

AMENDATORY SECTION (Amending General Order No. R-499, Docket No. UT-991922, filed 5/14/02, effective 6/17/02)

WAC 480-121-011 Application of rules. (1) The rules in this chapter apply to any telecommunications company that is subject to the jurisdiction of the commission as to rates and services under the provisions of RCW 80.01.040 and chapters 80.04 and 80.36 RCW.

(2) Price list provisions filed by telecommunications companies must conform with these rules. If the commission accepts a price list that conflicts with these rules, the acceptance does not constitute a waiver of these rules unless the commission specifically approves the variation consistent with WAC 480-121-015. Price lists that conflict with these rules without approval are superseded by these rules.

(3) Any affected person may ask the commission to review the interpretation of these rules by a telecommunications company or customer by posing an informal complaint under WAC ((~~480-09-150~~)) 480-07-910 (Informal complaints) or by filing a formal complaint under WAC ((~~480-09-420 (Pleadings and briefs-- Applications for authority--Protests)~~)) 480-07-370 (Pleadings-- General).

(4) No deviation from these rules is permitted without written authorization by the commission. Violations will be subject to penalties as provided by law.

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WAC 480-121-015 Exemptions from rules in chapter 480-121 WAC. (1) The commission may grant an exemption from the provision of any rule in this chapter, if consistent with the public interest, with the purposes underlying regulation and with applicable statutes.

(2) To request a rule exemption, a person must file with the commission a written request identifying the rule for which an exemption is sought, giving a full explanation of the reason for requesting the exemption.

(3) The commission will assign the request a docket number, if it does not arise in an existing docket, and will schedule the request for consideration at one of its regularly scheduled

open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the person requesting the exemption, and other interested persons, of the date of the hearing or open meeting when the commission will consider the request.

(4) In determining whether to grant the request, the commission may consider whether application of the rule would impose undue hardship on the petitioner, of a degree or a kind different from hardship imposed on other similarly situated persons, and whether the effect of applying the rule would be contrary to the purposes of the rule.

(5) The commission will enter an order granting or denying the request or setting it for hearing, pursuant to chapter ((480-09)) 480-07 WAC.

AMENDATORY SECTION (Amending General Order No. R-499, Docket No. UT-991922, filed 5/14/02, effective 6/17/02)

WAC 480-121-061 General requirements to classify a telecommunications company as competitive or to classify a service provided by a telecommunications company as competitive.

(1) Initiation of classification proceedings. A telecommunications company requesting competitive classification must file a petition with the commission. The petition must state the effective date of the requested classification, which must be at least thirty days after the filing date. The commission may initiate a competitive classification proceeding on its own motion by order instituting investigation.

(2) Intervention. Any person desiring to participate in a competitive classification proceeding may petition to intervene as provided in WAC ((480-09-430)) 480-07-355.

(3) Additional parties. In any competitive classification proceeding the commission may require all regulated telecommunications companies potentially affected by the proceeding to appear as parties to determine the proper classification of the affected companies.

(4) Burden of proof. In any competitive classification proceeding, the telecommunications company has the burden of demonstrating that the company or specific service(s) is subject to effective competition.

(5) Effective competition. Effective competition means that customers of the service(s) have reasonably available alternatives and that the company does not have a significant captive customer base for the service(s). The commission will consider the factors outlined in RCW 80.36.320 (1)(a) through

(d) when determining whether a company is competitive.

(6) The competitive classification becomes effective on the stated effective date unless the commission suspends the proposed classification. If the commission suspends a proposed classification, it will enter a final order within six months from the date the petition was filed.