

AMENDATORY SECTION (Amending General Order R-510, Docket No. A-010648, filed 11/24/03, effective 1/1/04)

WAC 480-120-015 Exemptions from rules in chapter 480-120 WAC. (~~(1) The commission may grant an exemption from the provisions of any rule in this chapter, if consistent with the public interest, the purposes underlying regulation, and applicable statutes.~~

~~(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought, and provide a full explanation of the reason for requesting the exemption. In addition to any other reason, parties may allege force majeure was the factor leading to the request for waiver.~~

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

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

~~(5) The commission will enter an order granting or denying the request, or setting it for hearing, pursuant to chapter 480-07 WAC.)~~ The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modifications to the rules in this chapter; special rules).

Subpart A: General Rules

NEW SECTION

WAC 480-120-325 Definitions. The definitions in this section apply to Part VIII of this chapter.

"Affiliated interest" means a person or corporation as defined in RCW 80.16.010.

"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a company, whether through the ownership of voting shares, by contract, or otherwise.

"Subsidiary" means any company in which the telecommunications company owns directly or indirectly five percent or more of the voting securities, unless the telecommunications company demonstrates it does not have control.

NEW SECTION

WAC 480-120-331 Filing information. (1) **Filing.** The commission records center will accept any filing under WAC 480-120-365 (Issuing securities) delivered in person, by mail, telefacsimile, or electronic mail message. The commission records center will accept all other reports required in Part VIII in person, by mail, or when procedures are in place, electronic mail message.

(2) **Commission may require additional information.** The commission may require pertinent information in addition to that specified by statute or in this chapter.

(3) **Information by reference.** When any information required to support a filing is on file with the commission, it is sufficient to make specific reference to the information indicating the proceeding, report, or other filing that contains the referenced information.

(4) **When information is unavailable.** If any required information is unavailable at the time of the filing, the filing must include the reason why the information is not available and state when it will be available.

NEW SECTION

WAC 480-120-335 Additional reports. Part VIII does not supersede any reporting requirement specified in a commission order or limit the commission's ability to request additional information.

NEW SECTION

WAC 480-120-339 Streamlined filing requirements for Class B telecommunications company rate increases. (1) A Class B company, as defined in WAC 480-120-021 (Definitions), may use the streamlined treatment described in this section for seeking a general rate increase, as an alternative to the requirements in WAC 480-07-510 (General rate proceedings--Electric, natural gas, pipeline, and telecommunications companies).

(2) **General information required.** A Class B company seeking streamlined treatment for a proposed general rate increase must submit the following information at the time of filing or prior to its first notice to customers, whichever occurs first:

(a) A copy of its customer notice as specified in subsection (6) of this section.

(b) A results-of-operations statement, on a commission basis, demonstrating that the company is not presently exceeding a reasonable level of earnings. If the company is exceeding a reasonable level of earnings, the proposed increase must be reduced accordingly.

(c) All supporting documentation used to develop the results-of-operations statement, including supporting documentation for all adjustments.

(d) The results-of-operations statement filed under this subsection must include Washington intrastate results of operations. If a company cannot provide Washington intrastate results of operations with reasonable accuracy, the commission may consider the total Washington results of operations including the interstate jurisdiction.

(3) **Adjustments provided for in the results of operations.**

(a) The results-of-operations statement must provide restating actual adjustments and pro forma adjustments in accordance with (b) of this subsection.

(b) Before the achieved return is calculated, a company must adjust the booked results of operations for restating actual and pro forma adjustments, including the following:

- (i) Nonoperating items;
- (ii) Extraordinary items;
- (iii) Nonregulated operating items; and
- (iv) All other items that materially distort the test period.

(4) **Rate of return.** The authorized overall rate-of-return (for purposes of this section only) is eleven and twenty-five one-hundredths percent.

(5) **Rate design.** A Class B company filing pursuant to this section must clearly describe the basis for allocating any revenue requirement change proposed by customer class (e.g., residential, business, and interexchange).

(6) **Customer notice.** The company must notify customers consistent with the manner outlined in WAC 480-120-194 (Publication of proposed tariff changes to increase charges or restrict access to services), and must include the following information:

- (a) The proposed increase expressed in:
 - (i) Total dollars and average percentage terms; and
 - (ii) The average monthly increases the customers in each category or subcategory of service might reasonably expect;
- (b) The name and mailing address of the commission and public counsel;
- (c) A statement that customers may contact the commission or public counsel with respect to the proposed rate change; and
- (d) The date, time, and place of the public meeting, if known.

