

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 Initial 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

December 26, 2001

Qwest Corporation ("Qwest") files these comments in response to the Commission's December 7, 2001 Notice of Opportunity to Comment 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. Qwest addressed these concerns in its November 28, 2001 comments. Qwest repeats its comments here to facilitate Commission review of Qwest's concerns.

Qwest also concurs with the comments of Verizon filed December 20, 2001. Qwest agrees that it is inappropriate for the Commission to adopt a rule to revoke waivers previously granted by the Commission as proposed at WAC 480-121-063.

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).

Following are Qwest's specific comments on the proposed December 7, 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.

Conclusion

Qwest appreciates the staff efforts to incorporate a number of changes proposed by the industry at the various workshops. Qwest also thanks the Commission for its involvement in the workshop process.