

5 To avoid unnecessary duplication in the record of this docket, the Commission designates the discussion in this Order, including Appendix A, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of the CR-102 proposal and the adoption hearing. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 **REFERENCE TO AFFECTED RULES:** This Order amends the following sections of the Washington Administrative Code:

Amend	WAC 480-120-071	Extension of service.
Amend	WAC 480-120-103	Application for service.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on August 10, 2007, at WSR #07-17-054.

8 The statement advised interested persons that the Commission was considering initiating a rulemaking to revise its rules regarding telecommunications line extensions. 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) and by sending notice to all registered telecommunications companies, the Commission's list of telecommunications attorneys, and the list for all persons interested in rulemaking dockets. The Commission posted the relevant rulemaking information on its Internet web site at <http://www.utc.wa.gov/073014>. Pursuant to the notice, the Commission received written comments.

9 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on May 7, 2008, at WSR #08-10-102. The Commission scheduled this matter for oral comment and adoption under Notice WSR #08-10-102 at 1:30 p.m., Thursday, June 26, 2008, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W.,

Olympia, Washington. The notice provided interested persons the opportunity to submit written comments to the Commission.

- 10 **MEETINGS OR WORKSHOPS:** The Commission held a service extension rulemaking workshop on October 4, 2007, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. Participants in the workshop included TDS Telecom, Tenino-Kalama Telephone, United States Cellular Corporation, and RCC Minnesota, Inc., Verizon Northwest Inc., Washington Independent Telephone Association (WITA); Embarq, Wahkiakum West Long Distance, Inc., Qwest Corporation, and the Public Counsel Section of the Washington State Attorney General's Office (Public Counsel). The participants discussed whether the current service extension rules should be modified.
- 11 **WRITTEN COMMENTS:** The Commission received written comments from AT&T Communications of the Pacific Northwest, Inc., TCG Seattle and TCG Oregon (collectively AT&T), United States Cellular Corporation, and RCC Minnesota, Inc., supporting the proposed rules as amended. The Public Counsel Section of the Washington State Attorney General's Office (Public Counsel) and the Industry Coalition¹ submitted written comments with proposed language changes.
- 12 **CONTINUED NOTICE OF PROPOSED RULEMAKING:** The Commission filed a Continuance of the Notice of Proposed Rulemaking (CR-102) on June 23, 2008, at WSR #08-14-045. The Commission rescheduled this matter for oral comment and adoption under Notice WSR #08-14-045 at 1:30 p.m., Thursday, August 14, 2008, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.
- 13 **WRITTEN COMMENTS:** The Commission received written comments from Kevin Danby, Rimrock Meadows Association, and additional comments from the Industry Coalition.

¹ The Coalition includes Verizon Northwest Inc., Qwest Corporation, CenturyTel, Embarq, TDS Telecom, Kalama-Tenino Telephone and other member companies of WITA.

- 14 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on Thursday, August 14, 2008, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. Speaking in support of the rules for adoption included: Mark Reynolds of Qwest Corporation; Mary Taylor of CenturyTel; Milt Doumit of Verizon Northwest Inc.; and Rick Finnigan representing Washington Independent Telephone Association. Kevin Danby of the Rimrock Meadows Association commented on the lack of land line and cell phone coverage to all sections of the Rimrock Meadows Association housing development.
- 15 **SUGGESTIONS FOR CHANGE THAT ARE ACCEPTED OR REJECTED:** Written and oral comments suggested changes to the proposed rules. The suggested changes and the Commission's reason for rejecting or accepting the suggested changes are described below.
- 16 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102, with changes from the text noticed at WSR #08-14-045, as described below in this Order.
- 17 **CHANGES FROM PROPOSAL:** The Commission addressed the comments submitted by interested persons for changes to WAC 480-120-071 as follows:
- Subsection (2) Tariffed residential basic local exchange service (c)(ii)**
- 18 The Industry Coalition proposed that the rule be modified to include language that would permit companies and applicants to agree to use a firm or negotiated quotation for construction charges in lieu of the estimated charge and reimbursement procedure described in WAC 480-120-071(4)(c). The Industry Coalition suggested that the proposal would not harm any potential customer as it would apply only upon company and customer agreement.

Suggested added language:

(2)(c)(ii) Unless otherwise agreed by a company and its applicant, for an extension . . . (remaining subsection)

- 19 The Commission rejects the proposed rule change. Because there is typically only one telecommunications company from which an applicant may obtain a wire line extension, a customer could not obtain competing bids or otherwise ascertain the “market” price of the line extension. Therefore, an applicant would have no way of judging the reasonableness of a firm offer and would likely have little or no bargaining power to negotiate a firm price. The initial estimate/true-up approach is preferable because it requires the company to reimburse the amount by which the estimate (and initial bill) exceeds the company’s actual cost. Actual costs can be verified against invoices in the event of a dispute. A “negotiated” price would lack any ready indicia of reasonableness.

