

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of Amending, Repealing)
and Adopting All or Parts of :) DOCKET NO. U-991301
)
Chapter 480-80 WAC;) GENERAL ORDER NO. R-498
Chapter 480-90 WAC;)
Chapter 480-100 WAC;)
Chapter 480-120 WAC; and) ORDER AMENDING, REPEALING
WAC 480-121-065,) AND ADOPTING RULES
) PERMANENTLY
Relating to Tariffs, Price Lists, Contracts)
and Public Notice Rules in the Gas,)
Electric, Telecommunications and Water)
Industries.)
.....)

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and
Transportation Commission takes this action under Notice WSR # 01-24-113, filed
with the Code Reviser on December 5, 2001. The Commission brings this
proceeding pursuant to RCW 80.01.040 and RCW 80.04.180.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Open
Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act
(chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State
Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory
Fairness Act (chapter 19.85 RCW).

3 **DATE OF ADOPTION:** The Commission adopts this rule to be effective June 17,
2002.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW
34.05.325 requires that the Commission prepare and provide to commenters a concise
explanatory statement about an adopted rule. The statement must include the
identification of the reasons for adopting the rule, a summary of the comments
received regarding the proposed rule, and responses reflecting the Commission's
consideration of the comments.

5 The Commission often includes a discussion of those matters in its rule adoption
order. In addition, most rulemaking proceedings involve extensive work by
Commission Staff that includes summaries in memoranda of stakeholder comments,
Commission decisions, and Staff recommendations in each of those areas.

6 In this docket, to avoid unnecessary duplication, the Commission designates the discussion in this order as its concise explanatory statement, supplemented where not inconsistent by the Staff memoranda presented at the adoption hearing and at the open meetings where the Commission considered whether to begin a rulemaking and whether to propose adoption of specific language. Together, the documents provide a complete but concise explanation of the agency actions and its reasons for taking those actions.

7 **REFERENCE TO AFFECTED RULES:** This Order repeals the following sections of the Washington Administrative Code:

WAC 480-80-035	Price lists.
WAC 480-80-040	Tariff.
WAC 480-80-041	Tariff.
WAC 480-80-045	Filing of banded tariffs.
WAC 480-80-050	Copies of tariff to be filed.
WAC 480-80-060	Delivery of tariff.
WAC 480-80-070	Statutory notice.
WAC 480-80-080	Tariff file at principal business office.
WAC 480-80-090	Tariff file at designated business offices.
WAC 480-80-100	Payment agencies.
WAC 480-80-110	Reference to tariff file.
WAC 480-80-125	Notice by utility to customers concerning hearing.
WAC 480-80-130	Notation of receipt of tariff by agents.
WAC 480-80-140	Form of tariff sheets.
WAC 480-80-150	Numbering of tariffs.
WAC 480-80-160	General arrangement of tariff.
WAC 480-80-170	Schedule designation.
WAC 480-80-180	Tariff sheet designation.
WAC 480-80-190	Numbering plan for sheets.
WAC 480-80-200	Title page.
WAC 480-80-210	Index page.
WAC 480-80-220	Rules and regulations page.
WAC 480-80-230	Rate schedule page.
WAC 480-80-240	Less than statutory notice.
WAC 480-80-250	Adoption notice.
WAC 480-80-260	Tariff of acquired utility.
WAC 480-80-270	Reference to tariff.
WAC 480-80-280	Issuing agent.
WAC 480-80-290	Suspension of tariffs.
WAC 480-80-300	Rejection of tariffs.
WAC 480-80-310	Exceptions.

WAC 480-80-320	Discontinuance of service.
WAC 480-80-325	Contract for service.
WAC 480-80-326	Contract for gas and electric service.
WAC 480-80-330	Telecommunications contracts.
WAC 480-80-335	Special contracts for electric, water, and natural gas companies.
WAC 480-80-340	Forms.
WAC 480-80-350	Refiling tariffs.
WAC 480-80-360	Standard tariff forms.
WAC 480-80-370	Symbols.
WAC 480-80-380	Availability of rules.
WAC 480-120-043	Notice to the public of tariff changes.

