

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending WAC 480-120-399, and)	DOCKET NO. UT-053021
)	
)	
)	GENERAL ORDER NO. R-534
Adopting WAC 480-123- 020 through WAC 480-123-080, and WAC 480-123-999)	
)	
)	ORDER AMENDING AND
Relating to Designation and Certification of Eligible Telecommunications Carriers (ETCs))	ADOPTING RULES PERMANENTLY
)	
.....)	

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission takes this action under Notice WSR # 06-08-056, filed with the Code Reviser on March 31, 2006. The Commission brings this proceeding pursuant to RCW 80.01.040, RCW 80.04.160, RCW 80.36.600, and RCW 80.36.610.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).

3 **DATE OF ADOPTION:** The Commission adopts this rule on the date this Order is entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:**
 RCW 34.05.325(6) requires the Commission to prepare and provide to commenters a concise explanatory statement about an adopted rule. The statement must identify the Commission’s reasons for adopting the rule, a description of the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), a summary of the comments received regarding the proposed rule changes, and the Commission’s responses to the comments reflecting the Commission’s consideration of them.

5 In this docket, to avoid unnecessary duplication, the Commission designates the discussion in this Order, including appendices, as its concise explanatory statement, supplemented where not inconsistent by the staff memoranda preceding the filing of the CR-102 proposal and the adoption hearing. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

6 **REFERENCE TO AFFECTED RULES:** This rule amends or adopts the following sections of the Washington Administrative Code:

Amend WAC 480-120-399 Access charge and universal service reporting.

Adopt WAC 480-123-020 Definitions.

Adopt WAC 480-123-030 Contents of petition for eligible telecommunications carriers.

Adopt WAC 480-123-040 Approval of petitions for eligible telecommunications carriers.

Adopt WAC 480-123-050 Revocation of eligible telecommunications carrier designation.

Adopt WAC 480-123-060 Annual certification of eligible telecommunications carriers.

Adopt WAC 480-123-070 Annual certifications and reports.

Adopt WAC 480-123-080 Annual plan for universal service support expenditures.

Adopt WAC 480-123-999 Adoption by reference.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on May 4, 2005, at WSR # 05-10-100. The statement advised interested persons that the Commission was considering entering a rulemaking to consider whether to adopt rules concerning Commission designation of eligible telecommunications carriers (ETCs) pursuant to 47 U.S.C. § 214(e) and RCW

80.36.610, and annual certification concerning the use of federal universal support funds pursuant to 47 C.F.R. §§ 54.313 and .314 and WAC 480-120-311.¹

- 8 **ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT:** The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3). The Commission gave notice to all local exchange companies, to the Commission's list of persons interested in telecommunications and other agency rulemakings, to the Commission's list of telecommunication attorneys, and posted all information related to this inquiry on the Commission's website.
- 9 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on March 31, 2006, at WSR #06-08-056. By notice published at WSR #06 08 056, the Commission scheduled this matter for oral comment and adoption at 1:30 p.m., Thursday, May 18, 2006, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons an opportunity to submit written comments to the Commission.
- 10 **COMMENTERS (WRITTEN COMMENTS):** The Commission received written comments on the proposed rules from New Cingular Wireless PCS, LLC, Bellingham Cellular Partnership, Bremerton Cellular Telephone Company, Hood River Cellular Telephone Company, and Olympia Cellular Telephone Company (collectively Cingular), Public Counsel, Rural Cellular Corporation –United States Cellular Corporation (RCC-USCC), United Telephone Company of the Northwest (United), Washington Independent Telephone Association (WITA), and Verizon Northwest Inc. (Verizon). Summaries of written comments and Commission responses are contained in Appendix A, attached to, and made part of, this Order.

¹ The CR-101 contained the reference to WAC 480-120-311 along with a complete description of the topic as indicated in this paragraph. WAC 480-120-311 was recodified as WAC 480-120-399 on March 31, 2005. Subsequent notices, requests for comments, and the CR-102 referred to WAC 480-120-399.

- 11 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on Thursday, May 18, 2006, before Chairman Mark H. Sidran, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones, as previously noticed at WSR # 06-08-056. The Commission received oral comments from Cingular, Public Counsel, RCC-USCC, and Verizon. The oral comments tracked very closely the written comments previously provided to the Commission. The Commission's responses are contained in Appendix A.
- 12 **SUGGESTIONS FOR CHANGE REJECTED/ACCEPTED:** Filed comments and oral comments suggested changes to the proposed rules. Each of those suggested changes and the Commission's reason for rejecting or accepting the suggested changes are included in Appendix A..
- 13 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend and adopt the rules as proposed in the CR-102 at WSR # 06-08-056 with the changes described below.
- 14 **CHANGES FROM PROPOSAL:** The Commission adopts the proposal with the following changes from the text noticed at WSR # 06-08-056:

WAC 480-123-020 Definitions. The definition of "Service outage" is revised by removing the last sentence in the proposed definition that is unnecessary because the standard for reporting is addressed in WAC 480-123-070(2). The change does not impact the reporting requirements in WAC 480-123-070(2).

In the definition of "Substantive," the word "specific" is removed as a modifier to "benefits" because some benefits will be general in nature. The change will improve the ability of the Commission to evaluate all the benefits of the use of federal support so that that the Commission can reach conclusions for certification. Two other changes in the last sentence remove a redundancy from the definition.

WAC 480-123-030 Contents of Petition for Eligible Telecommunications Carriers. Subsection (1)(e) is revised to reflect more accurately federal and state law requirements for advertisement of all applicable telephone assistance programs.

Subsection (1)(f) – The revision is made so that subsection (1)(f) is consistent with subsection (1)(d).

WAC 480-123-050 Revocation of Eligible Telecommunications Carrier Designation. The revision corrects a citation to a federal statute by adding the subsection number.

WAC 480-123-060 Annual certification of eligible telecommunications carriers. Redundant phrases are removed from subsection (1).

WAC 480-123-070 Annual certifications and reports. Subsection (1)(a) is revised to include the title of a particular federal form used by telephone companies as an example of one method of complying with the obligation to provide substantive information.

Subsection (4) is revised to clarify an ambiguity concerning what information the Commission wants to receive insofar as complaints are concerned.

Subsection (7) is modified to be consistent with WAC 480-123-030(1)(e).

WAC 480-123-999 Adoption by Reference. The revision corrects an internal reference to WAC 480-123-020.

15 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-120-399 should be amended and WAC 480-123-020, WAC 480-123-030, WAC 480-123-040, WAC 480-123-050, WAC 480-123-060, WAC 480-123-070, WAC 480-123-080, and WAC 480-123-999 should be adopted to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

ORDER

16 **THE COMMISSION ORDERS:**

- 17* (1) The Commission amends and adopts WAC 480-120-399, WAC 480-123-020, WAC 480-123-030, WAC 480-123-040, WAC 480-123-050, WAC 480-123-060, WAC 480-123-070, WAC 480-123-080, and WAC 480-123-999 to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).
- 18* (2) This Order and the rules set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, June 27, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 8, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 1, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.