

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending, Adopting,) DOCKET UT-140680
and Repealing Rules in)
))
WAC 480-120, Telephone Companies,) GENERAL ORDER R-580
WAC 480-121, Registration and)
Competitive Classification of)
Telecommunications Companies,) ORDER AMENDING, ADOPTING,
WAC 480-122, Washington Telephone) AND REPEALING RULES
Assistance Program, WAC 480-123) PERMANENTLY
Universal Service, WAC 480-140,)
Commission General – Budgets, and)
WAC 480-143, Commission General –)
Transfers of Property)
))
Due to Competitive Changes within)
the Telecommunications Industry)
.....)

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 14-24-097, filed with the Code Reviser on December 2, 2014. The Commission has authority to take this action pursuant to RCW 19.122.053, RCW 19.122, RCW 80.01.040, and RCW 80.04.160.

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

3 **DATE OF ADOPTION:** The Commission adopts these rules on the date this Order is entered.

<p>OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED</p> <p>DATE: March 26, 2015 TIME: 11:47 AM</p> <p>WSR 15-08-043</p>
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- 4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULES:**
RCW 34.05.325(6) requires the Commission to prepare and publish a concise explanatory statement about adopted rules. The statement must identify the Commission's reasons for adopting the rules, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the Commission's responses to the comments reflecting the Commission's consideration of them.
- 5 To avoid unnecessary duplication in the record of this docket, the Commission designates the discussion in this Order, including appendices, as its concise explanatory statement. This Order provides a complete but concise explanation of the agency's actions and its reasons for taking those actions.
- 6 **REFERENCE TO AFFECTED RULES:** This Order amends, adopts, or repeals the following sections of the Washington Administrative Code:
- | | | |
|-------|-----------------|---|
| Amend | WAC 480-120-011 | Application of rules. |
| Amend | WAC 480-120-015 | Exemptions from rules in chapter 480-120 WAC. |
| Amend | WAC 480-120-021 | Definitions. |
| Amend | WAC 480-120-026 | Tariffs. |
| Amend | WAC 480-120-071 | Extension of service. |
| Amend | WAC 480-120-083 | Cessation of telecommunications services. |
| Amend | WAC 480-120-104 | Information to consumers. |
| Amend | WAC 480-120-122 | Establishing credit – Residential services. |
| Amend | WAC 480-120-123 | Establishing credit – Business services. |
| Amend | WAC 480-120-147 | Changes in local exchange and intrastate toll services. |
| Amend | WAC 480-120-165 | Customer complaints. |
| Amend | WAC 480-120-217 | Using privacy listings for telephone solicitation. |
| Amend | WAC 480-120-255 | Information delivery services. |
| Amend | WAC 480-120-256 | Caller identification service. |
| Adopt | WAC 480-120-258 | Collocation. |
| Adopt | WAC 480-120-259 | Washington telephone assistance program. |
| Amend | WAC 480-120-262 | Operator service providers (OSPs). |
| Amend | WAC 480-120-339 | Streamlined filing requirements for Class B |

		telecommunications company rate increases.
Amend	WAC 480-120-349	Retaining and preserving records and reports.
Amend	WAC 480-120-352	Washington Exchange Carrier Association (WECA).
Amend	WAC 480-120-359	Accounting for telecommunications companies not classified as competitive.
Amend	WAC 480-120-382	Annual report for competitively classified telecommunications companies.
Amend	WAC 480-120-385	Annual report for telecommunications companies not classified as competitive.
Amend	WAC 480-120-411	Network maintenance.
Amend	WAC 480-120-439	Service quality performance reports.
Adopt	WAC 480-120-445	Damage reporting requirements.
Amend	WAC 480-120-999	Adoption by reference.
Repeal	WAC 480-120-105	Company performance standards for installation or activation of access lines.
Repeal	WAC 480-120-112	Company performance for orders for nonbasic services.
Repeal	WAC 480-120-124	Guarantee in lieu of deposit.
Repeal	WAC 480-120-125	Deposit or security – Telecommunications companies.
Repeal	WAC 480-120-127	Protecting customer prepayments.
Repeal	WAC 480-120-132	Business offices.
Repeal	WAC 480-120-148	Canceling registration.
Repeal	WAC 480-120-218	Using subscriber list information for purposes other than directory publishing.
Repeal	WAC 480-120-219	Severability
Repeal	WAC 480-120-252	Intercept services.
Repeal	WAC 480-120-325	Definitions.
Repeal	WAC 480-120-331	Filing information.
Repeal	WAC 480-120-335	Additional reports.
Repeal	WAC 480-120-344	Expenditures for political or legislative activities.
Repeal	WAC 480-120-355	Competitively classified companies.
Repeal	WAC 480-120-365	Issuing securities.
Repeal	WAC 480-120-369	Transferring cash or assuming obligations.
Repeal	WAC 480-120-375	Affiliated interests – Contracts or arrangements.