(7) **Public meeting(s).** The commission will ordinarily hold at least one public meeting in the area affected by the rate increase within forty-five days after the date of filing.

(8) **Final action.** The commission will ordinarily take final action on a filing under this section within ninety days after the date of filing.

(9) The commission may decline to apply the procedures outlined in this section if it has reason to believe that:

- (a) The quality of the company's service is not consistent with its public service obligations; or
- (b) A more extensive review is required of the company's results of operations or proposed rate design.

(10) Nothing in this rule will be construed to prevent any company, the commission, any customer, or any other party from using any other procedures that are otherwise permitted by law.

NEW SECTION

WAC 480-120-344 Expenditures for political or legislative activities. (1) The commission will not allow either direct or indirect expenditures for political or legislative activities for ratemaking purposes.

(2) For purposes of this rule political or legislative activities include, but are not limited to:

(a) Encouraging support or opposition to ballot measures, legislation, candidates for a public office, or current public office holders;

(b) Soliciting support for or contributing to political action committees;

(c) Gathering data for mailing lists that are generated for the purposes of encouraging support for or opposition to ballot measures, legislation, candidates for public office, or current office holders, or encouraging support for or contributions to political action committees;

(d) Soliciting contributions or recruiting volunteers to assist in the activities set forth in (a) through (c) of this subsection.

(3) Political or legislative activities do not include activities directly related to appearances before regulatory or local governmental bodies necessary for the utility's operations.

NEW SECTION

WAC 480-120-349 Retaining and preserving records and reports. (1) Each company must keep all records and reports required by these rules or commission order for three years unless otherwise specified in subsection (2) of this section. No records may be destroyed before the expiration of three years or the time specified in subsection (2) of this section, whichever is applicable.

(2) Each company must adhere to the retention requirements of Title 47, Code of Federal Regulations, Part 42, Preservation of Records of Communication Common Carriers published by the Federal Communications Commission. The effective date is stated in WAC 480-120-999 (Adoption by reference).

NEW SECTION

WAC 480-120-352 Washington Exchange Carrier Association (WECA). (1) The Washington Exchange Carrier Association (WECA) may:

(a) File petitions with the commission;
(b) Publish and file tariffs with the commission; and
(c) Represent before the commission those members that so authorize. WECA's rules of procedure are on file with the commission under Docket No. UT-920373, and may be obtained by contacting the commission's records center.

(2) Subject to all the procedural requirements and protections associated with company filings before the commission, WECA must submit to the commission:

(a) All initial WECA tariffs; and
(b) All changes to the tariffs.

(3) A member of WECA may file directly with the commission:

(a) Tariffs, price lists, and contracts;
(b) Revenue requirement computations;
(c) Revenue objectives;
(d) Universal service support cost calculations;
(e) Total service long run incremental cost studies;
(f) Competitive classification petition;
(g) Other reports; or
(h) Any other item it or the commission deems necessary.

(4) The commission has the authority to supervise the activities of WECA. However, such supervision will not compromise the independent evaluation by the commission of any filing or proposal that must be submitted to the commission for approval.

(5) To the extent that WECA is involved in the collection and redistribution of funds under commission orders authorizing certain revenue sharing arrangements under common tariff, it must maintain, provide, and report to the commission annual financial reports, by July 1 of each year, relating to the arrangements. Annual financial reports must include:

(a) Actual fund collections and distributions to each member company;

(b) The basis upon which the collection and distribution is made;

(c) Board membership;

(d) Special committee membership; and

(e) The status and description of any open WECA docket proceedings.

(6) Each local exchange company in the state of Washington has the option of using WECA as its filing agent, tariff bureau, or both. Companies using WECA collectively may file intrastate rates, tariffs, or service proposals.

(7) Nothing in this section will be construed as amending or modifying WECA's current methods of administration. WECA's access charge pooling administration plan is on file with the commission and may be obtained by contacting the commission's records center and requesting the "Ninth Supplemental Order in Docket No. UT-971140 with Attachment" dated June 28, 2000.

