EXHIBIT A

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of

COMCAST PHONE OF WASHINGTON, LLC
)

Docket No. UT-031459

DECLARATION OF RHONDA WEAVER

- I, Rhonda Weaver, make this Declaration based upon personal knowledge:
- 2. I am the Director of Governmental and Regulatory Affairs for Comcast Phone of Washington, LLC ("Comcast Phone" or "Company"). My business address is 440 Yauger Way SW, Olympia, Washington 98802.
- 3. As part of my duties and responsibilities, I am charged with being knowledgeable about proceedings of interest to Comcast Phone before the Washington Utilities and Transportation Commission ("Commission"). This includes the rulemaking proceeding in Docket No. UT-990146 that significantly revised the rules applicable to telephone operations. I reviewed the new rules with the Company to ensure that our telephony operations would be able to comply, once the rules took effect on July 1, 2003. The Company was able to comply with all rules that we understood to apply to its operations. Neither I nor anyone else within the Company believed that WAC 480-120-439 regarding service quality performance reports applied to Comcast Phone because it is a competitive local exchange company ("CLEC"). We believed

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FILE COPY

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DECLARATION OF RHONDA WEAVER -- 2

in good faith that this rule only applied to incumbent local exchange companies ("ILECs") and that only ILECs could be classified as Class A or Class B.

- 4. I was first advised by Commission's Staff on Thursday, July 17, 2003 that it believed that Comcast Phone is a Class A company under WAC 480-120-302 and that it must comply with the reporting requirements in WAC 480-120-439. *See* Attachment A.
- 5. I was concerned, and disagreed with that position because the rule that the Staff claimed rendered Comcast Phone a "Class A" company (WAC 480-120-302) applies only to "companies not classified as competitive" and not to Comcast Phone, which is a *competitive* local exchange company. I also could not verify that Comcast Phone could even be classified as a Class A company based upon its percentage of "total state access lines." This number was in WAC 480-120-302, but it was over four years old.
- 6. I immediately contacted Staff to discuss the service quality reporting issues and to get the data necessary to determine the most recent "total state access lines." I was told that in order to get this information, I would have to request all company annual reports from the Records Center and compile the information myself. Staff suggested I use data from the state Department of Revenue compiled for payment of E-911 taxes, which showed 3,412,593 access lines as of 12/31/02. See Attachment B.
- 5. In order for me to compile an accurate figure for the "total state access lines" based upon filed company annual reports, I would have to request over 500 annual reports from the Records Center. Many of these reports are filed as "confidential." In order to get these confidential reports, the Commission and Comcast Phone would have to follow the procedure of WAC 480-09-015(7). This would be unduly burdensome for both Comcast Phone. I asked Staff if it could review these reports and come up with an appropriate "total state access lines," based on the fact that Staff is in the best position to do so because it has better access to these filed company reports than Comcast Phone. Staff could compile the total state access line number by aggregating the raw data. While Staff initially suggested it could compile this figure, Staff

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subsequently refused to do so. Instead, Staff referred me to another figure from the FCC that calculated "total state access lines" at 3,960,744 (500,000 more lines than the DOR reported). See Attachment C. To date, Comcast Phone has not been able to verify the most recent data with the Commission on "total state access lines." It is possible for the number of access lines reported to either the FCC or DOR to understate or overstate significantly the number of lines.

- 8. Assuming that the number of Comcast Phone access lines exceeds 2% of "total state access lines," Comcast Phone still does not interpret WAC 480-120-439 as applying to it. I explained this position in a series of e-mails (at least 8), telephone meetings (at least 3) and a face-to-face meeting with Staff between July 17, 2003 and early September 2003. I told Staff that Comcast Phone would request a declaratory ruling from the Commission on the applicability of WAC 480-120-439, or, in the alternative, request a waiver, because Comcast Phone cannot currently comply with all of that rule's reporting requirements. Comcast Phone was working on this filing when we received a Penalty Assessment on September 15, 2003. At no time during my communications with Staff did Staff ever indicate it would seek a penalty for Comcast Phone's "noncompliance" with WAC 480-120-439.
- 9. Comcast Phone at no time has knowingly or intentionally violated WAC 480-120-439. In good faith, Comcast Phone contests applicability of the rule to it because it is a CLEC. By a separate filing to be made on or before October 2, 2003, Comcast Phone will ask the Commission to make a ruling on this applicability or to waive it as to Comcast Phone. As explained below, Comcast Phone cannot currently comply with this new service quality reporting rule.
- 10. Historically, the Comcast family of companies (of which Comcast Phone is a part) ("Comcast") and its predecessors have provided primarily cable video and cable Internet services. However, in November 2002, Comcast began to offer voice-grade telephony services as Comcast Phone. As a result of its history, the company's order fulfillment process and