8 This Order amends the following sections of the Washington Administrative Code:

WAC 480-80-010	Application of Rules
WAC 480-80-020	Additional Requirements
WAC 480-80-030	Definitions
WAC 480-90-193	Posting of tariffs for public inspection and review.
WAC 480-100-193	Posting of tariffs for public inspection and review.

9 This Order adopts the following sections of the Washington Administrative Code:

WAC 480-80-015	Exemptions from rules in chapter 480-80 WAC
WAC 480-80-025	Severability.
WAC 480-80-031	Delivery of tariff, price list, and contract filings.
WAC 480-80-101	Tariff requirements.
WAC 480-80-102	Tariff content.
WAC 480-80-103	Tariff format.
WAC 480-80-104	Transmittal letter.
WAC 480-80-105	Tariff filing instructions.
WAC 480-80-112	Banded rate tariff filings.
WAC 480-80-121	Tariff changes with statutory notice.
WAC 480-80-122	Tariff changes with less than statutory notice.
WAC 480-80-123	Tariff changes that do not require statutory notice.
WAC 480-80-124	Failure to provide statutory notice.
WAC 480-80-131	Withdrawing a tariff filing.
WAC 480-80-132	Rejecting tariff changes.
WAC 480-80-133	Tariff adoption notice.
WAC 480-80-134	Discontinuing a tariffed service or services.
WAC 480-80-141	Service contract.

WAC 480-80-142	Special contracts for telecommunications companies not classified as competitive.
WAC 480-80-143	Special contracts for gas, electric, and water companies.
WAC 480-80-201	Use of price lists.
WAC 480-80-202	Interpretation and application of price lists.
WAC 480-80-203	Transmittal letter.
WAC 480-80-204	Price lists format and content.
WAC 480-80-205	Effective date of price list filings.
WAC 480-80-206	Price list availability to customers.
WAC 480-80-241	Filing contracts for services classified as competitive.
WAC 480-80-242	Using contracts for services classified as competitive.
WAC 480-90-194	Publication of proposed tariff changes to increase charges or restrict access to services.
WAC 480-90-195	Notice of tariff changes other than increases in recurring charges and restrictions in access to services.
WAC 480-90-197	Adjudicative proceedings where public testimony will be taken.
WAC 480-90-198	Notice verification and assistance.
WAC 480-90-199	Other customer notice.
WAC 480-100-194	Publication of proposed tariff changes to increase charges or restrict access to services.
WAC 480-100-195	Notice of tariff changes other than increases in recurring charges and restrictions in access to services.
WAC 480-100-197	Adjudicative proceedings where public testimony will be taken.
WAC 480-100-198	Notice verification and assistance.
WAC 480-100-199	Other customer notice.
WAC 480-120-193	Posting of tariffs for public inspection and review.
WAC 480-120-194	Publication of proposed tariff changes to increase charges or restrict access to services.
WAC 480-120-195	Notice of tariff changes other than increases in recurring charges and restrictions in access to services.
WAC 480-120-196	Customer notice requirements—Competitively classified telecommunications companies or services.
WAC 480-120-197	Adjudicative proceedings where public testimony will be taken.

WAC 480-120-198	Notice verification and assistance.
WAC 480-120-199	Other customer notice.
WAC 480-121-065	Customer notice requirements—Petition for competitive classification of a service.

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PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on September 17, 1999 at WSR # 99-19-086.

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ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL

STATEMENT: The statement advised interested persons that the Commission was considering entering a rulemaking on a comprehensive review of rules relating to tariffs, price lists and contracts filed with the Commission by regulated utility companies. The notice indicated all rules codified in chapter 480-80 WAC, as well as tariff related rules codified in other chapters, would be reviewed. The Commission also informed persons of the inquiry into this matter by providing notice of the subject and the CR-101 to all persons on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all regulated gas, electric, telecommunications and water companies and the Commission's list of utility attorneys as well as the Commission's list of interested persons of all general and utility related rulemakings. The Commission posted the relevant rulemaking information on its internet web site at www.wutc.wa.gov.

