

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

In the Matter of the Petition of)	DOCKET UT-023033
)	
RCC MINNESOTA, INC., d/b/a)	ORDER 03
CELLULAR ONE)	
)	ORDER AMENDING FINAL ORDER
For Designation as an Eligible)	DESIGNATING RCC MINNESOTA,
Telecommunications Carrier)	INC., AS AN ELIGIBLE
)	TELECOMMUNICATIONS CARRIER
.....)	

I. Introduction

1 On March 20, 2008, RCC Minnesota, Inc. (RCC) petitioned for an exemption “from the second sentence of WAC 480-122-020.”¹ That sentence provides that “[e]very eligible telecommunications company (ETC) must offer the telephone assistance rates and discounts in accordance with RCW 80.36.410 through 80.36.475.” Because WAC 480-122-020 does not require wireless carriers such as RCC to participate in the Washington Telephone Assistance Program (WTAP), the exemption RCC seeks is unnecessary. However, to address any ambiguity, we will treat RCC’s petition for an exemption as a request to amend our prior order granting RCC’s designation as an eligible telecommunication carrier to clarify that RCC is not required to participate in the WTAP.²

II. Discussion

2 RCC’s petition states that because of the Department of Social and Health Service’s (DSHS) interpretation of the WTAP statutes, that agency will not reimburse RCC for offering the discounts to recurring service and initial connection charges that are required of local exchange telephone service providers under the WTAP program. As such, RCC states that, if it were required to offer telephone assistance rates and

¹ *In the Matter of the Petition by RCC Minnesota, Inc. For Exemption From Participation In The Washington Telephone Assistance Program As Required By WAC 480-122-020*, at 7, Docket UT-080518 (March 20, 2008).

² Order Granting Petition for Designation as an Eligible Telecommunications Carrier, *In the Matter of the Petition of RCC Minnesota, Inc., d/b/a Cellular One For Designation as an Eligible Telecommunications Carrier*, Docket No. UT-023033 (August 14, 2002).

discounts required by WAC 480-122-020, it would suffer an unreimbursed shortfall that wireline carriers offering the WTAP discounts do not face.

- 3 WAC 480-122-020 states that “[e]very eligible telecommunications company (ETC) must offer the telephone assistance rates and discounts *in accordance with* RCW 80.36.410 through 80.36.475.” (Emphasis added.) The phrase “in accordance with” means that eligible telecommunications companies are required to participate in the WTAP only to the extent the WTAP statutes mandate participation by certain companies or for certain services.
- 4 We agree with DSHS that the WTAP statutes apply only to wireline telecommunications companies and not to wireless carriers such as RCC. RCW 80.36.410 states the Legislature’s “concerns about the ability of low-income persons to continue to afford access to *local exchange telephone service.*” (Emphasis added.) Accordingly, RCW 80.36.420 makes WTAP assistance available to participants of various DSHS programs. The statute further states that “assistance” under WTAP consists of three components: (1) a discount on service connection fees of fifty percent or more; (2) a waiver of deposit requirements on local exchange service, and (3) a discounted flat rate service for local exchange service. The Commission establishes “a single telephone assistance rate for all local exchange companies operating in the state of Washington.” RCW 80.36.460 reiterates that the duty to provide WTAP assistance rests with “local exchange companies.”
- 5 In a similar vein, RCW 80.36.430(1) states that the WTAP shall be funded by a telephone assistance excise tax on all “switched access lines,” as defined in RCW 82.14B.020: namely, “the telephone service line which connects a subscriber’s main telephone(s) or equivalent main telephone(s) to the local exchange company’s switching office.” The tax, not to exceed fourteen cents per month, is applied equally to all residential and business access lines and paid by the ratepayer, and transferred to the telephone assistance fund administered by DSHS. RCW 80.36.430(2) further provides that local exchange companies shall bill the fund for their expenses incurred in offering the telephone assistance program, and that DSHS shall disburse money from the fund to the local exchange companies as reimbursement. Finally, RCW 80.36.450 limits reimbursement to “one residential switched access line per eligible household.”

6 Thus, the WTAP statutes refer consistently to “local exchange companies,” “local exchange telephone service,” and “switched access lines,” in describing the applicability of the WTAP, the amount and types of assistance under the WTAP, and obligations of companies under the WTAP. Wireless companies, referred to as “radio communications service companies,” in the statutes, are not referenced at all in the WTAP statutes, nor are wireless facilities mentioned (in contrast to “switched access lines”). If the Legislature had intended the WTAP statutes to apply to wireless companies, it could easily have done so, but it has not. It is clear that the WTAP statutes apply only to wireline communications and companies.

7 Because the WTAP statutes do not mandate participation by wireless companies, the Commission’s rules do not mandate such participation, either. We therefore decline to grant the exemption that RCC requests. Instead, to address any possible ambiguity regarding the application of WAC 480-122-022 to RCC, we will treat RCC’s petition for an exemption as a request to amend our order granting RCC’s request for designation as an eligible telecommunications carrier.³ The amendment will clarify that, as a wireless carrier, the relevant statutes do not require RCC to participate in the WTAP, nor do we require RCC to offer its customers WTAP discounts as a condition of its eligible telecommunications carrier designation by this Commission.

ORDER

THE COMMISSION ORDERS:

- 8 (1) The petition for exemption RCC Minnesota, Inc., filed with the Commission on March 20, 2008, in Docket UT-080518, is deemed a request to amend the Commission’s August 14, 2002, final order in Docket UT-023033 granting ETC designation.
- 9 (2) RCC Minnesota. Inc.’s request to amend the Commission’s final order in Docket UT-023033 is granted to clarify that, as a wireless carrier, the relevant statutes do not require RCC Minnesota, Inc., to participate in the WTAP, nor is RCC Minnesota, Inc., required to offer its customers WTAP discounts as a

³ RCW 80.04.210.

condition of its eligible telecommunications carrier designation by this Commission.

- 10 (3) The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington and effective May 14, 2008.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner