

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Rule-Making	)	
Proceeding Related To	)	
	)	
	)	Docket No. UT-991922
Registration, Competitive Classification	)	
and Price Lists of Telecommunications Companies,	)	
Chapter 480-121 WAC; Prepaid Calling Services,	)	
WAC 480-120-052; and Protection of Customer	)	
Prepayments, WAC 480-120-058	)	
_____	)	

Comments of Qwest Corporation

November 28, 2001

Qwest Corporation ("Qwest") files these comments in response to the Commission's November 8, 2001 Notice of Opportunity to Submit Written Comments on Proposed Rules for Registration, Competitive Classification and Price List rules for Telecommunications Companies, Chapter 480-121 WAC; Prepaid Calling Services, WAC 480-120-052; and Protection of Customer Prepayments, WAC 480-120-058. Qwest has no comments on the proposed rules at Prepaid Calling Services, WAC 480-120-052; and Protection of Customer Prepayments, WAC 480-120-058. Qwest does have concerns with the proposed rules for Registration, Competitive Classification and Price List rules for Telecommunications Companies, Chapter 480-121 WAC. In these comments, Qwest respectfully requests the following revisions to proposed Chapter 480-121 WAC:

1. Modification of proposed language at WAC 480-121-020 (3).
2. Modification of proposed language at WAC 480-121-040 (2).
3. Elimination of proposed language at WAC 480-121-040 (3).
4. Elimination of proposed language at WAC 480-121-060 (2).
5. Modification or elimination of proposed language at WAC 480-121-063 (3) (m).

Following are Qwest's specific comments on the proposed November 8, 2001 Chapter 480-121 WAC rule language:

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

Proposed WAC 480-121-020 (3) states the following:

The commission *may* require, with or without hearing, that an applicant for registration clearly show:

- (a) Adequate financial resources to provide the proposed service;
- (b) Adequate technical competence to provide the proposed service; and
- (c) Compliance with all applicable federal, state, and local telecommunications technical and business regulations.

WAC 480-121-020 (3) appears to be written in response to RCW 80.36.350 which states the following:

The commission may deny registration to any telecommunications company which:

- 1) Does not provide the information required by this section;
- 2) Fails to provide a performance bond, if required;
- 3) Does not possess adequate financial resources to provide the proposed service;
- 4) Does not possess adequate technical competence to provide the proposed service.

Qwest respectfully requests the Commission modify the introduction in WAC 480-121-020 (3) from "may" to "will". Qwest acknowledges that the current rule also states "may" at subsection (4). However, RCW 80.36.350 requires a showing of items one through four above. Once such a showing occurs, the Commission may approve an application for registration or may deny such if the showing is inadequate. Qwest does not believe RCW 80.36.350 provides the latitude proposed at WAC 480-121-020 (3).

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

Proposed WAC 480-121-040 (2) states the following:

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

- (a) Failed to provide the information required by RCW 80.36.350;
- (b) Failed to provide the performance bond described in RCW 80.36.350 and WAC 480-120-058, if required;
- (c) Does not possess adequate financial resources to provide the proposed service; or
- (d) Does not possess adequate technical competency to provide the proposed service.

Qwest respectfully requests the Commission modify the introduction in WAC 480-121-040 (2) from "may" to "will". The current rule properly states "will" at subsection (2). Modification of the rule to include "may" suggests that a company's registration may be

approved that is inconsistent with the public interest or that fails to meet the criteria outlined in the state statute.

In addition, proposed WAC 480-121-040 (3) states the following:

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

RCW 80.36.350 does not provide for denial of an application for registration based on a finding of this nature, therefore this proposed language should be stricken as it is outside the scope of the Commission's rulemaking authority. The appropriate remedy available to the Commission is to file a complaint against an alternate operator services company if it finds that the services or charges offered by the company are not consistent with the public convenience and advantage.

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

Proposed WAC 480-121-060 (2) states the following:

(2) Comply with applicable federal, state, and local technical regulations imposed on the carrier.

Proposed WAC 480-121-060 (1) (e) states the following:

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

WAC 480-121-060 (2) is unnecessary since it is included in WAC 480-121-060 (1)(e).

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

Proposed WAC 480-121-063 (3) (m) states the following:

(m) Chapter 480-80 WAC (Utilities general--Tariffs, price lists, and contracts) (except WAC 480-80-201 Use of price lists through WAC 480-80-242 Using contracts for services classified as competitive);

This proposed language waives the regulatory requirements at Chapter 480-80 WAC with some exceptions. However the exceptions are not existing rules. WAC 480-80-201 (Use of price lists) through WAC 480-80-242 (Using contracts for services classified as competitive) are proposed WACs that are not yet effective; nor have they been adopted. Therefore, WAC 480-121-063 (3) (m) should be modified to reflect existing 480-80 rules not applicable to competitively classified telecommunications companies or WAC 480-121-063 (3) (m) should be eliminated until the new rules are adopted.

In addition, once the new rules are adopted, WAC 480-121-010, -015, -020, -025 and -031 should be removed from the proposed exemptions. These rules are applicable to competitively classified telecommunications companies.