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Prior to filing its rule proposal, the Commission solicited written comments and held workshops relating to the content, location, and public notice of tariff, price list, and contract rules, and the economic impact of proposed rules on small businesses; requested economic impact information via a survey to the affected industries; and asked for written comments relating to the content and location of draft proposed rules.

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MEETINGS OR WORKSHOPS; ORAL COMMENTS: The Commission held eight workshops to address the location and content of rules relating to tariffs, price lists, and contracts; and two workshops to discuss the economic impact of proposed rules on small businesses. The following companies, organizations, municipalities, and individuals attended some or all of the workshops: Association of Communications Enterprises, AT&T Communications of the Pacific Northwest, Inc., Avista Corporation (Avista), Cascade Natural Gas Corporation, CenturyTel of Washington, Inc., City of Bremerton, Eschelon Telecom of Washington, Inc., Electric Lightwave, Inc., Get Wired Services, Gold Tel Corporation, Great West Services, Ltd., GTE Northwest Incorporated and GTE Communications Corporations, Ionex Communications North, Inc., Kalama Telephone Company, McLeodUSA Telecommunication Services, Inc., NEXTLINK Washington, Inc., Northwest Natural Gas (NW Natural), Oak Park Water Company, Inc., PacifiCorp, Pac-West Telecomm, Inc., Public Counsel, Puget Sound Energy (PSE), Qwest Corporation (Qwest), SBC

Telecom, Inc., Sprint Corporation, TDS Long Distance Corporation, Tenino Telephone Company, Verizon Northwest Inc. (Verizon), Washington Independent Telephone Association (WITA), Washington Telecommunications Ratepayers Association for Cost-based and Equitable Rates (TRACER), Washington Public Interest Research Group (WashPIRG), Washington Water Service, Whidbey Telephone Company, WKG, and WorldCom, Inc. (WorldCom).

- 14 All rules were discussed at the workshops. Items of greatest interest included discussions relating to electronic filing, tariffs vs. price lists, public notice requirements, cost standards, and the required formats for tariff and price list filings. Agreement was reached on most issues raised by various stakeholders. Comments on which agreement was not reached are discussed below.
- 15 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on December 5, 2001 at WSR # 01-24-113.¹ The Commission scheduled this matter for oral comment and adoption under Notice WSR # 01-24-113 at 1:30 p.m., Wednesday, January 9, 2002 in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.
- 16 **COMMENTERS (WRITTEN COMMENTS):** During the rulemaking process, the Commission called for ten rounds of comments on discussion drafts of rules. Following the notice of Proposed Rulemaking (CR-102), the Commission received written comments from the following companies, organizations, municipalities, and individuals: AARP of Washington, Affiliated Tribes of the Northwest Indians, Avista, Nakano Association, Landscape Architects, National Federation of Independent Business, Northwest Energy Coalition, NW Natural, PSE, Public Counsel, Qwest, Spokane Neighborhood Action Program, Verizon, WashPIRG, WITA, WorldCom, the Cities of Federal Way, Renton, and Mercer Island and over 230 citizens representing themselves. Agreement was reached on most issues raised by various stakeholders. Comments on which agreement was not reached are discussed below.
- 17 **RULEMAKING HEARING:** The rule proposal was considered for adoption, pursuant to the notice, at a rulemaking hearing scheduled during the Commission's regularly scheduled open public meeting on January 9, 2002, before Chairwoman Marilyn Showalter, Commissioner Richard Hemstad and Commissioner Patrick J. Oshie.

¹ On January 3, 2001, the Commission filed a Notice of Proposed Rulemaking (CR-102) with the Office of the Code Reviser under WSR # 01-02-102, that would consider moving certain sections of chapter 480-80 WAC to the various industry rules to achieve better organization. The Commission adopted the proposal to move rules on April 4, 2001, WSR#01-09-002.

