

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Petition of)	
)	
ELECTRIC LIGHTWAVE, INC.)	DOCKET NO. UT-940252
)	
for an Order Granting Amendment)	
to Competitive Telecommunications)	ORDER GRANTING PETITION
Company Classification)	
.....))	

By petition filed February 23, 1994, Electric Lightwave, Inc., (ELI or company) seeks authority in Docket No. UT-940252 to amend ELI's competitive telecommunications company classification approved by the Washington Utilities and Transportation Commission (Commission) in the First Supplemental Order Granting Petition, in Docket No. UT-920148, October 27, 1992.

ELI was granted authority in Docket No. UT-940068 to offer intrastate interexchange switched telecommunications services statewide and ELI hereby requests that its competitive telecommunications company classification be amended to include classification of intrastate interexchange switched services pursuant to RCW 80.36.320 and WAC 480-120-023.

In support of its petition, ELI alleges, inter alia, that its services are designed to compete with other providers of wholesale switched transport and associated interoffice-level switching services for long distance companies' originating and terminating toll traffic, and retail "1+" direct-dialed message services. ELI provided written testimony of Susan McAdams, Assistant Vice President - Government Relations, that customers have readily available, functionally equivalent alternatives, and that ELI does not have any captive customers.

On its own motion, the Commission determined that on the face of the petition, no substantial issues of controversy were presented, and invoked the provisions of WAC 480-09-520, Formal investigation and fact-finding. A Notice of Formal Investigation and Fact-Finding was served March 21, 1994. In that notice the Commission directed interested persons seeking to intervene to file a written petition to intervene not later than April 11, 1994. All interested persons were advised that, pursuant to WAC 480-09-520, no hearing was contemplated other than possible hearings for public testimony. No petitions for intervention were filed, and no public hearings were necessary to develop the facts relevant to the proceeding.

In conjunction with amendment to its classification as a competitive telecommunications company, the company requested waiver of the requirements of various provisions of chapter 80.36 RCW (telecommunications) and chapter 480-120 WAC. In addition to these waiver requests, the Commission, in the Notice of Formal Investigation and Fact-Finding, recommended waiver of chapter 80.08 RCW (securities), chapter 80.12 RCW (transfers of property), chapter 80.16 RCW (affiliated interests), RCW 80.04.300 and RCW 80.04.320 (budgets), and chapters 480-80, 480-140, 480-143, and 480-146 WAC.

The petition for an order granting amendment to competitive telecommunications company classification is granted. The requested and recommended waivers are also granted.

Rules involved include those within chapter 480-09 WAC, specifically WAC 480-09-520, and WAC 480-120-022, WAC 480-120-023, WAC 480-120-024, and WAC 480-120-025. Statutes invoked include RCW 80.36.145 and 80.36.320. The ultimate issues are whether the company's newly authorized switched services should be included in their classification as a competitive telecommunications company, and the extent to which it should be relieved of regulatory requirements to which it would otherwise be subject.

Based upon the entire record and the file in this matter, the Commission makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Petitioner Electric Lightwave, Inc., is registered as a competitive telecommunications company with the Commission, providing telecommunications services.
2. Alternative providers of service to that of ELI include AT&T Communications, Inc., U S WEST Communications, Inc., MCI Communications Corporation, and U S Sprint Communications Company. All services are fully available from alternative providers in the relevant market.
3. The relevant market is the state of Washington.
4. ELI has no captive customer base.

5. The services offered by petitioner are subject to effective competition.

6. ELI should be permitted to provide services under a price list.

7. ELI requested waivers of certain laws and rules relating to telecommunications services. The laws and rules for which waivers should be granted are listed on Appendix A, attached and by this reference made a part of this Order.

CONCLUSIONS OF LAW

1. The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this classification proceeding and the parties.

2. Electric Lightwave, Inc., should be granted an order amending competitive telecommunications company classification pursuant to RCW 80.36.320(1).

3. ELI will be permitted to provide services under price list pursuant to RCW 80.36.320(2), the format of which will be subject to prior approval by the Commission.

4. ELI should be granted waiver of the laws and rules listed in Appendix A. Waiver of laws and rules requested that are not included in Appendix A are denied.

ORDER

THE COMMISSION ORDERS:

1. The petition of Electric Lightwave, Inc., for an order granting amendment to competitive telecommunications company classification is granted.

2. Waivers of the laws and rules listed in Appendix A, attached to, and by this reference made a part of, this Order are granted.

3. ELI is authorized to offer services under price lists, the format of which will be subject to prior approval by the Commission, with price lists effective after 10 days notice to the Commission and to customers. In the event of a price reduction or a change in terms or conditions which do not have rate impact, personal notice to customers is not required. Although the Commission does not have authority to waive the notice requirement, ELI does have the option to publish notice of price reductions by a display advertisement in such newspaper or newspapers as are geographically situated so as to be circulated over the company's service area.

DATED at Olympia, Washington, and effective this 30th day of September 1994.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Sharon L. Nelson

SHARON L. NELSON, Chairman

Richard Hemstad

RICHARD HEMSTAD, Commissioner

APPENDIX A

- RCW 80.04.300, Budgets to be filed by companies;
- RCW 80.04.320, Budget rules;
- 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;
- RCW 80.36.100, Tariffs;
- RCW 80.36.110, Tariff Changes;
- RCW 80.36.150, Contracts;
- Chapter 480-140 WAC, Budgets;
- Chapter 480-143 WAC, Transfers of Property;
- Chapter 480-146 WAC, Rules Relating to Securities and Affiliated Interests;
- Chapter 480-80 WAC, Tariff Rules;
- WAC 480-120-026, 480-120-032, 480-120-036, 480-120-046, and 480-120-131, (general telephone rules).