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internal measurement and reporting systems are not like those of ILECs. They cannot track and produce all of the information needed to report under WAC 480-120-439.

- 11. If the Commission finds that Comcast Phone is subject to WAC 480-120-439, Comcast Phone cannot comply with the following sections because of the nature and history of Comcast's operations:
- (a) <u>WAC 480-120-439(3)</u> ("Missed appointment report"). Because Comcast provides cable video, cable Internet and telephony, its current systems do not, and cannot, separate a missed appointment for just telephony. In order to comply with this rule, Comcast would have to develop enhancements to its current system to produce this report. Comcast Phone has not fully quantified all of the costs associated with these enhancements and Comcast Phone believes they could be significant, possibly into six figures. Further, development would take up to approximately six months to implement. Thereafter, Comcast would have to train and assign employees to produce this monthly report at additional ongoing expense.
- (b) WAC 480-120-439(4) ("Installation or activation of basic service"). Comcast Phone is not subject to the company performance standards for installation or activation of access lines contained in WAC 480-120-105 because it is exempt as a CLEC. Thus, it makes no sense for Comcast Phone to have to report on its performance under a standard from which it is exempt. Staff nevertheless told me that they wanted this report. It is not possible for Comcast Phone to provide this report because the basis for measurement is "by central office." Comcast's network architecture does not include a "central office," as defined by the rules. Comcast Phone leases switching capacity from a third party. Thus, Comcast Phone simply cannot provide the report called for in this subsection.
- (c) <u>WAC 480-120-439(6)</u>, (7), (8) ("Summary trouble reports," "switching reports" and "trunk blocking report"). As stated above, because Comcast Phone does not have "central offices" within its network architecture, it cannot produce these reports.

- (d) <u>WAC 480-120-439(9)</u> ("Repair report"). Comcast does not separately track service calls for its cable video, cable Internet or telephony lines of business. Therefore, it would have to revise its existing service quality measurement system to separate out a metric for telephony. This will involve considerable upfront and ongoing expense similar to that for WAC 480-120-439(3) ("Missed appointment report").
- (e) <u>WAC 480-120-439-10</u> ("Business office and repair answering system reports"). Comcast tracks service quality by market area, such as Portland or Seattle. Therefore, service quality metrics for Vancouver, Washington would be contained in the measurement for the Portland, Oregon market, which are treated as a single market by Comcast. Separating out this data would involve considerable time and expense.
- 12. As Paragraph 11 establishes, Comcast Phone either cannot technically comply with the reporting requirements of WAC 480-120-439 or it would be unduly burdensome for it to do so. Comcast Phone would have to modify existing systems at great expense to capture new data, train employees and produce the new reports.
- 13. Comcast Phone does not have a recent pattern of service quality complaints regarding the service quality which is the subject of the reports called for by WAC 480-120-439.

1	I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE
2	OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.
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ATTACHMENT A

Dickerson, Nancy E.

From:

Bob Williamson [BWilliam@wutc.wa.gov]

3ent:

Thursday, July 17, 2003 2:58 PM

Го:

Weaver, Rhonda

Cc:

Erin Hannan; Glenn Blackmon; Kristen Russell

Subject:

Class A Telephone Company

Hello Rhonda,

It is the Commissions understanding that Comcast serves approximately 117,000 working residence telephone access lines in Washington State. That means that Comcast serves more than 2% of the access lines in this state. According to WAC 480-120-302 that would make Comcast a Class A company. Class A companies must report monthly the information required in WAC 480-120-439 subsections (3), (4), and (6) through (10).