Subpart B: Accounting Requirements

NEW SECTION

WAC 480-120-355 Competitively classified companies. Competitively classified companies must keep accounts using generally accepted accounting principles (GAAP), or any other accounting method acceptable to the commission. In addition, the accounts must allow for identification of revenues for Washington intrastate operations subject to commission jurisdiction.

Subpart C: Financial Reporting Requirements

NEW SECTION

WAC 480-120-365 Issuing securities. For the purpose of this section:

"Investment grade" means a telecommunications company whose corporate credit/issuer rating is in one of the four highest rating categories of either Standard & Poor's L.L.C. or Moody's Investment Service Inc.

"Securities" means stocks, stock certificates, other evidence of interest or ownership, bonds, notes, or other

evidence of indebtedness, or any obligation or liability as guarantor.

(1) **Telecommunications company rated investment grade.** Within five business days after a telecommunications company that is rated investment grade issues a security, it must file with the commission:

(a) A description of the purposes for which the issuance was made, including a certification by an officer authorized to do so, that the proceeds from any such financing was for one or more of the purposes allowed by RCW 80.08.030;

(b) A description of the issuance, including the estimated terms of financing; and

(c) A statement as to why the transaction was in the public interest.

(2) **Telecommunications company not rated investment grade.** At least five business days before a telecommunications company that is not rated investment grade issues a security, it must file with the commission:

(a) A description of the purposes for which the issuance will be made, including a certification by an officer authorized to do so, that the proceeds from any such financing is for one or more of the purposes allowed by RCW 80.08.030;

(b) A description of the proposed issuance, including the estimated terms of financing; and

(c) A statement as to why the transaction is in the public interest.

Before issuance of the proposed security, the company must file with the commission the terms of financing.

(3) A commission order is not required for such a filing. The company may request a written order affirming that the company has complied with the requirements of RCW 80.08.040. The company must submit the request for a commission order, along with the information required in either subsection (1) or (2) of this section, at least fifteen business days before the requested effective date for the order.

(4) Filing a Registration Statement with the Securities and Exchange Commission using a shelf registration process does not constitute issuance of a security, and therefore a filing with the commission is not required under the provisions of RCW 80.08.040. A shelf registration filing is defined under the General Rules and Regulations promulgated under the Securities Act of 1933, Rule 415 - Delayed or Continuous Offering and Sale of Securities.

(5) An authorized representative must sign and date the filing and include a certification or declaration that the information is true and correct under penalty of perjury as set forth in chapter 9A.72 RCW. The certificate or declaration must be in substantially the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true

and correct."

(6) Filings under this section may be submitted with portions designated confidential pursuant to WAC 480-07-160 (Confidential information).

(7) Within sixty days after the issuance of any securities, except for dividend reinvestment and employee benefit plans, a company must file with the commission a verified statement:

(a) Outlining the final terms and conditions of the transaction; and

(b) Setting forth actual proceeds from the issuance and the disposition of proceeds stating the final amount to be used for each purpose allowed by RCW 80.08.030.

NEW SECTION

WAC 480-120-369 Transferring cash or assuming obligations.

This section does not apply to a company classified as competitive pursuant to RCW 80.36.320.

(1) At least five business days before a telecommunications company that is not rated investment grade or its subsidiary transfers cash to any of its affiliated interests or subsidiaries or assumes an obligation or liability of any of its affiliated interests or any of its subsidiaries, the company must report to the commission an estimate of the amount to be transferred and the terms of the transaction when the transaction will exceed thresholds as described in (a) or (b) of this subsection.

(a) The company must report if the cumulative transactions to a subsidiary or affiliated interest for the prior twelve months exceed a threshold of five percent, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(b) When the threshold in (a) of this subsection has been reached, the company must report each subsequent transaction exceeding a threshold of one percent for the prior twelve-month period, which is based on the prior calendar year gross operating revenue from Washington intrastate operations subject to commission jurisdiction.

(2) The reporting requirements in subsection (1) of this section do not include payments for:

(a) Federal and state taxes;

(b) Goods, services, or commodities;

(c) Transactions, attributed to the regulated entity, previously approved or ordered by the commission, other regulatory agencies, or the court;

(d) Dividends to the extent the level of such dividends

over a twelve-month period does not exceed the larger of:

(i) Net income during such period; or

(ii) The average level of dividends over the preceding three years; or

(e) Sweep or cash management accounts used to transfer funds to or from a subsidiary or affiliate as part of the customary and routine cash management functions between or among the company and its subsidiary or affiliate.