Subsection (2) Tariffed residential basic local exchange service (c)(iii)

- 20 Public Counsel expressed concern that limited-income applicants may not be able to pay the full cost of a line extension quickly and thus may go without service for a long time, even when they have entered into a payment plan with the company and have made consistent and substantial payments toward the cost of the line extension. Public Counsel suggested that this conflicts with the rule’s requirement that service be extended “in a timely manner.” Public Counsel requested that language be included in subsection (2)(c)(iii) that would require companies to make reasonable payment plans available to all applicants and begin the running of the twelve-month deadline to complete the extension of service and provide new tariffed residential basic local exchange service upon substantial, partial payment.
- 21 The Commission rejects Public Counsel’s proposed modification. There is no information available about the relative income of applicants. Line extensions are often sought to serve comparatively new developments or second homes. The

company may offer payment plans in its tariff. If the payment terms are not acceptable to the applicant, the applicant will need to obtain his/her own financing for the line extension.

Subsection (3) Allowances.

- 22 Public Counsel requested the Commission set the allowance for an extension of service at two thousand feet at no charge to the applicant, stating that would still lower the costs companies are currently responsible for under the existing rule by placing the extraordinary cost of lengthy line extensions on individual customers. According to the data provided by four companies, it was lengthier extensions—those over two thousand feet—which made up the bulk of their overall costs. Shorter line extensions were notably less expensive with almost all line extensions less than two thousand feet costing less than \$10,000. Public Counsel suggested that a two thousand foot allowance would strike the right balance between fostering universal service while not imposing unreasonable costs on companies and ratepayers in general.
- 23 The Commission rejects Public Counsel’s proposed revision. The initial line extension allowance proposed in this rulemaking was 500 feet. After consideration of the written initial comments, the line extension allowance was expanded to one thousand feet. The one thousand foot allowance strikes a reasonable balance between the costs that should be borne by the company and those that should be borne by the customer.

Subsection (3) Allowances (c).

- 24 The Industry Coalition proposed that the rule be modified to address extraordinary costs that could be incurred in construction of the first one thousand feet of any line extension that exceeds one thousand feet. The subsection at issue provides for recovery of extraordinary costs associated with an extension that is up to one thousand feet. The Coalition suggested the intent be clarified.
- 25 The Commission accepts the Coalition’s proposal to clarify the language regarding recovery of extraordinary costs associated with the first one thousand feet of the line extension. The language is revised to allow the company to demonstrate that the first

one thousand feet of any extension of service can be considered for recovery of extraordinary costs.

Industry Coalition proposed new subsection (3)(d)

26 The Industry Coalition proposed that a new subsection (3)(d) be added to address general waivers under WAC 480-120-015. The proposed language would make it clear that the existence of an Eligible Telecommunications Carrier as an alternative service provider for the location where the extension is requested could be a factor to be considered in deciding whether to grant a waiver.

27 Suggested new language:

(3)(d) A company may seek a waiver of the requirement to extend service under this rule pursuant to WAC 480-120-015. In making its determination whether to grant such a waiver, the Commission may take into consideration the existence of an alternative service provider that is an Eligible Telecommunications Carrier (“ETC”) for the location where an extension of service is requested.

28 The Commission rejects the Industry Coalition’s proposed new subsection (3)(d). The rule as drafted achieves a bright line standard for companies concerning the obligation to construct a line extension. Adding a waiver option would detract from this standard. A company may seek a waiver under WAC 480-120-015 whenever it thinks it appropriate and the Commission may consider any pertinent information, including the existence of an ETC alternative, without adding the suggested language.

Subsection (6) Requirements for supporting structures and trenches (a)(ii).

29 Public Counsel proposed that “[t]o further ensure that applicants have a meaningful choice, subsection (7)(a)(ii) should include a statement that the company’s construction specifications should be reasonable.”

30 The Commission accepts Public Counsel’s recommendation and revises the language to include the term “reasonable.” This addition clarifies that supporting structures required for the placement of company-provided drop wire from the applicant’s

property line to the premises are only those reasonably necessary to complete the line extension.

Subsection (8) Application of rule.

- 31 The Industry Coalition proposed that the rule be modified by adding language that would address the transition to the new rule. Cost recovery mechanisms that are in place based on the current rule will not have run their course as of the effective date of the new rule but will be effectively repealed by the new rule. The Industry Coalition asked that subsection (8) be clarified to ensure that there would be no confusion regarding the continued application of the old rule (and particularly the cost recovery mechanism of that rule) to line extension requests already accepted by the company, even though the new rule will apply retroactively to requests made before the effective date of the new rule that are not accepted by the company before the effective date of the new rule.
- 32 The Commission accepts the Industry Coalition's proposal and revises the language to clarify the applicability of the new rule.
- 33 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-120-071 and WAC 480-120-103 should be amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

ORDER

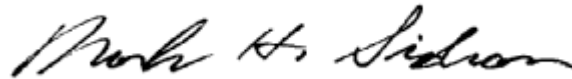
THE COMMISSION ORDERS:

- 34 The Commission amends and adopts WAC 480-120-071 and WAC 480-120-103 to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).

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

DATED at Olympia, Washington, September 3, 2008.

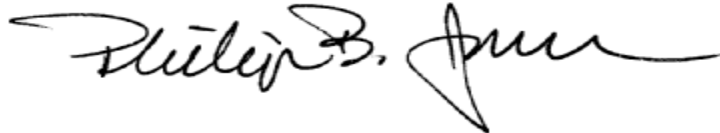
WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION



MARK H. SIDRAN, Chairman



PATRICK J. OSHIE, Commissioner



PHILIP B. JONES, 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 2, repealed 0.

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

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.