

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of)	DOCKET NO. UT-003074
Amending and Repealing Rules in)	
Chapter 480-122 WAC)	GENERAL ORDER NO. R-492
)	
Relating to Washington Telephone)	ORDER AMENDING AND
Assistance Program (WTAP).)	REPEALING RULES
)	PERMANENTLY
.....)	

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and
Transportation Commission takes this action under Notice WSR # 01-16-152, filed
with the Code Reviser on August 1, 2001. The Commission brings this proceeding
pursuant to RCW 80.01.040 and RCW 80.04.160.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Open
Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act
(chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State
Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory
Fairness Act (chapter 19.85 RCW).

3 **DATE OF ADOPTION:** The Commission adopts this rule to be effective February
28, 2002.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW
34.05.325 requires that the Commission prepare and provide to commenters a concise
explanatory statement about an adopted rule. The statement must include the
identification of the reasons for adopting the rule, a summary of the comments
received regarding the proposed rule, and responses reflecting the Commission’s
consideration of the comments.

5 The Commission often includes a discussion of those matters in its rule adoption
order. In addition, most rulemaking proceedings involve extensive work by
Commission Staff that includes summaries in memoranda of stakeholder comments,
Commission decisions, and Staff recommendations in each of those areas.

6 In this docket, to avoid unnecessary duplication, the Commission designates the
discussion in this order as its concise explanatory statement, supplemented where not
inconsistent by the staff memoranda presented at the adoption hearing and at the open

meetings where the Commission considered whether to begin this rulemaking and whether to adopt the specific language proposed by Staff. Together, the documents provide a complete but concise explanation of the agency's actions and the agency's reasons for taking those actions.

7 **REFERENCE TO AFFECTED RULES:** This rule repeals and amends the following sections of the Washington Administrative Code:

WAC 480-122-010 Definitions.

Amended to clarify definitions used throughout the chapter, eliminates definitions not pertinent to the Commission's jurisdiction.

WAC 480-122-020 Washington telephone assistance program rate.

Amended to clarify when telecommunications carriers are required to offer telephone assistance rates and discounts.

WAC 480-122-030 Connection fees.

Repealed, falls under the jurisdiction of the Department of Social and Health Services ("DSHS").

WAC 480-122-040 Deposit Waiver.

Repealed, falls under the jurisdiction of DSHS.

WAC 480-122-060 Telephone assistance excise tax

Amended to clarify that only wireline carriers will collect the excise tax, and eliminates a set rate to allow flexibility to adjust the rate within the statutory amount by order, at the request of DSHS.

WAC 480-122-070 Recovery of costs.

Repealed, falls under the jurisdiction of DSHS.

WAC 480-122-080 Accounting.

Amended to eliminate language that is no longer necessary, and that was confusing to carriers.

WAC 480-122-090 Administration.

Repealed, falls under the jurisdiction of DSHS.

8 **PREPROPOSAL STATEMENT OF INQUIRY:** The Commission filed a Preproposal Statement of Inquiry (CR-101) on August 23, 2000, at WSR # 00-17-167.

9 **ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT:** The Preproposal Statement of Inquiry advised interested persons that the Commission was considering entering a rulemaking on rules relating to the Washington Telephone Assistance Program to review them for content and readability pursuant to Executive Order 97-02, with attention to the rules' need, effectiveness and efficiency, clarity, intent and statutory authority, coordination, cost, and fairness. The review included consideration of whether substantive changes or additions were required.

10 The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3), to all registered telecommunications companies, and to the Commission's list of telecommunications attorneys. Pursuant to the notice, the Commission:

- Held two interested person/stakeholder meetings.
- Conducted numerous meetings with DSHS to coordinate related rulemakings underway at both agencies.
- Circulated working drafts to stakeholders for comment.
- Revised drafts based on stakeholder comments.

11 On April 17, 2001, the Commission sent a Small Business Economic Impact Statement ("SBEIS") to all registered telecommunications companies in the state of Washington. Based on responses received, Commission Staff concluded in a report dated May 14, 2001, that the expected costs caused by the proposed rules are negligible for all telecommunications companies.

