

Chapter 480-121

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

Docket No. UT-991922

CR-102 Proposed Draft - Clean
(For consideration at the November 5, 2001, CR-102 Open Meeting)

October 10, 2001

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1 **WAC 480-121-011 Application of rules.**

2 (1) The rules in this chapter apply to any telecommunications company that is subject to
3 the jurisdiction of the commission as to rates and services under the provisions of RCW
4 80.04.010 and chapter 80.36 RCW.

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9 conflict with these rules without approval are superseded by these rules.

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

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

16

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

18 (1) The commission may grant an exemption from the provision of any rule in this
19 chapter, if consistent with the public interest, the purposes underlying regulation, and
20 applicable statutes.

21 (2) To request a rule exemption, a person must file with the commission a written
22 request identifying the rule for which an exemption is sought, giving a full explanation of
23 the reason for requesting the exemption.

24 (3) The commission will assign the request a docket number, if it does not arise
25 in an existing docket, and will schedule the request for consideration at one of its
26 regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an
27 adjudication. The commission will notify the person requesting the exemption, and
28 other interested persons, of the date of the hearing or open meeting when the
29 commission will consider the request.

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

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

36

37 **WAC 480-121-016 Additional requirements.**

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

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

43

44 **WAC 480-121-017 Severability.**

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

48

49 **WAC 480-121-018 Delivery of a filing.**

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

55 (2) In person or by mail.

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

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

60 (3) Fax filing.

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

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

65 (c) The commission records center must receive a faxed filing in its entirety by
66 5:00 p.m., Pacific time, Monday through Friday, except on state holidays, to be
67 considered received on that business day.

68 (4) Electronic filing.

69 (a) An electronic filing must conform to commission procedures for electronic
70 filing.

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

73

74 **WAC 480-121-020 Requirements for applications for registration, petitions for**
75 **competitive classification, and initial price lists.**

76 (1) Applications for registration:

77 (a) Must be in the form prescribed by the commission;

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

80 (c) Must comply with the rules set forth in chapters 480-80 WAC and 480-120
81 WAC;

82 (d) Must be filed at the office of the commission in Olympia, Washington;
83 (e) Must include a declaration signed and dated by the applicant or its attorney
84 certifying the accuracy of the filing; and

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

87 (2) The commission may require, with or without hearing, that an applicant for
88 registration clearly show:

89 (a) Adequate financial resources to provide the proposed service;

90 (b) Adequate technical competence to provide the proposed service; and

91 (c) Compliance with all applicable federal, state, and local telecommunications
92 technical and business regulations.

93 (3) The commission may request that an applicant provide information regarding
94 the applicant's regulatory performance in other states where it operates.

95

96 **WAC 480-121-026 Rejecting a filing.**

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

98

99 **WAC 480-121-040 Granting or denying petitions for registration.**

100 (1) The commission secretary may grant an application for registration without hearing
101 when the application is on a form prescribed by the commission and contains the
102 following:

103 (a) The name and address of the company;

104 (b) The name and address of its registered agent, if any;

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

106 (d) The most current balance sheet;

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

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

109 (2) The commission may deny an application for registration if, after hearing, the
110 commission finds that the application is not consistent with the public interest or that the
111 applicant:

112 (a) Failed to provide the information required by RCW 80.36.350;

113 (b) Failed to provide the performance bond described in RCW 80.36.350 and

114 WAC 480-120-058, if required;

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

117 (d) Does not possess adequate technical competency to provide the proposed
118 service.

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

123

124 **WAC 480-121-060 Revoking a registration.**

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

127 (a) File an annual report;

128 (b) Pay regulatory fees;

129 (c) Provide adequate service;

130 (d) Maintain the telecommunications company's current address and telephone
131 number; or

132 (e) Comply with all applicable federal, state, and local telecommunications
133 business and technical regulations.

134

135 **WAC 480-121- 061 General requirements to classify a telecommunications**
136 **company as competitive or to classify a service provided by a**
137 **telecommunications company as competitive.**

138 (1) Initiation of classification proceedings. A telecommunications company requesting
139 competitive classification must file a petition with the commission. The petition must
140 state the effective date of the requested classification, which must be at least thirty days
141 after the filing date. The commission may initiate a competitive classification
142 proceeding on its own motion by order instituting investigation.

