

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of:

RULEMAKING TO CONSIDER AMENDING,  
ADOPTING, AND REPEALING CERTAIN  
RULES IN WAC 480-120, TELEPHONE  
COMPANIES, RELATING TO THE  
WASHINGTON TELEPHONE ASSISTANCE  
PROGRAM AND WASHINGTON EXCHANGE  
CARRIER ASSOCIATION, AND REPAIR  
STANDARDS FOR PLANNED SERVICE  
INTERRUPTIONS AND IMPAIRMENTS

DOCKET NO. UT-160196

**INITIAL COMMENTS OF FRONTIER COMMUNICATIONS NORTHWEST INC.**

**April 4, 2016**

**I. INTRODUCTION**

1. Frontier Communications Northwest Inc. (Frontier) appreciates the opportunity to comment on the CR-101 to consider amending, adopting and repealing certain rules. Frontier supports the proposed rule changes relating to the WTAP. Likewise, Frontier supports the proposed changes addressed at repealing the rule relating to WECA, and correcting the errors in WAC 480-120-021, WAC 480-120-061, and WAC 480-120-259. Beyond that, Frontier believes that the Commission’s repeal of WAC 480-120-440, addressing repair standards for service interruptions and impairments, excluding major outages, was a conscious and deliberate decision, taken after much comment and consideration, and any attempt to advocate that the repeal was “inadvertent” is both misleading and erroneous.

**II. COMMENTS**

2. Documents accessible on the Commission’s website provide a clear record of discussion

both for and against repeal of WAC 480-120-440, and the Commission's Order Amending, Adopting, and Repealing Rules Permanently, entered in Docket UT-140680 on March 26, 2015, lists the rule as repealed on p. 4. In fact, Frontier's filed comments in that docket specifically address and support the repeal of the rule. Public Counsel from the Attorney General's Office specifically opposed repeal of the rule. The Summary Matrix of Issues by Company, also filed in the Docket on the website, records both those positions on p. 4. The UTC's own records reflect that the repeal was not inadvertent. The Docket is replete with references to both the rule and discussions thereof. Most telling perhaps is the filed document dated May 16, 2014, entitled "Staff Draft Redline WAC Rules", prepared and filed by staff, which addresses each part of Chapter 480-120, references Part IX Safety and Standards Rules, specifically references rule 440 therein and eliminates it entirely via redline. This was a rulemaking docket that extended for almost a year, with numerous parties, two rounds of written comments, a workshop, and resulted in a final order that contained the approved and revised rules, including the repeal of WAC 480-120-440. For staff to argue now that the elimination was inadvertent defies logic and appears to improperly discriminate against one segment of the industry.

3. Frontier's Initial Comments in Docket UT-140680 included the following statement:

"WAC 480-120-440 addresses repair standards for service interruptions and impairments, excluding major outages. Competition also provides sufficient incentive for LECs to repair service interruptions expeditiously. Other facilities-based carriers provide competitive pressure on LECs to maintain their networks to a high level of customer satisfaction. Otherwise, consumers will show a vote of no-confidence by switching providers."

Frontier remains convinced of the truth of this comment. The Commission, after receiving and reviewing all parties' comments, made a conscious decision to repeal the rule. Presumably, the Commission was convinced that consumers in Washington indeed

do have competitive choices for telecommunications services and are more than willing to exercise those choices if they are dissatisfied with their service. The ubiquitous availability of wireless voice and broadband service, cable voice and broadband services, satellite voice and broadband service, and CLEC-provided voice and broadband services effectively disciplines how Frontier and other providers serve their customers, including how efficiently service interruption or impairment repairs are completed. In Frontier's case, the Commission validated that the Company faces robust competition by granting Frontier's petition to be regulated as a competitive telecommunications company pursuant to RCW 80.36.320.<sup>1</sup>

4. RCW 80.36.320 sets the standard for companies, like Frontier, that have been approved by this Commission to be regulated as a competitive telecommunications company. Among other things, Section (2) of the statute states: "Competitive telecommunications companies shall be subject to minimal regulation." The Commission took additional steps last year to follow the legislature's direction in this regard by enacting certain rule changes and deletions to its rules. Among these was the determination to repeal WAC 480-120-440. In the Preproposal Statement of Inquiry (CR-101) filed on May 7, 2014 to open the docket, the Commission stated that:  
  
"Regulatory changes at both the federal and state commissions along with technological changes in the telecommunications industry have necessitated some changes to the existing WAC rules to make these rules competitively neutral among the incumbent local exchange carriers and competitive exchange carriers regulated by the Commission."  
  
Now, certain elements of staff are urging the Commission to reinstate significant service quality regulation that has the practical impact of imposing service quality rules only on

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<sup>1</sup> Final Order Approving Settlement Agreements with Conditions and Classifying Services as Competitive, Order 06, Docket UT-121994, July 22, 2013.

one portion of the industry, while competitors whose operations fall outside the jurisdiction of the Commission experience no impact. Not only would such a decision to reimpose the previously repealed standards discriminate disproportionately against Frontier and other ILECs, such a decision would run contrary to the express mandate of the legislature that Frontier shall be subject to minimal regulation. It also runs contrary to the expressed intent of the Commission to make its rules competitively neutral. No party, including staff, has made any showing that repealing WAC 480-120-440 impacted consumers in any manner, much less negatively. Before the Commission embarks on a course that runs contrary to the guidance in the statute, and its own previously expressed intent, prudence dictates that staff should have provided some rational basis for reimposing previously relaxed regulation. Otherwise, this is simply a solution in search of a problem.

### **III. CONCLUSION**

5. Frontier supports the Commission's intent to make ministerial adjustments to its rules to remove obsolete references and correct errors. However, Frontier is adamantly opposed to reimposing a form of regulation that was consciously repealed by this Commission in an extensive and well-debated rulemaking. If, as Frontier suspects, some members of staff have misgivings about the Commission's previous decision, then the appropriate process would be to attempt to convince the Commission (in spite of statutory guidance and the Commission's own expressed intent to support competitive neutrality) that such a move is required to address a demonstrated impact on consumers that cannot be remedied by competitive forces in the marketplace. Indulging the fiction that the rule's repeal was somehow inadvertent in the face of overwhelming evidence to the contrary contained in

the record in Docket UT-140680 is wrong, and a disservice to the parties and participants in that docket and to the public. Frontier respectfully requests that the Commission deny this attempt to restore the previously repealed rule, and align itself with statutory guidance and the Commission's expressed policy in the predecessor rulemaking of achieving competitive neutrality.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George Thomson, Jr.", written in a cursive style.

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