) Ordering CLEC, including the amount of space sought by the CLEC;
 - (iii) Written inventory of active, inactive, and underutilized equipment, including the signatures of ILEC personnel certifying the accuracy of the information provided;
 - (iv) Color-coded floor plans that identify office space work areas, provide spatial dimensions to calculate the square footage for each area, and locate inactive and underutilized equipment;
 - (v) Narrative of the central office floor space use;
 - (vi) Total amount of space occupied by interconnecting collocators for the sole purpose of interconnection;
 - (vii) Total amount of space occupied by third parties for purposes other than interconnection, and a narrative of the space use;
 - (viii) The number of central office employees employed and job titles;
 - (ix) Description of central office renovation/expansion plans and time frames for completion;
 - (x) Description of conversion of administrative, maintenance, equipment, and storage space plans and time frames for completion; and
 - (xi) Description of any internal policies for conversion of administrative, maintenance, equipment, and storage space in central offices.
- (d) The commission will decide any petition filed under subsection (4)(c) through an expedited proceeding conducted in accordance with the relevant procedural requirements and time lines established in WAC 480-07-650. The ILEC bears the burden to prove to the commission that the ordered collocation is not practical for technical reasons or because of space limitations. The ILEC may be relieved of its obligation to provide collocation at a particular ILEC premises only to the extent expressly provided by commission order.
- (e) Each ILEC must maintain a list of all of its central offices in Washington in which insufficient space exists to accommodate one or more types of collocation. The list must specify which types of collocation are unavailable in each office and whether the commission has approved the ILEC's denial of collocation in that office. The ILEC must post this list on its publicly accessible web site and provide a copy of the list to any CLEC upon request. The ILEC must update this list within ten business days of (i) denying a CLEC's order for collocation; (ii) the service date of any order from the commission approving or disapproving such a denial; (iii) providing notice to CLECs

previously denied collocation that space has become available in a central office; or (iv) obtaining knowledge through any other means that space for one or more types of collocation is no longer available or has become available in a particular central office.

(f) Each ILEC must maintain for each central office a waiting list of all unfilled orders for collocation space and the date of each order. After an ILEC has announced that one or more types of collocation space are not available in an office, any CLEC may submit a letter of intent to order collocation space in lieu of a collocation order, and this letter of intent must be included on the waiting list. If space for collocation becomes available in any central office, the ILEC must inform all CLECs, that ordered collocation or submitted a letter of intent to order collocation, of the availability of that space and must provide each such CLEC with fifteen calendar days to renew its original collocation order. The ILEC must provision collocation to these CLECs on a first-come, first-served basis according to the dates on which each ordered collocation or submitted a letter of intent to collocate in that central office.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 480-120-196

Customer notice requirements--
Competitively classified
telecommunications companies or
services.

Chapter 480-121 WAC

**REGISTRATION(~~(7)~~) AND COMPETITIVE CLASSIFICATION ((~~AND-PRICE
LISTS~~)) OF TELECOMMUNICATIONS COMPANIES**

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-121-011 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 80.01.040 and chapters 80.04 and 80.36 RCW.

~~(2) ((Price list provisions filed by telecommunications companies 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 480-07-910 (Informal complaints) or by filing a formal complaint under WAC 480-07-370 (Pleadings--General).

~~((4))~~ (3) No deviation from these rules is permitted without written authorization by the commission. Violations will be subject to penalties as provided by law.

AMENDATORY SECTION (Amending General Order No. R-499, Docket No. UT-991922, filed 5/14/02, effective 6/17/02)

WAC 480-121-018 Delivery of a filing. (1) The commission will accept ~~((an))~~ application~~((r))~~ for registration as a telecommunications company and petition for competitive classification~~((, and initial price list))~~ filings delivered in person, by mail, fax, or (when procedures are in place) electronic means. The commission will stamp a filing received on Saturdays, Sundays, and state holidays, or after 5:00 p.m., Pacific time, as received on the next business day.

(2) In person or by mail.

(a) In order to be deemed received on a given day, the commission records center must receive an original and two copies of the filing by 5:00 p.m., Pacific time.

(b) A filing delivered by mail must be free from all charges for postage. The commission records center will return any postage-due filing to the sender.

(3) Fax filing.

(a) The commission must receive an original and two copies of the filing the following business day.

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

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

(4) Electronic filing.

(a) An electronic filing must conform to commission procedures for electronic filing.

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

AMENDATORY SECTION (Amending General Order No. R-499, Docket No. UT-991922, filed 5/14/02, effective 6/17/02)

WAC 480-121-020 Requirements for applications for registration(~~(7)~~) and petitions for competitive classification(~~(7, and initial price lists)~~). (1) Applications for registration and petitions for competitive classification must be in the form prescribed by the commission.

(2) Applications for registration:

(a) Must be filed with a petition for competitive classification and a list of its services (~~and an initial price list~~) unless applicant will not be subject to effective competition;

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

(c) Must be filed at the office of the commission in Olympia, Washington; and

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

(3) The commission may require, with or without hearing, that an applicant for registration clearly show:

(a) Adequate financial resources to provide the proposed service;

(b) Adequate technical competence to provide the proposed service; and

(c) Compliance with all applicable federal, state, and local telecommunications technical and business regulations.

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