143 (2) Intervention. Any person desiring to participate in a competitive classification
144 proceeding may petition to intervene as provided in WAC 480-09-430.

145 (3) Additional parties. In any competitive classification proceeding the
146 commission may require all regulated telecommunications companies potentially
147 affected by the proceeding to appear as parties to determine the proper classification of
148 the affected companies.

149 (4) Burden of proof. In any competitive classification proceeding, the
150 telecommunications company has the burden of demonstrating that the company or
151 specific service(s) is subject to effective competition.

152 (5) Effective competition. Effective competition means that customers of the
153 service(s) have reasonably available alternatives and that the company does not have a
154 significant captive customer base for the service(s). The commission will consider the

155 factors outlined in RCW 80.36.320 (1) (a) - (d) when determining whether a company is
156 competitive.

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

161

162 **WAC 480-121-062 Requirements for filing a petition for competitive classification**
163 **of a telecommunications service.**

164 A petition for competitive classification of a telecommunications service must, at a
165 minimum, include:

166 (1) The name and address of the petitioning company;

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

168 (3) A description of the services it offers;

169 (4) The names and addresses of any entities that would be classified as
170 "affiliated interests" of the petitioner as defined in RCW 80.16.010; and

171 (5) A description of the service the petitioner proposes to classify as competitive.
172 With respect to each service, the petitioner must provide the following information:

173 (a) A description of all functionally equivalent or substitute services in the
174 relevant market;

175 (b) The names and addresses of all providers of the services known or
176 reasonably knowable to the petitioner;

177 (c) The prices, terms, and conditions under which the services are offered by
178 competitors to the extent known or reasonably knowable to the petitioner;

179 (d) A geographical description of the relevant market;

180 (e) An estimate of the petitioner's market share;

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

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

184 (h) A verifiable cost-of-service study supporting the contention that the price or
185 rate charged for the service covers its cost.

186

187 **WAC 480-121-063 Regulatory requirements that may be waived for competitively**
188 **classified telecommunications companies.**

189 (1) The commission may waive regulatory requirements for telecommunications
190 companies that it has classified as competitive if it determines that competition with the
191 regulatory waiver will serve the same purposes as public interest regulation.

192 (2) By order, the commission may revoke waivers of regulatory requirements if it
193 determines that revocation is necessary to protect the public interest.

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

196 (a) RCW 80.04.300 (budgets to be filed by companies-Supplementary budgets);

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

198 (c) RCW 80.04.320 (budget rules);

199 (d) RCW 80.04.330 (effect of unauthorized expenditure-Emergencies);

200 (e) RCW 80.04.360 (earnings in excess of reasonable rate-Consideration in
201 fixing rates);

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

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

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

205 (i) RCW 80.36.110 (tariff changes-Statutory notice-Exception);

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

207 (k) Chapter 80.12 RCW (transfers of Property);

208 (l) Chapter 80.16 RCW (affiliated Interests);

209 (m) Chapter 480-80 WAC (tariffs, price lists, and contracts) (except WAC 480-80-
210 2X1 use of price lists through WAC 480-80-2X5 price list availability to customers and
211 WAC 480-80-3X1 contract for service);

212 (n) Chapter 480-140 WAC (budgets);

213 (o) Chapter 480-143 WAC (transfers of property);

214 (p) Chapter 480-146 WAC (securities and affiliated interests);

215 (q) WAC 480-120-031 (accounting);

216 (r) WAC 480-120-032 (expenditures for political or legislative activities);

217 (s) WAC 480-120-043 (notice to the public of tariff changes);

218 (t) WAC 480-120-046 (services offered);

219 (u) WAC 480-120-131 (reports of accidents);

220 (v) WAC 480-120-541 (access charges);

221 (w) WAC 480-120-542 (collective consideration of Washington intrastate rate,
222 tariff, or service proposals); and

223 (x) WAC 480-120-544 (mandatory cost changes for telecommunications
224 companies).

225

226 **WAC 480-121-064 Reclassifying a competitive telecommunications company or**
227 **service.**

228 After notice and hearing, the commission may reclassify any competitive
229 telecommunications company or service if it determines that reclassification would
230 protect the public interest. The telecommunications company must demonstrate that
231 the existing competitive classification is proper and consistent with the public interest.