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8 **BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

9 PETITION FOR WAIVER OF WAC 480-120-
10 081; RCW 80.36.410--80.36.475; WAC 480-
11 120-083

Docket No. UT-_____

BG ENTERPRISES, INC., d/b/a GRIZZLY
TELEPHONE'S PETITION FOR WAIVER

12 BG Enterprises, Inc.(a Montana Corporation), d/b/a Grizzly Telephone, (“Grizzly”)
13 hereby petitions the Washington Utilities and Transportation Commission (“Commission”) for
14 clarification or, in the alternative, waiver of following sections of the Washington
15 Administrative Code: WAC 480-120-081 and/or WAC 480-120-083 and/or RCW 80.36.410--
16 80.36.475. These rules generally apply to the discontinuance of service of telecommunication
17 customers and the termination of telecommunication services to some or all customers. The
18 statutory provisions relate to State requirements obligating it to provide services under the
19 Washington Telephone Assistance Program (WTAP).

20 **INTRODUCTION**

21 On June 3, 2003, the Washington Department of Social and Health Services informed
22 Grizzly Telephone that it had adopted an emergency rule-making order significantly changing
23 the terms and conditions upon which it would reimburse telecommunication companies which
24 were providing services under the WTAP. Specifically, the emergency rule reduces the

1 maximum amount that the Department will reimburse a telecommunication provider to the same
2 amount paid to an incumbent local carrier or for a maximum of \$19.00. Because of the
3 significant impact these changes will have for Grizzly, the company brings this matter to the
4 Commission under the provisions of WAC 480-120-015. The basis for the request is set forth
5 below.

6
7 **BACKGROUND**

8 Grizzly is a Competitive Local Exchange Carrier (CLEC) that resells telecommunication
9 services in the State of Washington. Grizzly currently provides service to 504 Washington
10 customers. In July of 2002, the WUTC determined that, because Grizzly had more than 100
11 Washington customers, it must offer service to customers that the Department of Social & Health
12 Services (DSHS) certified as eligible for assistance through the Washington Telephone
13 Assistance Program (WTAP).

14 DSHS stated that it would reimburse Grizzly its standard monthly rate Grizzly
15 Telephone's regular monthly rate of \$49.99 per month per customer less \$4.00 (the amount that
16 the customer pays to participate in the program) and taxes that would be paid by the customer.
17 Grizzly has attempted to obtain reimbursement for the federal access charge through Lifeline and
18 Linkup has been unable it is not an incumbent local exchange carrier.

19 Grizzly purchases the service that it resells to its WTAP and other Washington customers
20 from Qwest. It pays Qwest \$18.80 per month for each resold line plus tax.

21 Grizzly's costs for its services are set forth below:

22 Residence Line	10.66
23 Toll Restriction of Individual & Key Lines	1.71
Federal Access Charge	6.00
Federal Charge for Service Provider Number	.43
24 Total Telephone Charges	<u>\$ 18.80</u>

1	Federal Excise Tax	.56
	State 911	.20
2	Local 911	.50
	TRS Excise Funds	.14
3	Telephone Assistance Program	.13
	Subtotal Taxes	\$ 1.53
4		
	Average Total Qwest charge for residential service	\$ 20.33

5
6 Grizzly's monthly overhead cost per customer is approximately \$21.42 according to its
7 2002 profit and loss statement. The overhead costs break down as follows: Grizzly had
8 approximately 1518 customers in all of its areas of operations (Washington, Idaho, Montana,
9 Oregon, & Iowa) for the year 2002. Expenses for that year were \$914,759. Overhead costs are
10 considered the gross expenses (\$914,759) less payments on debt, listed as contracts on 2002
11 P&L, (\$33,866), less telephone charges (\$496,069) plus interest expense of the debt (\$6,025) for
12 a total overhead cost of (\$390,849). Dividing this among all of its customers, this equals
13 \$257.48 per year per customer or \$21.46 per customer per month.¹

14 **DISCUSSION**

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16 Combining the costs of overhead with the fixed costs for service, Grizzly's actual cost of
17 telephone service that it resells is \$18.80 plus \$21.46 or \$40.26 per customer per month plus tax.

18 DSHS proposes to pay the "same rate that is available to the incumbent telephone
19 companies." Grizzly deals exclusively with Qwest from whom it purchases the services that it
20 later resells. Grizzly is not privy to what DSHS reimburses Qwest, we ascertain it to be the
21 standard Qwest local phone service Rate (\$12.50) less customer reimbursement (\$4.00) or \$8.50
22 per month. This compensation scheme will likely work for Qwest because that company is

23 _____
24 ¹ The 2002 Profit and Loss Statement is attached and marked as exhibit "A." A representative bill for Qwest service is attached and marked as Exhibit "B." A list of all of Grizzly's WTAP customers is attached and marked as exhibit "C."

1 entitled to reimbursement from the federal Lifeline Link up service of \$6.00 federal Access
2 charge. Grizzly, for the reasons specified above, is not. This allows Qwest to remain financially
3 whole while complying with the WAC 480-122-020.

4 Grizzly, as a reseller, is not eligible for federal reimbursement. Therefore, under the new
5 DSHS reimbursement rate established June 1, 2003, Grizzly's costs per customer are \$40.26. Its
6 reimbursement will be between \$12.50—and \$19.00. This means that Grizzly will suffer a loss
7 of between \$27.76--\$21.26 per customer per month under the new guidelines. Extrapolating
8 these costs to all of Grizzly's 276 WTAP customers will result in a loss of as much as \$7662 per
9 month. Any new customer would pose an even greater loss as Grizzly does not charge either the
10 customer or WTAP for installation even though the Grizzly pays Qwest \$35.00 for the average
11 installation.

12 The new payment schedule established by the DSHS imposes upon Grizzly "undue
13 hardship, of a degree or a kind different from the hardships imposed on similarly situated
14 persons" (incumbent local exchange carriers such as Qwest) as required by WAC 480-120-015.
15 In addition, Grizzly requests exemption from WAC 480-122-020 and RCW 80.36.410-475
16 because of the hardship that provision of such service will impose upon the company.

17 Additionally, Grizzly requests exemption from WAC 480-120-081 (Discontinuance of
18 service), for WTAP customers for whom Grizzly Telephone is currently providing service.
19 Unless the WUTC grants these exemptions, Grizzly will quickly be out of business.

20 CONCLUSION

21 Grizzly's ability to provide services to WTAP customers depends entirely on the
22 reimbursement that the State of Washington previously provided before the adoption of the
23 emergency order. Grizzly had no opportunity to appear and comment upon the impacts of the
24 rule prior to its adoption. Grizzly has, however, extended service to 276 WTAP as it is required

1 to by administrative regulation. Unless the emergency order is suspended or otherwise held in
2 abeyance, Grizzly will lose as much as \$7662 this month and each month that it is required to
3 provide services for which it does not receive full compensation.

4 Because Grizzly cannot continue to provide services at a loss, it respectfully request
5 waiver from WAC 480-12-081, requiring 30 days notice prior to termination of services. In
6 addition, Grizzly requests an exemption from RCW 80.36.410-475.

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RESPECTFULLY SUBMITTED this ____ day of June, 2003.

BG Enterprises, Inc.(a Montana Corporation)
d/b/a Grizzly Telephone

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Petition on
June 5, 2003, via U.S. Mail, postage pre-paid, certified and return receipt requested, to the
following:
