

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION

In The Matter of the Application and	)	
Petition of	)	DOCKET UT-011141
	)	
Exario Telecom, 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 August 14, 2001, in Docket UT-011141, Exario Telecom, Inc., (Exario) seeks registration as a telecommunications company and classification as a competitive telecommunications company pursuant to RCW 80.36.350 and RCW 80.36.320. Exario also filed an initial price list. Exario requested an extension of time from the Commission by letter dated August 31, 2001, to finalize its application and petition.

**DISCUSSION**

2 Exario 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, Exario asserts that its services compete with other interexchange and local exchange carriers' telecommunications services. Exario states that customers have readily available, equivalent alternatives and that there are no captive customers of the Company's services.

3 Exario is a Delaware corporation headquartered in Parsippany, New Jersey, and is owned by Exario Network, Inc. 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 Exario 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:

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 RCW 80.36.350. The ultimate issues are whether Exario 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 September 26, 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) Exario filed an application for registration on August 14, 2001, as a telecommunications company and a petition for classification as a competitive telecommunications company pursuant to the provisions of RCW 80.36.350 and RCW 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 RCW 80.36.320, and comply with the Commission's rules and regulations.
- 10 (3) The registration of Exario 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 Exario, 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) Exario has no captive customer base.
- 15 (8) Exario should be permitted to provide services under price list.
- 16 (9) Exario 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 Exario.
- 18 (2) The services offered are subject to effective competition.

- 19 (3) Exario 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) Exario 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) Exario 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 Exario Telecom, 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 Exario Telecom, 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) Exario Telecom, Inc., shall be permitted to provide services under price list.
- 25 (4) Registration of Exario Telecom, 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, Exario Telecom, 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) Exario Telecom, 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 Exario Telecom, 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, Exario Telecom, 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) Exario Telecom, Inc., must comply, as specified, with the requirements of WAC 480-120-141, operator service providers rule.
- 29 (8) Exario Telecom, 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 26th day of September, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary

**APPENDIX A**

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