

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

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| In The Matter of the Application and |) | |
| Petition of |) | DOCKET UT-010762 |
| |) | |
| Powertelnet Communications, Inc., |) | ORDER AUTHORIZING |
| |) | REGISTRATION AND |
| For Registration as a Telecommunications |) | GRANTING PETITION FOR |
| Company and Classification as a |) | COMPETITIVE |
| Competitive Telecommunications |) | CLASSIFICATION |
| Company. |) | |
| |) | |

BACKGROUND

1 By petition filed May 23, 2001, in Docket UT-010762, Powertelnet Communications, Inc., (Powertelnet) seeks registration as a telecommunications company and classification as a competitive telecommunications company pursuant to RCW 80.36.350 and 80.36.320. Powertelnet also filed an initial price list.

DISCUSSION

2 Powertelnet proposes to register with the Commission as a telecommunications company to offer the services specified in Exhibit A of its application. Services specified in Exhibit A but not included in its initial price list may not be offered until applicant amends its price list to include the description of service with rates and charges. In support of its petition, Powertelnet asserts that its services compete with other interexchange and local exchange carriers' telecommunications services. Powertelnet states that customers have readily available, equivalent alternatives and that there are no captive customers of the Company's services.

3 Powertelnet is a Washington corporation headquartered in Prosser, Washington, and is owned by Benton County Rural Electric Association. Rates, terms, and conditions set forth in the initial price list are structured similarly to rates filed by other interexchange and local exchange carriers for calls placed in the relevant market.

4 Powertelnet has provided information showing that it meets the requirements of RCW 80.36.350. Applicant does not propose to collect deposits from customers, or provide prepaid calling services.

5 In conjunction with classification, the Company is seeking waiver of:

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| RCW 80.04.300 | Budgets to be filed by companies— Supplementary budgets |
| RCW 80.04.310 | Commission's control over expenditures |
| RCW 80.04.320 | Budget Rules |
| RCW 80.04.330 | Effect of unauthorized expenditure— Emergencies |
| RCW 80.04.360 | Earnings in excess of reasonable rate— Consideration in fixing rates |
| RCW 80.04.460 | Investigation of accidents |
| RCW 80.04.520 | Lease of utility facilities |
| RCW 80.36.100 | Tariff schedules to be filed and open to public |
| RCW 80.36.110 | Tariff changes—Statutory notice—Exception |
| Chapter 80.08 RCW | Securities (except RCW 80.08.140) |
| Chapter 80.12 RCW | Transfers of Property |
| Chapter 80.16 RCW | Affiliated Interests |
| Chapter 480-80 WAC | Tariffs |
| Chapter 480-140 WAC | Budgets |
| Chapter 480-143 WAC | Transfers of Property |
| Chapter 480-146 WAC | Securities and Affiliated Interests |
| WAC 480-120-026 | Tariffs |
| WAC 480-120-031 | Accounting |
| WAC 480-120-032 | Accounting-Political information and political education activities |
| WAC 480-120-036 | Finance—Securities, affiliated interests, transfer of property |
| WAC 480-120-046 | Services offered |
| WAC 480-120-131 | Reports of accidents |

6 Rules invoked include WAC 480-121-061, WAC 480-121-062, WAC 480-121-063, and WAC 480-121-064. Statutes invoked include RCW 80.36.320 and 80.36.350. The ultimate issues are whether Powertelnet should be registered as a telecommunications company, whether it should be classified as a competitive telecommunications company, and the extent to which it should be relieved of regulatory requirements to which it would otherwise be subject.

7 This matter was brought before the Commission at its regularly scheduled open meeting on June 13, 2001. The Commissioners, having been fully advised in the matter, and having determined the following order to be consistent with the public interest, directed the Secretary to enter the following order and related provisions.

FINDINGS OF FACT

- 8 (1) Powertelnet filed an application for registration as a telecommunications company and a petition for classification as a competitive telecommunications company pursuant to the provisions of RCW 80.36.350 and 80.36.320, to provide the services specified in Exhibit A of its application.
- 9 (2) As to form, the application and petition meet the requirements of RCW 80.36.350 and 80.36.320, and comply with the Commission's rules and regulations.
- 10 (3) The registration of Powertelnet as a telecommunications company is not inconsistent with the public interest.
- 11 (4) In this proceeding, the Commission in no way endorses the financial viability of applicant nor the investment quality of any securities it may issue.
- 12 (5) Alternative providers of service to that of Powertelnet, include but are not limited to, Qwest Corporation, Verizon Northwest, Inc., MCI WorldCom Communications, Inc., and Sprint Communications Company L.P. All services are fully available from alternative providers in the relevant market.
- 13 (6) The relevant market is the state of Washington.
- 14 (7) Powertelnet has no captive customer base.
- 15 (8) Powertelnet should be permitted to provide services under price list.
- 16 (9) Powertelnet requested waivers of certain laws and rules relating to telecommunications services. The laws and rules for which waivers should be granted are listed in Appendix A, incorporated by this reference and made a part of this Order.