18 The Commission heard oral comments from Fred Ottavelli, Glenn Blackmon, Steven King and Gregory Trautman representing Commission Staff, Matthew Steuerwalt representing Public Counsel, Theresa Jensen and Lisa Anderl representing Qwest, Richard A. Finnigan representing WITA, Judith Endejan representing Verizon, Bruce Folsom representing Avista, and Phillip Popoff representing PSE.

19 **SUGGESTIONS FOR CHANGE THAT ARE REJECTED:** The following suggested changes were not adopted for the reasons explained below.

20 **Proposed Cost Standard**

Qwest opposes the cost standard in the following rules:

- Banded rate tariff filings, WAC 480-80-112(1)(b)
- Special contracts for telecommunications companies not classified as competitive, WAC 480-80-142(7)(b)(iii)
- Price lists format and content, WAC 480-80-204(6)
- Using contracts for services classified as competitive, WAC 480-80-242(4)
- Filing contracts for services classified as competitive, WAC 480-80-241(6)

21 Qwest maintains these proposed rules introduce a new cost standard that requires inclusion of the price charged to other telecommunications carriers for any essential function used to provide the service, or any other Commission-approved cost method. The Commission disagrees with Qwest's position. This rule clarifies that an imputation test will be required if an essential function is involved. It does not require that every function or service be imputed. It requires only imputation of functions that are essential, which could vary by service. This rule provides a starting point for company filings. If a company believes this method is inappropriate for a certain situation, it may come to the Commission and request an alternate method which, by rule, the Commission has authority to approve.

22 **WAC 480-80-030 Definitions.**

Verizon comments that the definition of price list should be the same as the definition of tariff. Verizon contends that the proposed definition appears to be an effort to inappropriately deprive price lists of their legal effect. The Commission disagrees with Verizon's comments. The Commission believes differences in the definition of tariffs and price lists result from differing statutory requirements and treatment (Chapter 80.36 RCW), and are justified.

23 **WAC 480-80-133 (1) and (5) Tariff adoption notice.**

Verizon expresses concern that any change in control or ownership of a company would require the company to file an adoption tariff notice. The Commission does not share Verizon's concern. Subsection (1) states: *A utility must file a tariff notice with the commission when either of the following changes **affects an existing tariff.***

Accordingly, no notice need be filed, under this rule, due to a change in control or ownership if the tariff is not affected.

24 **WAC 480-80-142 Special contracts for telecommunications companies not classified as competitive.**

Verizon proposes that the filing requirements in WAC 480-80-142(5) and (6) should be fifteen *business* days. The Commission disagrees with Verizon's proposal. The 15-day provision establishes a deadline for filing certain contracts after they are executed. Verizon's proposal to count only business days would lengthen the deadline by up to an additional week. The current proposal of 15 days is a reasonable interval.

25 Qwest proposes that the title of WAC 480-80-142(8)(a), "*Nature, characteristics, and quantity of the service provided,*" be revised to "*The quantity and type of service provided.*" Qwest suggests that information about the nature and characteristics of the service provided may be proprietary information capable of being used by other carriers as competitive intelligence and therefore should not be made public. According to Qwest, a company should be allowed to protect this information. The Commission disagrees with Qwest's proposal. A complete description of the service is appropriate in order to understand what is covered by the contract. There is no evidence that disclosing the nature of the service itself causes any competitive harm.

26 **WAC 480-80-201 Use of price lists.**

Verizon objects to the language that subjects *the company* to full regulation when a company elects to offer a competitive service under a tariff. Instead, Verizon contends that only *the service* should be subject to full regulation. The Commission disagrees with Verizon. The language is appropriate because it treats all companies that are filing both price lists and tariffs comparably. Waivers granted pursuant to RCW 80.36.320 are appropriate only if all services of the company are offered under price lists. Companies that use a mix of price lists and tariffs do not generally receive such waivers, though service-specific waivers may be appropriate in some instances. This rule does not preclude service-specific waivers.