NEW SECTION

WAC 480-120-375 Affiliated interests--Contracts or arrangements. Prior to the effective date of any contract or arrangement described in RCW 80.16.020, each telecommunications company subject to the provisions of chapter 80.16 RCW must file a verified copy or a verified summary, if unwritten, of contracts or arrangements with any affiliated interest. Prior to the effective date of any modification or amendment, the company must file verified copies of the modifications or amendments to the contracts or arrangements. If the contract or arrangement is unwritten, the company must file a verified summary of any modification or amendment. The commission may institute an investigation and disapprove the contract or arrangement if the commission finds the company has failed to prove that it is reasonable and consistent with the public interest.

NEW SECTION

WAC 480-120-379 Transfers of property. Before selling, leasing, or assigning any of its property or facilities which are necessary or useful in the performance of its duties to the public, or before acquiring property or facilities of another public utility, a telecommunications company subject to the provisions of chapter 80.12 RCW must obtain from the commission an order authorizing such transaction in accordance with chapters 80.12 RCW (Transfers of property) and 480-143 WAC (Commission general--Transfers of property).

NEW SECTION

WAC 480-120-382 Annual report for competitively classified companies. The commission will distribute an annual report form including a regulatory fee form. A competitively classified company must:

(1) Complete both forms, file them with the commission, and pay its regulatory fee, no later than May 1 of each year;

(2) Provide total number of access lines as required on the annual report form;

(3) Provide income statement and balance sheet for total company; and

(4) Provide revenues for Washington and Washington intrastate operations subject to commission jurisdiction.

NEW SECTION

WAC 480-120-385 Annual report and quarterly results of operations reports for companies not classified as competitive.

(1) Annual reports for companies not classified as competitive. The commission will distribute an annual report form as specified in (c)(i), (ii), and (iii) of this subsection, and a regulatory fee form. A company not classified as competitive must:

(a) Complete both forms, file them with the commission, and pay its regulatory fee, no later than May 1 of each year;

(b) Provide total number of access lines as required on the annual report form; and

(c) Provide income statement and balance sheet for total company and results of operations for Washington and Washington intrastate.

(i) Class A companies that the FCC classified as Tier 1 telecommunications companies in Docket No. 86-182 must file annual report forms adopted by the FCC.

(ii) All other Class A companies must file annual reports on the form prescribed by the commission.

(iii) Class B companies must file annual reports as prescribed by RCW 80.04.530(2).

(2) Quarterly reports for companies not classified as competitive:

(a) All Class A companies must file results of operations

quarterly.

(b) Each report will show monthly and twelve-months-ended data for each month of the quarter reported.

(c) The reports are due ninety days after the close of the period being reported, except for the fourth-quarter report which is due no later than May 1 of the following year.

(3) Methods used to determine Washington intrastate results of operations must be acceptable to the commission.

(4) This rule does not supersede any reporting requirements specified in a commission rule or order, or limit the commission's authority to request additional information.

NEW SECTION

WAC 480-120-389 Securities report. (1) Each telecommunications company subject to the provisions of chapter 80.08 RCW that has issued securities during the prior year, must file with the commission by April 1 of each year an annual securities transaction report for the period January 1 through December 31 of the preceding year. At a minimum, the report must contain:

(a) A description of the final agreements;

(b) A description of the use of proceeds stating the amounts used for each purpose allowed by RCW 80.08.030;

(c) The level of expenses for each of the securities transactions;

(d) Information to determine the individual and collective impact on capital structure; and

(e) The pro forma cost of money for the securities transactions.

(2) The company may provide by reference the information required in subsection (1)(a), (b), and (c) of this section if the information has previously been filed with the commission.

NEW SECTION

WAC 480-120-395 Affiliated interest and subsidiary transactions report.

(1) By June 1 of each year, each telecommunications company subject to the provisions of chapter 80.16 RCW must file a report summarizing all transactions that occurred between the company and its affiliated interests, and the company and its subsidiaries, during the period January 1 through December 31 of the preceding year.

(2) The information required in this subsection must be for total company, total state of Washington, and Washington intrastate. The report must include a corporate organization chart of the company and its affiliated interests and subsidiaries.

