

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of:

RULEMAKING TO CONSIDER AMENDING,
ADOPTING, AND REPEALING CERTAIN
RULES IN WAC 480-120, TELEPHONE
COMPANIES, RELATING TO THE
WASHINGTON TELEPHONE ASSISTANCE
PROGRAM AND WASHINGTON EXCHANGE
CARRIER ASSOCIATION, AND REPAIR
STANDARDS FOR PLANNED SERVICE
INTERRUPTIONS AND IMPAIRMENTS

DOCKET NO. UT-160196

FINAL COMMENTS OF FRONTIER COMMUNICATIONS NORTHWEST INC.

July 5, 2016

I. INTRODUCTION

- I.* Frontier Communications Northwest Inc. (Frontier) appreciates the additional opportunity to comment on the Commission’s consideration of amending, adopting and repealing certain rules. Frontier remains in support of the proposed rule changes relating to the WTAP. Likewise, Frontier supports the proposed changes addressed at repealing the rule relating to WECA, and correcting the errors in WAC 480-120-021, WAC 480-120-061, and WAC 480-120-259. However, Frontier believes that the Commission’s repeal of WAC 480-120-440, addressing repair standards for service interruptions and impairments, excluding major outages, was a conscious and deliberate decision, taken after much comment and consideration, and advocating that the repeal was “inadvertent” is both misleading and erroneous. Frontier submits that the ubiquitous presence of competitive alternatives to its service in Washington has and will incent it (and other ILEC providers) to timely repair all out of service issues. Additionally, Frontier points

out that reimposing standards previously repealed runs contrary to the Commission's Final Order classifying Frontier's services as competitive. In Frontier's case, the Commission specifically validated that the Company faces robust competition by granting Frontier's 2013 petition to be regulated as a competitive telecommunications company pursuant to RCW 80.36.320.¹

II. COMMENTS

2. Frontier references its argument in paragraph 2 of its Initial Comments regarding the Commission's conscious and deliberate repeal of WAC 480-120-440 and incorporates them by reference. For staff to take the position here that the elimination of the rule was inadvertent both defies logic and appears to improperly discriminate against Washington ILECs who face a hyper-competitive industry.

3. RCW 80.36.320 sets the standard for companies, like Frontier, that have been approved by this Commission to be regulated as a competitive telecommunications company. Among other things, Section (2) of the statute states: "Competitive telecommunications companies shall be subject to minimal regulation." The Commission took additional steps since Frontier was competitively classified to follow the legislature's direction in this regard by enacting certain rule changes and deletions to its rules. Among these was the determination to repeal WAC 480-120-440. In the Preproposal Statement of Inquiry (CR-101) filed on May 7, 2014 to open the docket, the Commission stated that:

"Regulatory changes at both the federal and state commissions along with technological changes in the telecommunications industry have necessitated some changes to the existing WAC rules to make these rules competitively neutral among the incumbent local exchange carriers and competitive exchange carriers regulated by the Commission."

¹ Final Order Approving Settlement Agreements with Conditions and Classifying Services as Competitive, Order 06, Docket UT-121994, July 22, 2013.


Certain elements of staff are urging the Commission to reinstate significant service quality regulation that has the practical impact of imposing service quality rules only on a minority portion of the industry, while ignoring direct competitors whose operations fall outside the jurisdiction of the Commission. Not only would such a decision to reimpose the previously repealed standards discriminate disproportionately against Frontier and other ILECs, such a decision would run contrary to the express mandate of the legislature that Frontier shall be subject to minimal regulation. It also runs contrary to the expressed intent of the Commission to make its rules competitively neutral. Staff has yet to make any showing in the record that repealing WAC 480-120-440 impacted consumers in any manner, much less negatively. Before the Commission embarks on a course that runs contrary to the guidance in the statute, and its own previously expressed intent, due process dictates that staff should provide some rational basis for reimposing previously relaxed regulation.

III. CONCLUSION

4. Frontier supports the Commission's intent to make the ministerial adjustments to its rules referenced above to remove obsolete references and correct errors. However, Frontier is adamantly opposed to reimposing a form of regulation that was consciously repealed by this Commission in an extensive and well-debated rulemaking. Frontier also objects that the reimposition of WAC 480-120-440 runs contrary to the Commission's finding in Docket UT-121994, in which the Commission found that the overwhelming majority of Frontier's services were "subject to effective competition in the relevant market and should be classified as competitive." Frontier respectfully requests that the Commission deny this attempt to restore the previously repealed rule, and align itself with statutory

guidance and the Commission's own expressed policy in the predecessor rulemaking of achieving competitive neutrality.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George Thomson". The signature is written in a cursive style with a large initial "G" and a long, sweeping underline.

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