

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

**In Re Rules Relating to Price Lists  
Commission General – Tariffs:  
WAC 480-80-035**

**DOCKET NO. U-991301**

**COMMENTS OF VERIZON**

**March 2, 2001**

## I. INTRODUCTION

Verizon Northwest Inc. and Verizon Select Services Inc. (collectively "Verizon") submit these comments on the proposed price list rule pursuant to the Commission's Notice of Opportunity to File Written Comments dated February 9, 2001. Verizon appreciates the efforts of the Commission staff in this extensive rulemaking process. Verizon continues, however, to have serious concerns with the proposed rules.<sup>1</sup>

The Staff's primary goal in revising the "price list" rule is to substantially change how price lists are handled and to significantly diminish - - if not eliminate - - their legal effect. This approach is overreaching and inconsistent with the controlling statutes and should be firmly rejected.

This rulemaking does present the Commission with the opportunity, however, to modify the existing rule in a manner that will streamline processes and benefit consumers. Attached to these comments is an edited version of the Staff's draft rules that eliminates their overreaching aspects and sets forth beneficial changes. A clean copy of Verizon's revised proposed rules is also provided.

## II. COMMENTS

### **WAC 480-80-035 (1) – Definition, interpretation , and application of price lists.**

This draft section contains the most egregious proposals.

Washington law specifies the use of "price lists" rather than "tariffs" for the provision of competitive services.<sup>2</sup> The legislature specified the use of price lists as part

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<sup>1</sup> See also Verizon's December 12, 2000 comments.

<sup>2</sup> This statutory prescription applies to the services of competitively classified companies and to the competitively classified services of other companies. RCW 80.36.320 and -.330.

of a scheme of "minimal regulation" for competitive services, i.e., a streamlined approach that minimizes the burdens on competitive companies and services. The fact that the legislature prescribed their use means that it intended for price lists to be useful - - not to be the meaningless pieces of paper that the draft rules envision. Moreover, as explained in Verizon's prior comments, the Staff's approach would significantly increase administrative burdens and costs - - precisely the result the legislature directed be avoided.

Draft section (1) should be purged of its overreaching components and reworded to perform the same straightforward function as the current WAC 480-120-027: advising the reader that the "price lists" with which this rule deals are simply what are used for competitive services rather than "tariffs." Verizon's attached draft accomplishes this, and also introduces the fact that contracts may be used for competitive services.

#### **WAC 480-80-035 (2) - Form and content of price lists.**

This draft section makes unnecessarily complex what is simple in the current WAC 480-120-027 and, thereby, departs from the controlling statute. Verizon's edits remedy this problem.

Verizon's revised subsection (a) simply sets forth the requirement that competitive services be provided pursuant to price lists filed with the Commission, which is what the law contemplates and what current WAC 480-120-027 provides.

Staff's draft subsection (b) states the obvious and is not, therefore, really needed. But Verizon has not deleted it from its draft.

Staff's draft subsection (c) includes one provision consistent with the law, which Verizon retains and expands, and one unworkable provision, which Verizon deletes. As the law specifies, a price list filing must be made at least 10 days before it is desired to become effective. Verizon's proposal clarifies that a company may specify an effective date later than ten days after filing, should it wish to do so (e.g., to account for possible delays in a mailed filing being delivered to the Commission, or to avoid a weekend effective date).

Staff proposes to impose an "actual notice" requirement. This is entirely unworkable. The Company could not literally prove actual notice unless it personally delivered information to each and every customer - - an administrative burden clearly inconsistent with the legislature's intent.

Staff's proposed subsections (d) and (e) are redundant of subsection (a). Moreover, it includes a competitively unneutral proposal for price listed rate ceilings for some companies but not others [draft (d)(iii)], which has no basis in the statutes and violates section 253 of the Telecommunications Act of 1996. Verizon has, therefore, deleted these subsections.

### **WAC 480-80-035 (3) – Publication and disclosure of price lists to customers.**

Staff's proposal to mandate website listings and free price list copies ignores the fact that this rule deals with competitive services - - services for which customers by definition have alternatives. Website postings and free price list copies may be attractive and valuable to some customers (and, therefore, to some telecommunications providers) but not to others. Verizon has, therefore, deleted this section.

#### **WAC 480-80-035 (4) - Filing of contracts for service.**

Staff's draft of this subsection makes a good addition to the Commission's rule, but concludes by perpetuating unnecessary regulatory burdens. Verizon's draft corrects these problems and accomplishes the streamlining contemplated by the statute and necessitated by the marketplace.

Staff's draft subsection (a) restates the provision of WAC 480-120-027(3) that contracts for competitive services must be filed with the Commission. Verizon's version clarifies this requirement, which is amplified by subsection (b).

Staff's draft subsection (c) appropriately liberalizes the current filing requirement as to timing and equalizes it for all companies. Verizon's draft adds a time limit on possible rejection by the Commission in order to eliminate uncertainty for the company and the customer, but specifies that rejection would void an effective contract on a prospective basis, in order to prevent customers from receiving free service. Verizon's proposal also provides companies up to 30 days to make the filing. While Verizon anticipates making most filings in less time (and is incented to do so by the rejection period), on occasion circumstances make meeting a 15 day deadline a hardship (e.g., contracts with national customers executed out-of-state; holiday seasons).

Staff's draft subsection (d) perpetuates a regulatory disparity that is not required by the statute or the marketplace. It is time to eliminate it. Staff's draft would require cost support filings for competitive services (those under RCW 80.36.330) but not for competitive company services (RCW 80.36.320). This is a significant burden that slows down market action and is not required by the statute.

While RCW 80.36.330 includes a price floor provision<sup>3</sup> but RCW 80.36.320 does not, it does not require a company to make a cost showing to the Commission when the contract is filed. Rather, it simply puts the burden of proof on the company should the Commission initiate a complaint and provides a remedy [RCW 80.36.330(4) and (5)]. Verizon has, therefore, deleted most of Staff's draft subsection (d).

Since RCW 80.36.330(3) does, however, direct the Commission to set cost standards, Verizon retains a portion of Staff's draft subsection (d)(ii).

Lastly, Staff's draft subsection (d)(i) retains the portion of WAC 480-120-027(3)(b) that requires the cumbersome use of multiple contracts for customers that want both price listed and tariffed services. RCW 80.36.330 does not require this, and this frustrating anti-consumer mandate should be terminated. Therefore, Verizon has added as subsection (e) a clear statement that a single contract document may (at the company's option) include both price listed and non-price listed services, with the non-price listed intrastate regulated service portion being subject to the filing requirements of WAC 480-80-330.

### III. SUMMARY

The Commission has an opportunity in this docket to make positive changes to its price list rule that will streamline regulation and reduce burdens in line with the legislature's intent. To do so it must reject Staff's draconian draft rules and adopt Verizon's common sense proposal.

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<sup>3</sup> RCW 80.36.330(3).