

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Rule-Making
Proceeding Related To

Commission General – Tariffs:
Chapter 480-80 WAC

DOCKET NO. U-991301

Comments of Public Counsel

Attorney General of Washington

May 31, 2001

Public Counsel files these comments in response to the Commission's May 9, 2001 Notice of Opportunity to File Written Comments. We look forward to participating in this rulemaking and attending the June 12, 2001 workshop.

General Comments

Public Counsel supports the Commission's efforts to revise the price list rule applicable to services classified by the Commission as competitive to improve the important notice and disclosure functions that are not currently served by the existing rule. Public Counsel supports enhancing the notice and disclosure requirements of the rule to better inform customers of the prices, terms, and conditions that govern their relationship with the company providing their telecommunication services that have been classified as competitive.

Public Counsel remains concerned that the current practice of price listing does not provide adequate notice to customers of the price, terms, and conditions of the telecommunication services they seek which have been classified by the Commission as

competitive. While the current price listing mechanism is imperfect, it does provide at least a theoretical notice function. Public Counsel believes that any exception to the price list filing requirements should include a mechanism that provides direct notice to customers of the prices, terms, and conditions governing their relationship with a telecommunications company providing services that have been classified as competitive.

Specific Issues

480-120-2X2

Public Counsel supports this revision to clarify existing Commission practice. Public Counsel believes the actual notice a company provides a customer of the price, terms, and conditions applicable to the telecommunications service the company is offering should govern any dispute regarding the service. Given that most residential and small business customers are not offered individualized contracts or service offerings it is similarly appropriate to construe ambiguities in the customer's favor.

480-120-2X3(6)

Subsection six (6) contains a new proposal to allow services competitively classified under RCW 80.36.330 to be offered under a "banded rate" price list. Public Counsel is concerned that this creates a risk of sales personnel engaging in "bait and switch" within the rate band.

To address this concern Public Counsel would propose the following addition to proposed rule 480-80-2X2:

(4) In any dispute regarding the price for a service offered under price list pursuant to WAC 480-80-2X3(6) the commission will construe any conflict or ambiguity in favor of the customer.

This revision would allow the non-judicial resolution of such disputes by the Commission and create an appropriately measured disincentive for "bait and switch" sales practices.

480-120-2X4

Public Counsel supports the inclusion of actual notice to customers in this version of this rule as one element which may establish the effective date of a filed price list.

480-80-2X5

Public Counsel supports increasing customer notice of the price, terms, and conditions applicable to the services they purchase. We recommend that subsection one include a requirement that companies prominently place a statement on their website advising customers that a copy of the price list can be obtained by calling a toll free number, 800-XXX-XXXX..

480-120-100

Public Counsel would like to know why Commission staff is proposing that payment agencies no longer notify customers of the availability of tariffs or price lists.

Conclusion

Public Counsel looks forward to working with the Commission Staff and interested parties at the June 12th workshop to improve the consumer protections available in today's increasingly competitive environment in a competitively neutral manner.