CONCLUSIONS OF LAW

- 17 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this registration application and classification petition and Powertelnet.
- 18 (2) The services offered are subject to effective competition.

- 19 (3) Powertelnet should be registered as a telecommunications company pursuant to RCW 80.36.350, and classified as a competitive telecommunications company pursuant to RCW 80.36.320(1).
- 20 (4) Powertelnet should be permitted to provide services under price lists promulgated under RCW 80.36.320(2). These services shall not include collecting deposits from customers, or providing prepaid calling services.
- 21 (5) Powertelnet should be granted waivers of the laws and rules listed in Appendix A.

ORDER

THE COMMISSION ORDERS:

- 22 (1) Effective on the date of this Order and subject to any conditions imposed, the Commission approves the application of Powertelnet Communications, Inc., requesting an order authorizing registration as a telecommunications company to provide service to the public in this state.
- 23 (2) The Commission approves the petition of Powertelnet Communications, Inc., for classification as a competitive telecommunications company; and grants a waiver of the laws and rules listed in the attached Appendix A.
- 24 (3) Powertelnet Communications, Inc., shall be permitted to provide services under price list.
- 25 (4) Registration of Powertelnet Communications, Inc., as a telecommunications company shall not be construed as an endorsement of financial viability or of the investment quality of any securities it may issue.
- 26 (5) As a telecommunications company providing service to the public in this state, Powertelnet Communications, Inc., is subject to the jurisdiction of this Commission under the provisions of Title 80 RCW and all rules and regulations adopted by the Commission.
- 27 (6) Powertelnet Communications, Inc., is authorized to offer rates and services pursuant to the price list in the format prescribed by the Commission. Services specified in Exhibit A but not included in its initial price list may not be offered until applicant amends its price list to include the description of service with rates and charges. Any price list filed by Powertelnet Communications, Inc., and subsequent changes to these price lists, shall become effective only after ten days' notice to the Commission and to customers. In the event of a price list reduction or of a change in terms and

conditions that do not have rate impact, personal notice to customers is not required. To comply with the statutory notice requirement, Powertelnet Communications, Inc., may publish notice of price reductions or changes in terms and conditions of service that do not have rate impact by a display advertisement in such newspaper(s) as are geographically situated to be circulated over the Company's service area.

- 28 (7) Powertelnet Communications, Inc., must comply, as specified, with the requirements of WAC 480-120-141, operator service providers rule.
- 29 (8) Powertelnet Communications, Inc., is not authorized to collect deposits from customers or provide prepaid calling services.
- 30 (9) The Commission retains jurisdiction over the subject matter and the Company to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective this 13th day of June, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary

APPENDIX A

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| RCW 80.04.300 | Budgets to be filed by companies--Supplementary budgets |
| RCW 80.04.310 | Commission's control over expenditures |
| RCW 80.04.320 | Budget rules |
| RCW 80.04.330 | Effect of unauthorized expenditure--Emergencies |
| RCW 80.04.360 | Earnings in excess of reasonable rate--Consideration in fixing rates |
| RCW 80.04.460 | Investigation of accidents |
| RCW 80.04.520 | Lease of utility facilities |
| RCW 80.36.100 | Tariff schedules to be filed and open to public |
| RCW 80.36.110 | Tariff changes--Statutory notice--Exception |
| Chapter 80.08 RCW | Securities (Except RCW 80.08.140, State not obligated) |
| Chapter 80.12 RCW | Transfers of Property |
| Chapter 80.16 RCW | Affiliated Interests |
| Chapter 480-80 WAC | Tariffs, Price Lists, and Contracts (except 480-80-035 Price Lists and 480-80-325 Contract for Service) |
| Chapter 480-140 WAC | Budgets |
| Chapter 480-143 WAC | Transfers of Property |
| Chapter 480-146 WAC | Securities and Affiliated Interests |
| WAC 480-120-026 | Tariffs |
| WAC 480-120-031 | Accounting |
| WAC 480-120-032 | Accounting-Political information and political education activities |
| WAC 480-120-036 | Finance--Securities, affiliated interests, transfer of property |
| WAC 480-120-043 | Notice to the Public of Tariff Changes |
| WAC 480-120-046 | Services offered |
| WAC 480-120-131 | Reports of accidents |
| WAC 480-120-541 | Access charges |
| WAC 480-120-542 | Collective consideration of Washington intrastate rate, tariff, or service proposals |
| WAC-480-120-543 | Caller identification service |
| WAC 480-120-544 | Mandatory cost changes for telecommunications companies |