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

6 PETITION FOR WAIVER OF WAC 480-120-  
7 081; RCW 80.36.410--80.36.475; WAC 480-  
120-083

Docket No. UT-\_\_\_\_\_  
Stan Efferding dba Vilaire  
PETITION FOR WAIVER

9  
10 Stan Efferding dba Vilaire (an Oregon Sole Proprietorship), (Vilaire) hereby petitions the  
11 Washington Utilities and Transportation Commission (“Commission”) for clarification or, in the  
12 alternative, waiver of following sections of the Washington Administrative Code: WAC 480-  
13 120-081 and/or WAC 480-120-083 and/or RCW 80.36.410--80.36.475. These rules generally  
14 apply to the discontinuance of service of telecommunication customers and the termination of  
15 telecommunication services to some or all customers. The statutory provisions relate to State  
16 requirements obligating it to provide services under the Washington Telephone Assistance  
Program (WTAP).

17 **INTRODUCTION**

18 On June 3, 2003, the Washington Department of Social and Health Services informed  
19 Vilaire that it had adopted an emergency rule-making order significantly changing the terms and  
20 conditions upon which it would reimburse telecommunication companies which were providing  
21 services under the WTAP. Specifically, the emergency rule reduces the maximum amount that  
22 the Department will reimburse a telecommunication provider to the same amount paid to an  
23 incumbent local carrier less customer and federal contributions (effectively \$5). Because of the  
24 significant impact these changes will have for Vilaire, the company brings this matter to the

1 Commission under the provisions of WAC 480-120-015. The basis for the request is set forth  
2 below.

3  
4 **BACKGROUND**

5 Vilaire is a Competitive Local Exchange Carrier (CLEC) that provides  
6 telecommunication services in the State of Washington through a combination of resale and lease  
7 of Qwest Communications products and facilities. Vilaire currently provides service to 4,700  
8 Washington customers.

9 DSHS stated that it would reimburse Vilaire its standard monthly rate of \$49.99 per  
10 month per customer less \$4.00 (the amount that the customer pays to participate in the program).

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

13 Vilaire's costs for its services are set forth below:

14

15 Residence Line	10.66
Toll Restriction of Individual & Key Lines	1.71
Federal Access Charge	6.00
16 Federal Charge for Service Provider Number	<u>.43</u>
Total Telephone Charges	\$ 18.80
17 Federal Excise Tax	.56
State 911	.20
18 Local 911	.50
TRS Excise Funds	.14
19 Telephone Assistance Program	<u>.13</u>
Subtotal Taxes	\$ 1.53
20 Average Total Qwest charge for residential service	\$ 20.33

21 Vilaire estimates its monthly overhead cost per customer to be approximately \$20.00.  
22

23 **DISCUSSION**  
24

1 Combining the costs of overhead with the fixed costs for service, Vilaire’s actual cost of  
2 telephone service that it leased or resold is \$20.33 plus \$20 or \$40.33 per customer per month.

3 DSHS proposes to pay the “same rate that is available to the incumbent telephone  
4 companies.” Vilaire deals exclusively with Qwest. DSHS has advised Vilaire that the  
5 reimbursement per customer for the month of June will be \$5 and potentially \$1.50 for each  
6 customer in the month of July. Qwest is able to obtain it’s originally tariff’d basic service charge  
7 through reimbursements from DSHS, FCC, and customer contributions. Vilaire is unable to  
8 obtain reimbursements from these three sources that will pay for the cost of providing the  
9 service.

10 Even after obtaining all available reimbursements, Vilaire will suffer a loss of \$21.83 per  
11 customer per month under the new guidelines. Extrapolating these costs to all of Vilaire’s 4,700  
12 WTAP customers will result in a loss in excess of \$100,000 per month.

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

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

21 Vilaire also opposes the proposed July 1<sup>st</sup> increase in the customer threshold from \$4.00  
22 to \$8.50 which then decreases the reimbursement to Vilaire from \$5 down to \$1.50. Vilaire has  
23 already begun billing customers for July at the \$4 rate and would be unable to collect the \$8.50  
24 for July while still being limited to the decreased reimbursement amount of \$1.50 from DSHS.

1 CONCLUSION

2 Vilaire’s ability to provide services to WTAP customers depends on the reimbursements  
3 available from DSHS, the FCC and the customer. Vilaire had no opportunity to appear and  
4 comment upon the impacts of the rule prior to its adoption. Vilaire has, however, extended  
5 service to 4,700 WTAP customers as it is required to by administrative regulation. Unless the  
6 emergency order is suspended or otherwise held in abeyance, Vilaire will lose in excess of  
7 \$100,000 this month and each month that it is required to provide services for which it does not  
8 receive full compensation.

9 Because Vilaire cannot continue to provide services at a loss, it respectfully requests  
10 waiver from WAC 480-12-081, requiring 30 days notice prior to termination of services. In  
11 addition, Vilaire requests an exemption from RCW 80.36.410-475.

12 RESPECTFULLY SUBMITTED this \_\_\_ day of June, 2003.

13 Stan Efferding dba Vilaire

14 \_\_\_\_\_  
15 Stan Efferding dba Vilaire  
16 7619 Burgess St W Office  
17 Lakewood, Wa. 98499

18 CERTIFICATE OF FILING

19 The undersigned hereby certifies that a true and correct copy of the foregoing Petition on  
20 June 6, 2003, via hand delivered to WUTC:

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23  
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