Repeal	WAC 480-120-389	Securities report.
Repeal	WAC 480-120-395	Affiliated interest and subsidiary transactions report.
Repeal	WAC 480-120-399	Access charge and universal service reporting.
Repeal	WAC 480-120-440	Repair standards for service interruptions and impairments, excluding major outages.
Repeal	WAC 480-120-540	Terminating access charges.
Repeal	WAC 480-120-560	Collocation.
Amend	WAC 480-121-040	Granting or denying applications for registration.
Amend	WAC 480-121-065	Customer notice requirements – Petition for competitive classification of a service or company.
Repeal	WAC 480-121-011	Application of rules.
Repeal	WAC 480-121-015	Exemptions from rules in chapter 480-121 WAC.
Repeal	WAC 480-121-016	Additional requirements.
Repeal	WAC 480-121-017	Severability.
Repeal	WAC 480-121-018	Delivery of a filing.
Repeal	WAC 480-121-026	Rejecting a filing.
Repeal	WAC 480-122-010	Definitions.
Repeal	WAC 480-122-020	Washington telephone assistance program rate.
Repeal	WAC 480-122-050	Other charges.
Repeal	WAC 480-122-080	Accounting.
Amend	WAC 480-123-010	Federal universal service contracts.
Amend	WAC 480-123-020	Definitions.
Amend	WAC 480-123-030	Contents of petition for eligible telecommunications carriers.
Amend	WAC 480-123-060	Annual certification of eligible telecommunications carriers.
Amend	WAC 480-123-070	Annual certifications and reports.
Amend	WAC 480-123-080	Annual plan for universal service support expenditures.
Amend	WAC 480-123-999	Adoption by reference.

Amend WAC 480-140-010 Definitions.

Amend WAC 480-140-040 What to file.

Amend WAC 480-143-100 Application of rules.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on May 7, 2014, at WSR # 14-10-081.

8 The statement advised interested persons that the Commission was considering amending or eliminating requirements in existing rules to address regulatory changes at both the federal and state levels, adapt to technological changes in the telecommunications industry, and ensure that the Commission's rules are competitively neutral. The Commission also informed interested persons of this inquiry by providing notice of the subject and the CR-101 to everyone 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 and the Commission's list of telecommunications attorneys. Pursuant to the notice, the Commission received written comments on June 9, 2014.

9 **SUPPLEMENTAL PREPROPOSAL STATEMENT OF INQUIRY AND**

ACTIONS THEREUNDER: The Commission filed a supplemental Preproposal Statement of Inquiry (supplemental CR-101) on July 11, 2014, at WSR # 14-15-046.

10 The statement advised interested persons that in addition to the considerations stated in the WSR # 14-10-081 notice, the Commission would also consider establishing damage reporting requirements for telecommunications companies in accordance with the Underground Utilities Act, RCW Chapter 19.122, enacted in 2011 to take effect January 1, 2013, which requires facility operators to report damage events to the Commission within 45 days with specific descriptive data about the event. The Commission provided notice of this additional inquiry to the same persons to whom the Commission provided the WSR # 14-10-081 notice. The Commission conducted a workshop on all issues under consideration in this rulemaking on July 28, 2014.

11 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a Notice of Proposed Rulemaking (CR-102) on December 2, 2014, at WSR # 14-24-097. The Commission scheduled this matter for oral comment and adoption under that notice for 1:30 p.m., Thursday, February 12, 2015, 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 by January 6, 2015.

