

**Chapter 480-121**

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

**Docket No. UT-991922**

**Stakeholder Discussion Draft  
LEGISLATIVE**

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Chapter 480-121 WAC

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

WAC

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38 **WAC 480-121-X05 Application of rules.**

39 (1) The rules in this chapter apply to any telecommunications company that is subject to  
40 the jurisdiction of the commission as to rates and services under the provisions of RCW  
41 80.04.010 and chapter 80.36 RCW.

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46 conflict with these rules without approval are superseded by these rules.

47 (3) Any affected person may ask the commission to review the interpretation of  
48 these rules by a telecommunications company or customer by posing an informal  
49 complaint under WAC 480-09-150 (informal complaints) or by filing a formal complaint  
50 under WAC 480-09-420 (pleadings and briefs--application for authority—protests).

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

53

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

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

65

66 **WAC 480-121-015 Exemptions from rules in chapter 480-121 WAC.**

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

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

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

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

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

85

86 **WAC 480-121-X06 Additional requirements.**

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

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

92

93 **WAC 480-121-X04 Severability**

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

97

98 **WAC 480-121-X01 Delivery of a filing.**

99 (1) The commission will accept an application, petition for competitive classification, and  
100 initial price list filing delivered in person, by mail, fax, or (when procedures are in place)  
101 electronic means. The commission will stamp a filing received on Saturdays, Sundays,  
102 and state holidays, or after 5:00 p.m., Pacific time, as received on the next business  
103 day.

104           (2) In person or by mail.

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

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

109           (3) Fax filing.

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

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

114           (c) The commission records center must receive a faxed filing in its entirety by  
115 5:00 p.m., Pacific time, Monday through Friday, except on state holidays, to be  
116 considered received on that business day.

117           (4) Electronic filing.

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

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

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

125 (1) Applications for registration must:

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

127 (b) Must be filed with a petition for competitive classification of the registering  
128 company and an initial price list;

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

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

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

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

138 (2) Petitions for competitive classification must meet the requirements of WAC  
139 480-120-023.

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

141 (42) As a condition to registration, with or without hearing, tThe commission may  
142 require, with or without hearing, that an applicant for registration clearly show that:

143 (a) The applicant possesses aAdequate financial resources to provide the  
144 proposed service;

145 (b) The applicant possesses aAdequate technical competence to provide the  
146 proposed service; and

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

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

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

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

157

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

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

163

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

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

169 The commission may reject any filing that does not comply with commission rules.

170

171 **WAC 480-121-030 Additional information.**

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

175

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

177 (1) An application The commission secretary may grant an application for registration  
178 may be granted without hearing upon a determination by when the application  
179 commission that the application is consistent with the public interest, that the applicant  
180 meets the requirements of this section and RCW 80.36.350 and that the applicant has  
181 provided adequately for the protection of customer deposits or prepayments. is on a  
182 form prescribed by the commission and contains the following:

183 (a) The name and address of the company; application may be set for hearing in  
184 accordance with notice issued by the commission. If, after hearing, the commission  
185 finds that registration is not consistent with the public interest, or

186 (b) that tThe name and address of its registered agent, if any; applicant does not  
187 meet the requirements of RCW 80.36.350, or that customer deposits or prepayments  
188 cannot be adequately protected, it will deny the application.

189 (c) The name, address, and title of each officer or director;

190 (d) The most current balance sheet;

191 (e) The latest annual report, if any; and

192 (f) A description of the telecommunications services it offers or intends to offer.

193 (2) The commission will may deny an application for registration submitted by an  
194 alternate operator services provider if, after hearing, the commission finds that the  
195 application is operator services offered by the company or the charges for those  
196 services are not consistent with the public convenience and advantage. interest or that  
197 the applicant:

198 (a) Failed to provide the information required by RCW 80.36.350;  
199 (b) Failed to provide the performance bond described in RCW 80.36.350 and  
200 WAC 480-120-058, if required;

201 (c) Does not possess adequate financial resources to provide the proposed  
202 service; or

203 (d) Does not possess adequate technical competency to provide the proposed  
204 service.

205 (3) The commission may deny an application for registration submitted by an  
206 alternate operator services company if, after hearing, the commission finds that the  
207 services or charges offered by the company are not consistent with the public  
208 convenience and advantage.