(3) When total company transactions with an affiliated interest or a subsidiary are less than one hundred thousand dollars for the reporting period, the company must provide the name of the affiliated interest or subsidiary participating in the transactions and the total dollar amounts of the transactions. When total company transactions with an affiliated interest or subsidiary equal or exceed one hundred thousand dollars for the reporting period, the company must provide:

(a) A balance sheet and income statement for such affiliated interest;

(b) A description of the products or services provided to or from the company and each such affiliated interest or subsidiary;

(c) A description of the pricing basis or costing method, and procedures for allocating costs for such products or services, and the amount and accounts charged during the year;

(d) A description of the terms of any loans between the company and each such affiliated interest or subsidiary and a listing of the year-end loan amounts and maximum loan amounts outstanding during the year;

(e) A description of the terms and total amount of any obligation or liability assumed by the company for each such affiliated interest or subsidiary;

(f) A description of the activities of each such affiliated interest or subsidiary with which the company has transactions; and

(g) A list of all common officers and directors between the company and each such affiliated interest or subsidiary, along with their titles in each organization.

(3) The report required in this section supersedes the reporting requirements contained in previous commission orders authorizing affiliated interest transactions pursuant to chapter 80.16 RCW.

(4) The company is obligated to file verified copies of affiliated interest contracts and arrangements as stated in WAC 480-120-375 (Affiliated interests--Contracts or arrangements).

NEW SECTION

WAC 480-120-399 Access charge and universal service reporting. (1) Intrastate mechanism reporting.

(a) Until legislation creating a new universal service fund is adopted and effective and commission rules to implement the legislation are adopted and effective, each Class A company in the state of Washington and the Washington Exchange Carrier Association, must provide annually:

(i) The actual demand units for the previous calendar year for each switched access tariff rate element (or category of switched access tariff rate elements, both originating and terminating) it has on file with the commission.

(ii) Primary toll carriers (PTCs) must file, in addition to the information required in (a)(i) of this subsection, the annual imputed demand units for the previous calendar year that the company would have had to purchase from itself if it had been an unaffiliated toll carrier using feature group D switched access service (including intraLATA and interLATA, both originating and terminating demand units). For purposes of this subsection, a PTC means a local exchange company offering interexchange service(s) to retail customers using feature group C switched access service for the origination or termination of any such service(s).

(b) The report containing the information required in (a) of this subsection must be filed by July 1 of each year.

(c) Each company providing information required by this section must include complete work papers and sufficient data for the commission to review the accuracy of the report.

(2) **Annual state certification requirements for interstate (federal) mechanism.** Each eligible telecommunications carrier (ETC) in Washington receiving federal high-cost universal service support funds must provide the following to the commission not later than August 31 of each year:

(a) A certification that, during the calendar year preceding the year in which certification is made, the ETC provided the supported services required by 47 U.S.C. § 214(e)

and described in the commission order granting it ETC status;

(b) A certification that, during the calendar year preceding the year in which certification is made, the ETC advertised the availability of supported services and the charges for them as required by 47 U.S.C. § 214(e) and as described in the commission order granting it ETC status;

(c) A certification that funds received by it from the federal high-cost universal service support fund will be used only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended;

(d) The amount of all federal high-cost universal service fund support received for the calendar year preceding the year in which the filing must be made (this includes, but is not limited to, high cost loop support or "HCL," local switching support or "LSS," long term support or "LTS," interstate access support or "IAS," and interstate common line support or "ICLS");

(e) The loop counts on which federal high-cost universal service support was based for support received during the calendar year preceding the year in which the filing must be made;

(f) The certifications required in (a) through (e) of this subsection must be made in the same manner as required by RCW 9A.72.085.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 480-120-301	Accounting requirements for competitively classified companies.
WAC 480-120-303	Reporting requirements for competitively classified companies.
WAC 480-120-304	Reporting requirements for companies not classified as competitive.
WAC 480-120-305	Streamlined filing requirements for Class B telecommunications company rate increases.
WAC 480-120-311	Access charge and universal service reporting.
WAC 480-120-321	Expenditures for political or legislative activities.
WAC 480-120-322	Retaining and preserving records

WAC 480-120-323

and reports.
Washington Exchange Carrier
Association (WECA).