- 12 **WRITTEN COMMENTS:** The Commission received written comments in response to the WSR # 14-24-097 Notice from CenturyLink; T-Mobile West LLC; the Washington Independent Telecommunications Association (WITA); Joint Competitive Local Exchange Carriers Integra Telecom of Washington, Inc. (and affiliates) (Integra) and XO Communications Services LLC; AT&T Corp., New Cingular Wireless PCS, LLC, and Teleport Communications of America, Inc. (collectively AT&T); and Level 3 Communications, LLC. Summaries of all written comments and the Commission's responses are contained in Appendix A, which is attached to, and made part of, this Order.
- 13 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on Thursday, February 12, 2015, before Chairman David W. Danner, Commissioner Philip B. Jones, and Commissioner Ann E. Rendahl. The Commission heard comments from AT&T, CenturyLink, Integra, Public Counsel, and WITA, none of whom raised new issues but all of whom supported the proposed rules, stood by their written comments, or emphasized some of the suggested changes included in their written comments.
- 14 **SUGGESTIONS FOR CHANGE THAT ARE REJECTED/ACCEPTED:** 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 included in Appendix A.
- 15 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend, adopt, or repeal the rules as proposed in the CR-102 at WSR # 14-24-097 with the changes described below.
- 16 **CHANGES FROM PROPOSAL:** The Commission adopts the proposal with the following changes from the text noticed at WSR # 14-24-097:

WAC 480-120-439 Service quality performance reports. AT&T recommends that the Commission further revise this rule to delete the references to WAC 480-120-105 and

WAC 480-120-112 in subsection (1) because those rules are among the rules to be repealed in this Order. AT&T also recommends that the reference to subsection (2) be deleted from subsection (2) because the referenced subsection has been deleted. The Commission agrees with these recommendations and strikes that language.

WAC 480-120-445 Damage reporting requirements. CenturyLink expresses concern that the notification requirement from the facility operator in subsection (2) of this new rule is not included in the statute on which the rule is based. CenturyLink also contends that the language results in an enforcement and compliance issue that would be more effectively handled by Commission staff. Finally, the company argues the rule would create unnecessary additional cost and administrative burden for facility operators. To address these concerns, we modify the rule to provide that, in determining compliance with this requirement, the Commission will consider whether the facility operator made a reasonable effort under the circumstances to provide the notification. In addition, the modification identifies some of the types of circumstances the Commission may consider.

WAC 480-123-070 Annual certifications and reports. The Commission recognizes that the text included in a note at the end of the first paragraph in the proposed rule should be included in the provisions of the rule itself. Accordingly, we strike that note and add the same text in a new subsection (8) of this rule.

WAC 480-123-070 Annual certifications and reports; WAC 480-123-080 Annual plans for universal service support expenditures. AT&T contends that the requirement to file gross capital expenditures and maintenance expense in WAC 480-123-070(1)(a) and in WAC 480-123-080(1) is too broad and would apply to information beyond the Commission's authority to regulate for wireless service providers. AT&T suggests that the language be revised to require the company to file capital expenditures and operating expense made with federal high-cost support received by the ETC. The Commission agrees with this suggestion and modifies the language in these subsections accordingly.

WAC 480-123-080 Annual plans for universal service support expenditures. WITA states that its member companies do not have "budgeted" data on capital expenditures and operating expenses required under subsection (1) of this rule at the time they must file that information. WITA, therefore, recommends that the Commission substitute "planned" for "budgeted" in that subsection. The Commission agrees and makes that substitution.

- 17 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that the rules in the WAC sections listed in paragraph 6 above should be amended, adopted, or repealed to read as set forth in Appendix B, 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:

- 18 The Commission amends, adopts, or repeals the sections in WAC Chapters 480-120, 480-121, 480-122, 480-123, 480-140, and 480-143 listed in paragraph 6 of this Order to read as set forth in Appendix B, 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).
- 19 This Order and the rule set out below, after being recorded in the order 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, March 26, 2015.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



DAVID W. DANNER, Chairman



PHILIP B. JONES, Commissioner



ANN E. RENDAHL, 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 3, amended 35, repealed 34.

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.

Appendix A
Comment Summary Matrix

Appendix B
WAC 480-120, 480-121, 480-122, 480-123,
480-140, and 480-143 - RULES