We would like to discuss these requirements with you at your earliest convenience.

Hope you are doing well in your new job. I wish the first contact would have been over something more enjoyable. Please contact me (360)664-1288 or Erin Hannan (360)664-1349 to discuss further.

Regards,

Bob Williamson Senior Member Technical Staff Washington Utilities and Transportation Commission (360)664-1288

ATTACHMENT B

Dickerson, Nancy E.

From:

Weaver, Rhonda [Rhonda Weaver@cable.comcast.com]

Sent:

Friday, July 18, 2003 2:34 PM

To:

'Glenn Blackmon'

Subject:

RE: Access lines

Glenn,

Next week is fine. My schedule is fairly flexible so let me know what works for you and I'll work around it. I'm leaving for NARUC Friday morning so if we could meet earlier in the week I'd appreciate it.

As for requesting the raw data from the records center, I don't mind requesting it, but I understand that many companies file annual reports as proprietary. It makes sense to have staff compile the total numbers and publish the findings so that companies can determine 2% of the state access lines. WAC 480-120-302 does not refer companies to the Department of Revenue to collect this data, but to the WUTC records center.

In any event, I look forward to discussing these issues with you.

Rhonda Weaver Director - Government Affairs Comcast 360 705-2537 X 3404 (voice) 360 280-4780 (cell) Rhonda Weaver@cable.comcast.com

----Original Message----

From: Glenn Blackmon [mailto:blackmon@wutc.wa.gov]

Sent: Friday, July 18, 2003 12:08 PM

To: Weaver, Rhonda Subject: Access lines

Rhonda,

I'm swamped with Qwest Dex matters today and so will need to wait about discussing the service quality reporting issues with you. Maybe we could meet next week.

In the meantime, I wanted to move things along on the data side. First, the "raw data" that may be requested from the records center, pursuant to the rule, is the company annual reports. I understand that you don't really want the entire report, but that's where the numbers are. I'm going to try to have someone compile the access line numbers, so that we could publish a non-confidential total figure, but we are not actually required to do that.

However, I also want to offer you what I consider to be a reliable count of access lines in Washington. According to data supplied to us by the state Department of Revenue, there were 3,412,593 access lines as of 12/31/02. This is the number of switched access lines that telecom companies reported in paying E-911 taxes to the state. Using that number, the cutoff between Class A and Class B would be at 68,252 lines.

Let's talk next week.

Regards, Glenn

ATTACHMENT C

Dickerson, Nancy E.

From:

Glenn Blackmon [blackmon@wutc.wa.gov]

Sent:

Monday, July 28, 2003 5:32 PM

To:

Weaver, Rhonda

Subject:

Comcast service quality reports

Rhonda,

I would like to follow up on our meeting last week to discuss Comcast's filing of service quality reports.

As I understand it, the biggest question about whether Comcast must report under WAC 480-120-439 has to do with whether it is a "Class A company," a "Class B company," or neither. If it is a Class A company, it must file performance reports. If it is a Class B company, it must maintain records of its performance for inspection by the WUTC. If it is neither Class A nor Class B, then it is not subject to 480-120-439 at all.

We discussed the definition of these two terms in WAC 480-120-302 Accounting rules for companies not classified as competitive. The argument, as I understand it, is that since 480-120-302 applies only to non-competitive companies, a competitive company would be neither a Class A company nor a Class B company.

After the meeting I read the rules again, and I am glad to report that they are not as muddled as that reading would suggest. "Class A company" and "Class B company" are defined in WAC 480-120-021 Definitions. (I'm attaching a copy.) This rule defines a Class A company to be "a local exchange company with two percent or more of the access lines within the state of Washington." This definition is in no way limited to non-competitive companies. Comcast, as a local exchange company, has to be either a Class A company or a Class B company.

The question about whether Comcast is Class A or Class B is a factual one. I am aware of no evidence that would support the claim that Comcast is a Class B company. The FCC recently reported (http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0603.pdf)

that ILECs and CLECs together have 3,.960, 744 access lines in Washington state. That would put the cutoff between Class A and Class B at 79,215 lines.