27 **WAC 480-80-202(1) Interpretation and application of price lists.**

Qwest asserts that the Commission should either regulate price lists or refrain from regulating any aspect of a price list other than as specified in RCW 80.36.330(4). According to Qwest, the proposed language creates an ambiguity concerning a formal complaint (e.g., the Commission cannot resolve a formal customer dispute without a full hearing as provided for in RCW 80.04.110). Qwest proposes the following language: "A price list is not a tariff and is not reviewed or approved by the commission at the time of filing. The commission will, when appropriate, investigate a price list or complain against a price list, in accordance with RCW 80.36.330(4)."

28 The Commission does not accept Qwest's proposal. Grounds other than disputes exist for potential investigation of a price list. The Commission observes that it is unclear what is meant by a "full hearing," but the use of this term could preclude the use of other dispute resolution processes that would otherwise be available to the Commission, companies, and customers.

29 Verizon contends that WAC 480-80-202(1) attempts to make a distinction between a tariff and a price list, attempts to deprive price lists of their legal effect, and attempts to decide disputes in advance. According to Verizon, subsection (1) does not (and cannot) change Washington law, which requires telecommunications companies to charge *scheduled* rates and which recognizes the filed rate doctrine. Verizon maintains that enacting this subsection would, at best, create confusion. The Commission disagrees with Verizon's position that Washington law recognizes the application of the filed rate doctrine to price lists. The Commission believes that it is important to recognize the fundamental differences in tariffs and price lists under Washington law. The price list is a binding offer by the company to provide service at the prices, terms, and conditions stated in the price list.

30 **WAC 480-80-202(2) Interpretation and application of price lists.**

Qwest believes the language that construes a conflict or ambiguity in favor of the customer with a rebuttable presumption more accurately belongs in a Commission interpretive policy statement rather than codified in a rule. However, if it must be in the rule Qwest asks the Commission to add clarifying language that provides that a determination and resolution will be reached through a formal hearing process as reflected in RCW 80.04.110.

31 Qwest suggests that the Commission should refrain from taking a hard-and-fast position as part of its rules. Qwest observes that such a position would not allow for those circumstances where the Commission may choose to rule differently than the manner specified in the proposed rule. Nor is it necessary for the Commission to include this result as part of its rules. According to Qwest, the Commission will rule as it deems appropriate and does not require a rule to enable such a disposition. Should the Commission decide to retain the proposed language, Qwest proposes the following modification:

(2) Upon investigation and a determination that provisions of a price list are conflicting or ambiguous, after full hearing in accordance with RCW 80.04.110, the Commission may construe the conflict or ambiguity in favor of the customer.

32 The Commission believes it is appropriate to include the rebuttable presumption language in rule rather than in a policy or interpretive statement because a policy or interpretive statement is advisory only. This rule clearly states the policy of the

Commission. The reason for the presumption is explained more fully at paragraph 37.

33 The Commission agrees that caution is advised when codifying a rule that prescribes a presumption in favor of one party over another. The original proposed rule stated that the presumption would be in favor of the customer and implied the presumption would be made regardless of the evidence. The Commission added *rebuttable presumption* language to ensure that the facts of the case would be fully considered.

34 The Commission declines to adopt Qwest's modification to the proposed language. The proposed language recognizes the need to determine whether an ambiguity or conflict exists in any particular circumstance. Establishing this policy eliminates uncertainty for regulated companies and provides incentives to avoid ambiguous or conflicting offers or price list terms. The specific reference to a full hearing and RCW 80.04.110 should not be used, since it inaccurately implies that the Commission is allowed to act only through a formal complaint and after a full hearing. Omitting the suggested language does not deprive any company of due process rights to which it would otherwise be entitled.

35 Qwest offered an additional alternative to subsection (2) as follows:

In any Commission initiated complaint proceeding under subsection (1), there will be a rebuttable presumption that the conflict or ambiguity should be construed in favor of the customer.

The Commission declines this alternative language, as well. Adding the language "In any Commission initiated complaint proceeding ..." implies that a consumer cannot initiate a complaint.

