

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Rulemaking to Consider Adoption of Rules to)
Implement RCW ch. 80.54, Relating to) **Docket U-140621**
Attachments to Transmission Facilities.)
_____)

T-MOBILE WEST LLC'S REPLY COMMENTS

REGARDING DRAFT RULES

Pursuant to the Notice of Opportunity to Comment on Third Revised Draft Rules issued by the Commission on March 24, 2015, T-Mobile West LLC ("T-Mobile") hereby submits the following reply¹ to certain Opening Comments on the Third Revised Draft Rules.

I. Definition of "Owner" – WAC 480-54-020(15)

Puget Sound Energy, Inc. ("PSE") states that it "does not understand the justification for excluding the facilities of commercial mobile radio service company (CMRS) from attachment when the same CMRS company is allowed to attach to the facilities of all other owners." PSE April 17 Comments at page 10. PSE suggests removing this language in the Third Revised Draft Rules. T-Mobile urges the Commission to retain the exclusion.

PSE provides no support for its assertion that CMRS should be included in the definition of Owner. As explained in T-Mobile's February 6, 2015 Comments, excluding CMRS providers

¹ Some pole owners continue to advocate for numerous revisions to the rules – revisions T-Mobile continues to find objectionable. While T-Mobile has focused its reply comments on only certain limited issues, this should not be interpreted to mean that it agrees with all other revisions proposed by other commenting parties.

from the definition of Owner is appropriate and consistent with the intent of RCW 80.54.² Further, it is consistent with the FCC's pole attachment regime and structure.³

II. WAC 480-54-030(2)

T-Mobile objects to PSE's recommendation that filing a pole attachment complaint regarding rates, terms, or conditions in a pole attachment agreement should have "the effect of voiding the agreement as the pole owner may have made concessions in the agreement that it would not make knowing that the requester was going to file a complaint." PSE Comments at page 11.

Such a provision, if adopted, would mean that the owner could void the entire agreement, such that while a complaint was pending at the Commission, a company would not be able to attach to any poles covered by the underlying Agreement. This would deter a company from filing complaints because it would hinder deployment of all attachments while the complaint was pending. T-Mobile urges the Commission to reject PSE's proposal.

III. Next Steps and Implementation Timeline

PSE asks the Commission to circulate another rewrite of the proposed rules, followed by another round of comments. T-Mobile disagrees with this approach. The Commission has to date circulated three proposed drafts of rules and invited multiple rounds of comments. Staff circulated a detailed matrix addressing parties' comments. Two workshops have been held and interested parties have had ample opportunity to provide comment to the Commission.

² In those same comments, T-Mobile also noted that no parties to this proceeding had at any point asserted that Chapter 80.54 applies to wireless carriers. PSE's eleventh hour attempt to change the entire scope and nature of this rulemaking should be rejected.

³ Under federal law, the obligation to provide nondiscriminatory access to poles, ducts, conduits, and rights of way applies exclusively to a "utility," which includes only local exchange carriers, electric, gas, water, steam, or other public utilities. 47 U.S.C. §224(a). Commercial Mobile Radio Service ("CMRS") providers do not fall within this definition.

Likewise, T-Mobile asks the Commission to reject PSE's request for a two-year period to implement the rules. This would result in too lengthy of a delay without adequate justification.

IV. Conclusion

For the foregoing reasons, T-Mobile recommends the Commission reject the PSE proposals addressed herein.

Respectfully submitted this 1st day of May, 2015.

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