209

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

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

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

215 Note: Moved to 480-120-083

216

217 **WAC 480-121-060 Revocationking a of registration.**

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

220 (1a) File an annual report;

221 (2b) Pay regulatory fees;

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

223 (4c) Provide adequate service;

224 ~~(5d) Maintain correct contact information, including the telecommunications~~  
225 ~~company's current address and telephone number; or~~

226 (6e) Comply with all applicable federal, state, and local telecommunications and  
227 business and technical regulations; or,

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

230

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

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

238 ~~(21) Initiation of classification proceedings. A telecommunications company shall~~  
239 ~~initiate a requesting competitive classification proceeding by must filing a petition with~~  
240 ~~the commission. The petition must state the effective date of the requested~~  
241 ~~classification, which must be at least thirty days after the filing date. The commission~~  
242 ~~may initiate a competitive classification proceeding on its own motion by order instituting~~  
243 ~~investigation.~~

244 ~~(3) Notice to affected companies and public counsel. The commission shall~~  
245 ~~serve a copy of the petition or its order upon all telecommunications companies which~~  
246 ~~may be affected by the proceeding, and upon the public counsel section of the office of~~  
247 ~~the attorney general. Service by the commission shall be made as provided in WAC~~  
248 ~~480-08-060(4). Alternatively, the commission may direct petitioner to serve a copy of~~  
249 ~~the petition upon such parties as the commission directs. Service by petitioner shall be~~  
250 ~~made in accordance with WAC 480-08-060(3).~~

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

255 ~~(52) Appearances and intervention. Any person desiring to participate in a~~  
256 ~~competitive classification proceeding may petition to intervene as provided in WAC 480-~~  
257 ~~08-070 480-09-430.~~

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

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

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

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

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

274 ~~(d) Other indicators of market power, which may include market share, growth in~~  
275 ~~market share, ease of entry, and the affiliation of providers of services.~~



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

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

284 (6) The competitive classification becomes effective on the stated effective date  
285 unless the commission suspends the proposed classification. If the commission  
286 suspends a proposed classification, it will enter a final order within six months from the  
287 date the petition was filed.

288

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

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

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

296 (1) The Nname and address of the petitioner petitioning company;

297 (2) The name and telephone number of regulatory contact;

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

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

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

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

307 (b) The Nnames and addresses of all providers of such the services known or  
308 reasonably knowable to the petitioner;

309 (c) The Pprices, terms, and conditions under which such the services are offered  
310 by competitors to the extent known or reasonably knowable to the petitioner;

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

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

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

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

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

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

323

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

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

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

337 (3) ~~By order,~~ The commission may revoke waivers of regulatory requirements in  
338 the same manner in which they were granted if such it determines that revocation would  
339 is necessary to protect the public interest.

340 (3) Unless otherwise determined by commission order, the following regulatory  
341 requirements are waived for competitively classified companies:

342 (a) RCW 80.04.300 (budgets to be filed by companies-supplementary budgets);

343 (b) RCW 80.04.310 (commission's control over expenditures);

344 (c) RCW 80.04.320 (budget rules);

345 (d) RCW 80.04.330 (effect of unauthorized expenditure-emergencies);

346 (e) RCW 80.04.360 (earnings in excess of reasonable rate-consideration in fixing  
347 rates);

348 (f) RCW 80.04.460 (investigation of accidents);

349 (g) RCW 80.04.520 (lease of utility facilities);

350 (h) RCW 80.36.100 (tariff schedules to be filed and open to public);

351 (i) RCW 80.36.110 (tariff changes-statutory notice-exception);

352 (j) Chapter 80.08 RCW (securities) (except RCW 80.08.140, state not obligated);

- 353 (k) Chapter 80.12 RCW (transfers of property);
- 354 (l) Chapter 80.16 RCW (affiliated interests);
- 355 (m) Chapter 480-80 WAC (tariffs, price lists, and contracts) (except 480-80-2X1  
 356 use of price lists through WAC 480-80-2X5 price list availability to customers and 480-  
 357 80-3X1 contract for service);
- 358 (n) Chapter 480-140 WAC (budgets);
- 359 (o) Chapter 480-143 WAC (transfers of property);
- 360 (p) Chapter 480-146 WAC (securities and affiliated interests);
- 361 (q) WAC 480-120-031 (accounting);
- 362 (r) WAC 480-120-032 (expenditures for political or legislative activities);
- 363 (s) WAC 480-120-043 (notice to the public of tariff changes);
- 364 (t) WAC 480-120-046 (services offered);
- 365 (u) WAC 480-120-131 (reports of accidents);
- 366 (v) WAC 480-120-541 (access charges);
- 367 (w) WAC 480-120-542 (collective consideration of Washington intrastate rate,  
 368 tariff, or service proposals);
- 369 (x) WAC 480-120-544 (mandatory cost changes for telecommunications  
 370 companies).

371

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

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

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

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

388

389 **~~WAC 480-121-070—Petition for competitive classification.~~**

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

**393** ~~(2) The petitioner must provide notice in the same manner as provided in WAC~~  
**394** ~~480-80-120 for tariff changes.~~