36 Verizon asserts that the language suggests that all conflicts would be resolved in favor of the customer. Verizon suggests that conflicts should be resolved through a review of the documents and other relevant evidence. According to Verizon, the Commission should not adopt a rule to govern every instance regardless of the underlying facts. The Commission agrees that particular disputes should be decided based on particular facts, and the proposed language is consistent with that approach.

37 WorldCom contends that WAC 480-80-202(2) is unfair to carriers and is not necessary. WorldCom maintains that this is a matter of customer service which plays a major role in how a competitive company chooses to handle all of its customer concerns, including alleged ambiguities in its price list. The Commission observes that the rule provision does not apply to *alleged* ambiguities; it applies to circumstances in which the Commission *determines* that an ambiguity exists. Telecommunications companies write price lists and make offers to potential customers. Consequently, telecommunications companies are in the best position to

ensure that price lists and offers are clear and consistent. The initial responsibility for ambiguities belongs with them. Since the entire provision is dependent on the Commission being asked to resolve a conflict or ambiguity, a clear accurate price list will eliminate the need to implement the rule.

38 Qwest objects to the disparate treatment between the detailed format required for tariffs and the more general filing requirements for price lists. Qwest believes regulated companies should be given the same latitude in tariff format and content as competitive providers are given in filing price lists. The Commission disagrees with Qwest. The proposed treatment of tariffs and price lists is justified by differing legal requirements for competitive services of companies not classified as competitive (RCW 80.36.330) and services of competitive companies (RCW 80.36.320).

39 **WAC 480-80-204 Price lists format and content.**
Qwest expresses concern with the lack of parity in application of rule requirements for competitively classified services offered under price list or contract with the requirements for services offered by competitively classified companies and in WAC 480-80-204 (Price lists format and content). Qwest continues to urge the Commission to adopt rules that affect telecommunications companies in a competitively neutral manner. The Commission does not share Qwest's concern. The proposed treatment of tariffs and price lists is based on differing legal requirements for competitive services of companies not classified as competitive (RCW 80.36.330) and services of competitive companies (RCW 80.36.320).

40 **WAC 480-80-206 Price lists availability to customers.**
WorldCom objects to the requirement to post price lists on a web site. WorldCom contends that it should be voluntary for competitive companies. The Commission disagrees with WorldCom. The availability of information is crucial to the successful operation of a competitive market, because customers cannot make good choices if they do not have good information. Posting of price lists on web sites is a highly efficient method of making information available to customers. It is much less burdensome on companies than requiring companies to provide the price list to each customer.

Posting and Publication

41 On April 4, 2001, the Commission adopted the proposal to move the customer notice rule from chapter 480-80 WAC to the individual industry rules, WSR# 01-09-002. That proposal addressed only the relocation of rules. It did not change the content of the rules. Under the current rule proposal, WSR #01-24-113, the customer notice rules were rewritten as individual posting and publication sections in chapters 480-90 WAC Gas Operations; 480-100 WAC Electric Operations; 480-120 WAC Telecommunications Operations; and 480-121 WAC Registration, Competitive Classification, and Initial Price Lists of Telecommunications Companies.

42 **WAC 480-(90, 100, 120)-194 Publication of proposed tariff changes to increase charges or restrict access to services.**

Public Counsel and approximately 230 other members of the public submitted comments supporting direct notice to customers 30 days in advance of a proposed tariff change. They believe 30 days advance notice is necessary to allow families the opportunity to make changes to their budgets and to participate in the public ratemaking process. The Commission has concluded, based on legal advice, that the tariff notice statutes do not give it authority to require individual notice to customers. The Commission can allow companies that wish to provide individual notice to use this as a form of publication, and the proposed rule offers this as an option to companies. The fifteen-day prior-notice option was added in response to companies seeking to use bill inserts as the means of accomplishing notice. If that is how it is used, then the shortest notice a customer is likely to receive is approximately ten days.