I look forward to hearing from you about how Comcast wants to proceed on this issue.

Regards, Glenn Blackmon

WAC 480-120-021 Definitions. The definitions in this section apply throughout the chapter except where there is an alternative definition in a specific section, or where the context clearly requires otherwise.

"Access charge" means a rate charged by a local exchange carrier to an interexchange carrier for the origination, transport, or termination of a

call to or from a customer of the local exchange carrier. Such origination, transport, and termination may be accomplished either through switched access service or through special or dedicated access service.

"Access line" means a circuit providing exchange service between a customer's standard network interface and a serving switching center.

"Affiliate" means an entity that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another entity.

"Ancillary services" means all local service features excluding basic service.

"Applicant" means any person applying to a telecommunications company for new service or reconnection of discontinued service.

"Average busy hour" means a time-consistent hour of the day during which a switch or trunk carries the most traffic. This definition is applied on an individual switch and an individual trunk basis.

"Basic service" means service that includes the following:

- * Single-party service;
- * Voice grade access to the public switched network;
- * Support for local use;
- * Dual tone multifrequency signaling (touch-tone);
- * Access to emergency services (E911);
- * Access to operator services;
- * Access to interexchange services;
- * Access to directory assistance; and
- * Toll limitation services.

"Business" means a for profit or not-for-profit organization, including, but not limited to, corporations, partnerships, sole proprietorships, limited liability companies, government agencies, and other entities or associations.

"Business days" means days of the week excluding Saturdays, Sundays, and official state holidays.

- . "Business office" means an office or service center provided and maintained by a company.
 - "Business service" means service other than residential service.
 - "Busy season" means an annual, recurring, and reasonably predictable three-month period of the year when a switch or trunk carries the most traffic. This definition is applied on an individual switch and an individual trunk basis.
 - "Call aggregator" means any corporation, company, partnership, or person, who, in the ordinary course of its operations, makes telephones available to the public or to users of its premises for telephone calls using a provider of operator services, including, but not limited to, hotels, motels, hospitals, campuses, and pay phones (see also pay phone service providers).
 - "Call detail" has the meaning found in WAC 480-120-201.
 - "Category of service" means local, data services such as digital subscriber line service, interexchange, or CMRS. Information about a customer's intraLATA and interLATA primary interexchange carrier freeze status is part of the local category.
 - "Central office" means a company facility that houses the switching and trunking equipment serving a defined area.
 - "Centrex" means a telecommunications service providing a customer with direct inward dialing to telephone extensions and direct outward dialing from them.
 - "Class A company" means a local exchange company with two percent or more of the access lines within the state of Washington.
 - "Class B company" means a local exchange company with less than two percent of the access lines within the state of Washington.
 - "Commercial mobile radio service (CMRS)" means any mobile (wireless) telecommunications service that is provided for profit that makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public.
 - "Commission (agency)" in a context meaning a state agency, means the Washington utilities and transportation commission.
 - "Company" means any telecommunications company as defined in RCW 80.04.010.
 - "Competitively classified company" means a company that is classified as competitive by the commission pursuant to RCW 80.36.320.
 - "Customer" means a person to whom the company is currently providing service.

"Customer premises equipment (CPE)" is equipment located on the customer side of the SNI (other than a carrier) and used to originate, route, or terminate telecommunications.

"Customer proprietary network information (CPNI)" has the meaning found in WAC 480-120-201.

"Discontinue; discontinuation; discontinued" means the termination of service to a customer.

"Drop facilities" means company-supplied wire and equipment placed between a premises and the company distribution plant at the applicant's property line.

"Due date" means the date an action is required to be completed by rule or, when permitted, the date chosen by a company and provided to a customer as the date to complete an action.

"Emergency response facility" means fire stations, hospitals, police stations, and state and municipal government emergency operations centers.

"Exchange" means a geographic area established by a company for telecommunications service within that area.

"Extended area service (EAS)" means telephone service extending beyond a customer's exchange, for which the customer may pay an additional flat-rate amount per month.