12 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on August 1, 2001 at WSR #01-16-152. The Notice provided interested persons the opportunity to submit written comments to the Commission.

13 **WRITTEN COMMENTS:** Verizon Northwest, Inc. ("Verizon"), Qwest Corporation ("Qwest"), Public Counsel, Verizon, Low Income Telecommunications Project ("LITE"), and United States Cellular Corporation submitted written comments. Numerous comments regarding the administration of WTAP by DSHS are not within the jurisdictional authority of the Commission. Accordingly, Commission Staff was unable to directly address or resolve these issues. However, DSHS agreed to reopen its WTAP rulemaking to address inter-agency discrepancies raised in comments, and Staff recommended that the Commission's rules become effective on February 28, 2002, in order to allow DSHS sufficient time to amend their rules.

14 Other comments focused on outreach activities to promote the availability of WTAP and the proposed establishment of threshold criteria for mandatory participation in WTAP. After considering these other comments, Staff recommended proceeding with adoption of the rule as drafted.

15 **RULEMAKING HEARING:** The Commission scheduled this matter for oral comment and adoption under Notice WSR #01-16-152 at a rulemaking hearing during the Commission's regularly scheduled open public meeting on Wednesday, September 12, 2001, at 9:30 a.m., at the Commission's offices in Olympia, Washington. Chairwoman Marilyn Showalter, Commissioner Richard Hemstad, and

Commissioner Patrick Oshie considered the rule proposal for adoption at the September 12, 2001, open meeting pursuant to notice. The Commission heard oral comments from Kristen Russell on behalf of Commission Staff and from representatives of Spokane Neighborhood Action Program, Qwest, and Verizon.

- 16 **SUGGESTIONS FOR CHANGE THAT ARE REJECTED:** The Commission rejected the Spokane Neighborhood Action Program's proposal to include language requiring specific outreach activities by carriers participating in WTAP. The goal to improve outreach efforts is being addressed by the Washington Utilities and Transportation Commission, DSHS, and the Federal Communications Commission. The Commission presently is planning workshops to review efforts to comply with federal outreach requirements by carriers. The conduct of these workshops conveys the Commission's serious concern regarding the development of effective outreach programs. Moreover, the workshops will provide an opportunity for carriers to share information with each other regarding their compliance efforts. Future workshops may lead to further review of the need for specific outreach requirements in the Commission's WTAP rule.
- 17 The Commission also rejected Qwest's suggestion that rule language requiring WTAP participation by carriers serving 100 or more residential access lines be eliminated, and that waiver provisions be added to proposed language in the Commission's competitive classification rulemaking that is underway. The Commission favors addressing this issue in the substantive rule section itself, so that the rule is structured in such a way that does not require subsequent waiver. The 100-or-more access line requirement is a low threshold, and it achieves the same result as the suggested waiver provisions but in a more direct manner.
- 18 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission repealed and amended the rules as proposed in the CR-102 at WSR # 01-16-152.
- 19 **CHANGES FROM PROPOSAL:** The Commission adopted the proposal without changes to the text noticed at WSR #01-16-152.
- 20 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** In reviewing the entire record, the Commission determines that sections WAC 480-122-030, 480-122-040, 480-122-070, and 480-122-090 should be repealed.
- 21 The Commission further determines that WAC sections 480-122-010, 480-122-020, 480-122-060, and 480-122-080 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on February 28, 2002.

ORDER

22 THE COMMISSION ORDERS That:

23 WAC sections 480-122-030, 480-122-040, 480-122-070, and 480-122-090 are
repealed.

24 WAC sections 480-122-010, 480-122-020, 480-122-060, and 480-122-080 are
amended to read as set forth in Appendix A, as rules of the Washington Utilities and
Transportation Commission, to take effect on February 28, 2002.

25 This Order and the rules set out on Appendix A, after being recorded in the register of
the Washington Utilities and Transportation Commission, shall be forwarded to the
Code Reviser for filing pursuant to chapters 80.01 RCW and 34.05 RCW and chapter
1-21 WAC.

DATED at Olympia, Washington, this day of January, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 4, repealed 4.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.