43 PSE contends that the requirement that a direct notice be mailed to customers a minimum of 15 days prior to the effective date of the proposed revision is impractical. PSE notes that if the company desired to implement the direct notice alternative using bill inserts, the bill inserts would have to begin 45 days before the effective date of the proposed tariff—15 days before the tariff is even filed. According to PSE, the only “work-around” for this problem would be to use direct mailers to half of its customers. Direct mail notice, however, is prohibitively expensive. Thus, PSE maintains that minimum timing requirement does not represent a reasonable balancing of the public interest and should be rejected. The Commission notes that these rules offer companies three different options for notifying customers of tariff changes. The options comply with the statutory requirement of 30 days’ notice. The Commission observes that PSE’s suggested change would not comply with the 30-day statutory requirement. However, if PSE’s preferred method of notification is bill inserts, nothing precludes the company from beginning the mailings prior to the filing so all mailings are completed 30 days in advance of the effective date.

44 **WAC 480-120-194(2) and (3) Publication of proposed tariff changes to increase charges or restrict access to services.**

WITA provided written and oral comments that address the requirement to publish notice of a proposed tariff rate increase in a public newspaper. WITA points out the difficulty in determining in which newspaper a company must publish its notice when a geographic region publishes more than one newspaper, such as in the Vancouver area. WITA asserts that the publishing cost would be too expensive for small telecommunications companies. Consequently, the second and third options are eliminated for small telecommunications companies. WITA requested that “Class B” telecommunications companies be exempted from the publishing requirement.

The Commission refers WITA to WAC 480-120-198(2), which addresses notice verification and assistance. That rule provides that the Commission's public affairs office will assist any company, upon request, in complying with the public notice requirements. This would include determining which newspaper would be the appropriate choice to publish a proposed tariff rate increase. The final proposal mitigates that requirement to the one newspaper with the largest subscribership in the affected service area. This change would reduce the costs to those companies that choose this method of public notice. Moreover, subsection (3) does not require the company to pay to publish its notice. It merely requires the company to distribute the notice to the news media. The rule offers companies the option of three different ways to provide public notice to its affected customers. It is to be expected that not all methods are the best choice for every company. The Commission expects that a company will make its decision about which public notice method to use, based on its internal policies and on cost.

45 **WAC 480-(90, 100, 120)-197 Adjudication proceedings where public testimony will be taken.**

The City of Federal Way comments that it would like to see a minimum of 45 days notice for formal hearings. The Commission observes that, in most instances, giving customers a minimum of 45 days notice would not create a problem. The time available for most contested cases allows this. The Commission has not stated a minimum notice requirement in the rule because it recognizes the occasional need for flexibility to conduct contested cases quickly. The Commission believes the way to balance these interests is to determine the appropriate amount of notice in each case during the prehearing conference.

46 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission repealed, adopted and amended the rules in the CR-102 at WSR #01-24-113 with the changes described below.

47 **CHANGES FROM PROPOSAL:** The Commission adopted the proposal with the following changes from the text noticed at WSR #01-24-113.

48 At the request of Verizon, a definition for "Unified Business Identifier Number" is added to WAC 480-80-030.

49 At the request of Qwest, clarifying language is added to WAC 480-80-112 relating to banded rate tariff filings.

50 Language is slightly changed in WAC 480-80-133 relating to the tariff adoption notice to clarify that an adoption notice needs to be filed only when transfer of the operating control or ownership affects the tariff.

- 51 At the request of Verizon, the word “declaration” is changed to “statement” in WAC 480-90-198, WAC 480-100-198, and WAC 480-120-198 relating to notice verification and assistance.
- 52 At the request of WITA, the term “noncompetitive telecommunications companies” is removed from the definitions in WAC 480-80-030 and is changed to “telecommunications companies not classified as competitive” throughout the rules in Chapter 480-80 WAC.
- 53 Other non-substantive grammar and punctuation changes were made after a final review by the Commission.