"Facility or facilities" means lines, conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by a telecommunications company to facilitate the provision of telecommunications service.

"Force majeure" means natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; embargoes; epidemics; terrorist acts; riots; insurrections; explosions; and nuclear accidents.

"Interexchange" means telephone calls, traffic, facilities or other items that originate in one exchange and terminate in another.

"Interexchange company" means a company, or division thereof, that provides long distance (toll) service.

"Interoffice facilities" means facilities connecting two or more telephone switching centers.

"InterLATA" is a term used to describe services, revenues, functions, etc.,

that relate to telecommunications originating in one LATA and terminating outside of the originating LATA.

"IntraLATA" is a term used to describe services, revenues, functions, etc., that relate to telecommunications that originate and terminate within the same LATA.

"Local access and transport area (LATA)" means a local access transport area as defined by the commission in conformance with applicable federal law.

"Local calling area" means one or more rate centers within which a customer can place calls without incurring long-distance (toll) charges.

"Local exchange company (LEC)" means a company providing local exchange telecommunications service.

"Major outages" means a service failure lasting for thirty or more minutes that causes the disruption of local exchange or toll services to more than one thousand subscribers; total loss of service to a public safety answering point or emergency response agency; intercompany trunks or toll trunks not meeting service requirements for four hours or more and affecting service; or an intermodal link blockage (no dial tone) in excess of five percent for more than one hour in any switch or remote switch.

"Missed commitment" means orders for exchange access lines for which the company does not provide service by the due date.

"Order date" means the date when an applicant requests service unless a company identifies specific actions a customer must first take in order to be in compliance with tariffs, price lists, or commission rules. Except as provided in WAC 480-120-061 and 480-120-104, when specific actions are required of the applicant, the order date becomes the date the actions are completed by the applicant if the company has not already installed or activated service.

When an applicant requests service that requires customer-ordered special equipment, for purposes of calculating compliance with the one hundred eighty-day requirement of WAC 480-120-112 (Company performance for orders for nonbasic service) the order date is the application date unless the applicant fails to provide the support structure or perform other requirements of the tariff or price list. In the event the applicant fails to provide the support structure or perform the other requirements of the tariff or price list, a new order date is established as the date when the applicant does provide the support structure or perform the other requirements of the tariff or price list.

"Pay phone" or "pay telephone" means any telephone made available to the public on a fee-per-call basis independent of any other commercial transaction. A pay phone or pay telephone includes telephones that are coin-operated or are activated by calling collect or using a calling card.

"Pay phone services" means provision of pay phone equipment to the public for placement of local exchange, interexchange, or operator service calls.

"Pay phone service provider (PSP)" means any corporation, company,

, partnership, or person who owns or operates and makes pay phones available to the public.

"Payment agency" means a physical location established by a local exchange company, either on its own premises or through a subcontractor, for the purpose of receiving cash and urgent payments from customers.

"Person" means an individual, or an organization such as a firm, partnership, corporation, municipal corporation, agency, association or other entity.

"Prior obligation" means an amount owed to a local exchange company or an interexchange company for regulated services at the time the company physically toll-restricts, interrupts, or discontinues service for nonpayment.

"Private account information" means customer proprietary network information that is associated with an identifiable individual.

"Proprietary" means owned by a particular person.

"Provision" means supplying telecommunications service to a customer.

"Public access line (PAL)" means an access line equipped with features to detect coins, permit the use of calling cards, and such other features as may be used to provision a pay phone.

"Public safety answering point (PSAP)" means an answering location for enhanced 911 (E911) calls originating in a given area. PSAPs are designated as primary or secondary. Primary PSAPs receive E911 calls directly from the public; secondary PSAPs receive E911 calls only on a transfer or relay basis from the primary PSAP. Secondary PSAPs generally serve as centralized answering locations for a particular type of emergency call.

"Residential service" means basic service to a household.

"Restricted basic service" means either the ability to receive incoming calls, make outgoing calls, or both through voice grade access to the public switched network, including E911 access, but not including other services that are a part of basic service.

