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VIA E-FILING

Mr. Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
Olympia, WA 98504-7250

Re: Docket A-130355 - Comments of the Washington Independent
Telecommunications Association

Dear Mr. King:

The Washington Independent Telecommunications Association (WITA) welcomes the opportunity to comment on this portion of the Commission's review of its procedural rules contained in Chapter 480-07 WAC. The format for these comments will be to offer thoughts on those proposals that WITA believes need further attention, proceeding through the draft rules in numerical order.

The first comment relates to the draft revision to WAC 480-07-140 (4)(a). Language is added to the rule that states, "All filings or submissions on behalf of a company the commission regulates must identify the company using the exact name of the company in the commission's records." (Emphasis supplied). The draft language goes on to state that the Commission may reject any filing or submission that does not comply with the requirement to use the exact name of the company in the Commission's records. This proposal raises a number of questions and concerns.

The first question is why is this degree of precision needed? There is not an apparent necessity to require this level of precision, particularly when the result may be that the filing is rejected. A second set of questions is how does the company know how its name is listed in the Commission's records? What happens if the name is listed in more than one way in the Commission's records? Which raises the question, which Commission records are the appropriate records?

For example, the correct legal name for Toledo Telephone Company is "The Toledo Telephone Co., Inc." That is also the name used on most, if not all, tariff sheets for the company. However, often a shortened version of the name is used: i.e., "Toledo Telephone Company." Or, the "The" portion of the legal name is omitted. Why would there be any confusion if the precise legal name is not used?

Another example is St. John Telephone Company. Its legal name is "St. John, Co-operative Telephone and Telegraph Company."¹ The company uses the shortened version "St. John Telephone Company" in dealing with its customers.² In any event, the point is to ask what is the need for the draft language requiring naming precision and, secondarily, how does a company know what the Commission's records reflect as the company's name?

The second comment is to request a proposed modification of WAC 480-07-140(5)(b)(ii)(A). WITA proposes that the word "readily" be added in front of the word "available." It may be that a version of the document in native formatting is available, but only at extraordinary expense. WITA suggests that making the rule slightly more flexible would not defeat the Commission's primary objective.

The next comment concerns proposed language in WAC 480-07-145(2)(d). This proposal requires that an electronic filing "must be simultaneously delivered to all parties and the presiding administrative law judge by email." (Emphasis supplied). Simultaneously delivery is not possible to accomplish when using the web portal. A person filing through the web portal cannot copy parties or Commission Staff simultaneously. An email can be sent immediately after using the web portal to send copies to the parties and the administrative law judge that is presiding in the matter, but it cannot be done "simultaneously."

The next comment concerns WAC 480-07-150(7). Under this proposed modification, the Commission will serve all orders and other documents electronically except when a party has declined to consent to electronic service or otherwise required by law. The question is whether the electronic service will include a .pdf copy with signatures. At times, orders have been served without signatures (a word document is used). This may have been inadvertent. In any event, it is important that copies of orders that are served contain the appropriate signatures.

The next item concerns the proposed modification to WAC 480-07-150(8). Under the proposed language, electronic service is deemed complete when the document has been "verifiably sent to the recipient's designated email address." Electronic mail is not one hundred

¹ Or, either "St. John Co-operative Telephone and Telegraph Company" or "St. John Co-operative Telephone & Telegraph Company," depending on which organic document is referenced.

² The reason for some of these strange derivations in the legal name may have to do with how records were filed when the companies were first created or how the Secretary of State interpreted what was filed and issued a Certificate of Formation with a derivation of a name.

percent reliable. In addition, if a party is serving a document with large files, different servers have different size limitations. It may appear to the sender that the email has been delivered. However, the email may be held or rejected by the recipient's server and not actually delivered to the recipient's email address. Usually, but not always, the sender will receive a "bounce back" message. However, that also is not a one hundred percent occurrence. WITA does not have a solution at this point, but raises the issue for further discussion.

The next item concerns the proposed addition to WAC 480-07-160(3).³ The effect of the language proposed for addition is that failure to comply with the Commission's additional requirements for filing confidential information may result in such submission being rejected and being returned to the provider or, problematically, deemed a "waiver of any claim of confidentiality for the information improperly submitted." WITA submits that the Commission cannot by rule create a waiver of a claim of confidentiality, particularly when the Commission is adding additional requirements that go beyond the statutory language for an item that is deemed to be confidential by statute. Failure to comply with added procedural requirements cannot result in a substantive waiver of a right.

In WAC 480-07-160(3)(a), the language states that the provider must state the basis upon which the information is claimed to be confidential "under this rule. . ." WITA recognizes that this is existing language. However, the claim of confidentiality arises under statute, not rule. Therefore, WITA suggests that the words "under this rule" be deleted.

Then, concerning WAC 480-07-160(3)(b)(i), WITA suggests that language be added to clarify that paper copies are needed only if required. Further, as far as WAC 480-07-160(3)(b)(ii) is concerned, technically there can never be an original of a redacted document. It is by definition a modified copy of the original document. WITA suggests that the language be modified to read as follows:

(1)(i) Electronic copies (.pdf and native formats), an original paper copy, if required by order or rule, and the required number of paper copies, if any, of the version of the document as to which confidentiality is claimed (confidential version); and

(ii) An electronic copy in .pdf format and two paper copies of the version of the document with the information claimed to be confidential masked (redacted version).

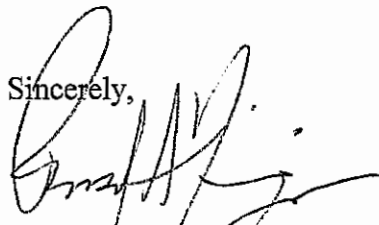
As the last item for these comments, on page 40 of the draft rules, the exception related to WAC 480-07-140(5)(d)(i) needs to apply to both the submission of the confidential documents

³ The comments concerning WAC 480-07-160 also apply to proposed WAC 480-07-165.

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and the redacted versions. That is, it should lead both sentences of draft WAC 480-07-160(3)(c) (vii).

Thank you for the opportunity to provide comments on this portion of the Commission's procedural rules

Sincerely,

RICHARD A. FINNIGAN

RAF/cs
Enclosure

cc: Clients (via e-mail)