54 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** In reviewing the entire record, the Commission determines that WAC sections 480-80-035, 480-80-040, 480-80-041, 480-80-045, 480-80-050, 480-80-060, 480-80-070, 480-80-080, 480-80-090, 480-80-100, 480-80-110, 480-80-125, 480-80-130, 480-80-140, 480-80-150, 480-80-160, 480-80-170, 480-80-180, 480-80-190, 480-80-200, 480-80-210, 480-80-220, 480-80-230, 480-80-240, 480-80-250, 480-80-260, 480-80-270, 480-80-280, 480-80-290, 480-80-300, 480-80-310, 480-80-320, 480-80-325, 480-80-326, 480-80-330, 480-80-335, 480-80-340, 480-80-350, 480-80-360, 480-80-370, 480-80-380, and 480-120-043 should be repealed.

55 The Commission determines that WAC sections 480-80-010, 480-80-020, 480-80-030, 480-90-193, and 480-100-193 should be amended to read as set forth in Appendix A and Appendix B as rules of the Washington Utilities and Transportation Commission, to take effect on June 17, 2002.

56 The Commission also determines the WAC sections 480-80-015, 480-80-025, 480-80-031, 480-80-101, 480-80-102, 480-80-103, 480-80-104, 480-80-105, 480-80-112, 480-80-121, 480-80-122, 480-80-123, 480-80-124, 480-80-131, 480-80-132, 480-80-133, 480-80-134, 480-80-141, 480-80-142, 480-80-143, 480-80-201, 480-80-202, 480-80-203, 480-80-204, 480-80-205, 480-80-206, 480-80-241, 480-80-242, 480-90-194, 480-90-195, 480-90-197, 480-90-198, 480-90-199, 480-100-194, 480-100-195, 480-100-197, 480-100-198, 480-100-199, 480-120-193, 480-120-194, 480-120-195, 480-120-196, 480-120-197, 480-120-198, 480-120-199, and 480-121-065 should be adopted to read as set forth in Appendix A and Appendix B as rules of the Washington Utilities and Transportation Commission, to take effect on June 17, 2002.

ORDER

57 **THE COMMISSION ORDERS That:**

58 WAC sections 480-80-035, 480-80-040, 480-80-041, 480-80-045, 480-80-050, 480-80-060, 480-80-070, 480-80-080, 480-80-090, 480-80-100, 480-80-110, 480-80-125,

480-80-130, 480-80-140, 480-80-150, 480-80-160, 480-80-170, 480-80-180, 480-80-190, 480-80-200, 480-80-210, 480-80-220, 480-80-230, 480-80-240, 480-80-250, 480-80-260, 480-80-270, 480-80-280, 480-80-290, 480-80-300, 480-80-310, 480-80-320, 480-80-325, 480-80-326, 480-80-330, 480-80-335, 480-80-340, 480-80-350, 480-80-360, 480-80-370, 480-80-380, and 480-120-043 are repealed;

59 WAC sections 480-80-010, 480-80-020, 480-80-030, 480-90-193, and 480-100-193 are amended; and

60 WAC sections 480-80-015, 480-80-025, 480-80-031, 480-80-101, 480-80-102, 480-80-103, 480-80-104, 480-80-105, 480-80-112, 480-80-121, 480-80-122, 480-80-123, 480-80-124, 480-80-131, 480-80-132, 480-80-133, 480-80-134, 480-80-141, 480-80-142, 480-80-143, 480-80-201, 480-80-202, 480-80-203, 480-80-204, 480-80-205, 480-80-206, 480-80-241, 480-80-242, 480-90-194, 480-90-195, 480-90-197, 480-90-198, 480-90-199, 480-100-194, 480-100-195, 480-100-197, 480-100-198, 480-100-199, 480-120-193, 480-120-194, 480-120-195, 480-120-196, 480-120-197, 480-120-198, 480-120-199, and 480-121-065 are adopted to read as set forth in Appendix A and Appendix B as rules of the Washington Utilities and Transportation Commission, to take effect on June 17, 2002.

61 This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Olympia, Washington, this _____ day of May, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 46, amended 5, repealed 42.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 46, amended 5, repealed 42.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.