"Results of operations" means a fiscal year financial statement concerning regulated operations that include revenues, expenses, taxes, net operating income, and rate base. The rate of return is also included as part of the results of operations. The rate of return is the percentage of net operating income to the rate base.

"Service interruption" means a loss of or impairment of service that is not due to, and is not, a major outage.

"Service provider" means any business that offers a product or service to a customer, the charge for which appears on the customer's telephone bill.

- "Special circuit" means an access line specially conditioned to give it characteristics suitable for handling special or unique services.
- "Standard network interface (SNI)" means the protector that generally marks the point of interconnection between company communications facilities and customer's terminal equipment, protective apparatus, or wiring at a customer's premises. The network interface or demarcation point is located on the customer's side of the company's protector, or the equivalent thereof in cases where a protector is not employed.
- "Station" means a telephone instrument installed for the use of a subscriber to provide toll and exchange service.
- "Subscriber list information (SLI)" means any information:
- (a) Identifying the listed names of subscribers of a company and those subscribers' telephone numbers, addresses, or primary advertising classifications (as such classifications are assigned when service is established), or any combination of listed names, numbers, addresses, or classifications; and
- (b) That the company or an affiliate has published, caused to be published, or accepted for publication in any directory format.
- "Support structure" means the trench, pole, or conduit used to provide a path for placement of drop facilities.
- "Telecommunications-related products and services" means:
- (a) The offering of telecommunications for a fee directly to the public, or to such classes of users to be effectively available directly to the public, regardless of the facilities used; or
- (b) Services offered over common carrier transmission facilities which employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information, provide the subscriber additional, different, or restructured information, or involve subscriber interaction with stored information; or
- (c) Equipment employed on the premises of a person to originate, route, or terminate telecommunications.
- "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users to be effectively available directly to the public, regardless of the facilities used.
- "Telemarketing" means contacting a person by telephone in an attempt to sell one or more products or services.
- "Toll restriction" or "toll restricted" means a service that prevents the use of a local access line to initiate a long distance call using a presubscribed interexchange company.

"Traffic" means telecommunications activity on a telecommunications network, normally used in connection with measurements of capacity of various parts of the network.

'Trouble report" means a report of service affecting network problems reported by customers, and does not include problems on the customer's side of the SNI.

"Trunk" means, in a telecommunications network, a path connecting two switching systems used to establish end-to-end connection. In some circumstances, both of its terminations may be in the same switching system.

[Statutory Authority: RCW 80.01.040 and 80.04.160. 03-01-065 (Docket No. UT-990146, General Order No. R-507), § 480-120-021, filed 12/12/02, effective 7/1/03. Statutory Authority: RCW 80.04.160, 80.36.520 and 80.01.040. 99-02-020 (Order R-452, Docket No. UT-970301), § 480-120-021, filed 12/29/98, effective 1/29/99. Statutory Authority: RCW 80.01.040. 93-06-055 (Order R-384, Docket No. UT-921192), § 480-120-021, filed 2/26/93, effective 3/29/93. Statutory Authority: RCW 80.01.040 and chapter 80.36 RCW. 91-13-078 (Order R-345, Docket No. UT-900726), § 480-120-021, filed 6/18/91, effective 7/19/91. Statutory Authority: RCW 80.01.040 and 1988 c 91. 89-04-044 (Order R-293, Docket No. U-88-1882-R), § 480-120-021, filed 1/31/89. Statutory Authority: RCW 80.01.040. 86-11-009 (Order R-250, Cause No. U-85-58), § 480-120-021, filed 5/12/86, effective 7/31/86. Statutory Authority: RCW 80.01.040 and 1985 c 450. 85-23-001 (Order R-242, Cause No. U-85-56), § 480-120-021, filed 11/7/85. Statutory Authority: RCW 80.04.060. 79-10-060 (Order R-131, Cause No. U-79-42), § 480-120-021, filed 9/18/79. Statutory Authority: RCW 80.36.140. 79-03-031 (Order R-123, Cause No. U-79-01), § 480-120-021, filed 2/28/79; Order R-25, § 480-120-021, filed 5/5/71. Formerly WAC 480-120-030.]