

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	Docket No. UT-101060
)	
T-Mobile West Corporation,)	T-MOBILE PETITION FOR
For Designation as an Eligible)	EXTENSION OF TEMPORARY
Telecommunications Carrier)	EXEMPTION FROM
Pursuant to 47 U.S.C. § 214(e)(2))	WAC 480-123-030(1)(g)
)	AND WAC 480-123-070(6)

**PETITION FOR EXTENSION OF TEMPORARY EXEMPTION
FROM WAC 480-123-030(1)(g) AND WAC 480-123-070(6)**

T-Mobile West LLC (“T-Mobile” or “Company”) hereby submits this Petition for Extension of Temporary Exemption from WAC 480-123-030(1)(g) and WAC 480-123-070(6) previously granted by the Washington Utilities and Transportation Commission (“Commission” or “WUTC”) in Order 01 in this docket, dated and effective October 14, 2010.¹ T-Mobile requests that the Commission extend the previously granted exemption until six months following the adoption of rules as a result of the recently initiated rulemaking in Commission docket UT-140680.² In support of this petition, T-Mobile states as follows:

INTRODUCTION

As explained more fully herein, in the *ETC Designation Order* in this docket, the Commission granted T-Mobile a temporary exemption from WAC 480-123-030(1)(g)

¹ *In the Matter of the Petition of T-Mobile West Corporation For Designation as an Eligible Telecommunications Carrier and a Temporary Partial Exemption from WAC 480-123-030(1)(g) and WAC 480-123-070(6), Order 01, ¶29 (October 14, 2010) (“ETC Designation Order”).*

² *Rulemaking to consider amending rules in WAC 480-120, Telephone Companies, WAC 480-121, Registration and Competitive Classification of Telecommunications Companies, WAC 480-122, Washington Telephone Assistance Program, WAC 480-123, Universal Service, WAC 480-140, Commission General Budgets, and WAC 480-143, Commission General Transfers of Property, due to competitive changes within the telecommunications to meet consumer, commission and industry requirements no longer applicable under the existing WAC rule, docket UT-140680, Notice of Opportunity to File Written Comments and Notice of Workshop, served May 9, 2014 (“Rulemaking Notice”).*

and WAC 480-123-070(6), which require at least four hours of back-up power at each cell site. That temporary exemption, which was granted as to twenty-two (22) T-Mobile cell sites, expires December 31, 2014.³ On May 7, 2014 the Commission initiated a rulemaking to consider amending or eliminating requirements in WAC 480-123 (among other Commission rules) including the battery back-up provisions in WAC 480-123-030(1)(g) and WAC 480-123-070(6) – the very rules from which the Commission granted T-Mobile a temporary exemption.⁴ On May 9, 2014, the Commission opened docket UT-140680 and issued a Notice of Opportunity to File Written Comments and Notice of Workshop.⁵ On May 16, 2014, the Commission Staff posted on the Commission’s website preliminary changes Staff is considering proposing in the rulemaking. Given the preliminary proposed amendments to the back-up power rules, it is possible that many of the T-Mobile cell sites that are the subject of the temporary exemption will no longer be subject to a revised version of the back-up power rule.

The Commission’s rulemaking is not scheduled to be concluded by December 31, 2014, when the temporary exemption granted to T-Mobile will expire. Because the Commission’s rulemaking may significantly impact the scope of the battery back-up rule and how it applies to T-Mobile’s cell sites subject to the exemption, T-Mobile hereby requests the Commission grant an extension to the previously granted temporary exemption until six months following the adoption of rules as part of docket UT-140680. This will allow T-Mobile and the Commission to determine the impact any changes to WAC 480-123-030(1)(g) and WAC 480-123-070(6) may have on the temporary

³ *ETC Designation Order*, ¶29.

⁴ Preproposal Statement of Inquiry, WSR 14-10-081 (CR-101 filed May 7, 2014)(“*CR 101*”).

⁵ *Rulemaking Notice*.

exemption. It is possible that many, and perhaps all, of the T-Mobile cell sites that are the subject of the temporary exemption may no longer be covered by an amended version of the rule. Accordingly, it would serve the public interest, the administrative efficiency of the Commission's procedures, and cost to T-Mobile and its customers, to extend the temporary extension in order to determine the impact of any changes to the Commission's back-up power rules.

ANALYSIS

I. T-Mobile's Temporary Exemption from the Commission's Back-up Power Rules

On June 10, 2010, T-Mobile filed a petition with the Commission requesting designation as an eligible telecommunications carrier ("ETC") for purpose of receiving federal universal service support.⁶ As part of that petition, T-Mobile also requested a temporary exemption from of WAC 480-123-030(1)(g) and WAC 480-123-070(6).⁷ WAC 480-123-030(1)(g) requires an ETC applicant to demonstrate that it has the ability to function in emergency situations. For a wireless carrier, WAC 480-123-030(1)(g) provides that the applicant demonstrate that it maintains at least four hours of back-up battery power at each cell site, back-up generators at each microwave hub, and at least five hours back-up battery power and back-up generators at each switch. WAC 480-123-070(6), in turn, requires each ETC that receives federal high-cost funds to certify annually that it continues to adhere to the standards in WAC 480-123-030(1)(g).

In its petition, T-Mobile explained that, while the vast majority of its cell sites have at least four hours of battery back-up power at each cell site, it had twenty-two cell sites in its proposed ETC service area that did not satisfy the back-up power

⁶ T-Mobile's petition was docketed as UT-101060.

⁷ T-Mobile's petition styled the request as a temporary "waiver".

requirements. T-Mobile's petition also pointed out that all of those twenty-two cell sites are located within the signal coverage of nearby cell sites that satisfy the four hour back-up power requirement, meaning that T-Mobile customers would still have near complete coverage in the affected areas in the event of a loss in power supply to any of the twenty-two cell sites that did not meet the requirement. In addition, T-Mobile explained that many of the twenty-two cell sites without back-up power are "micro" cells that enhance "in-building" coverage and are, therefore, in space constrained areas that limit T-Mobile's ability to locate standard back-up power resources on site.

T-Mobile's petition described the considerable amount of work that would be required to bring the twenty-two cell sites into compliance with the Commission's back-up power requirements. Accordingly, T-Mobile requested the Commission grant it a temporary exemption from WAC 480-123-030(1)(g) and WAC 480-123-070(6) for a four year period.

In the *ETC Designation Order* in this docket, the Commission granted T-Mobile a temporary exemption from WAC 480-123-030(1)(g) and WAC 480-123-070(6) until December 31, 2014.⁸ In granting the exemption, the Commission required that T-Mobile include a compliance status report on back-up power upgrades in its annual ETC certification filing with the Commission.⁹ T-Mobile has filed compliance status reports with its annual ETC certification filing in 2011, 2012, and 2013, and will file a status report with this year's annual ETC certification filing. As more fully explained in those status reports, three of the original twenty-two cell sites subject to the temporary

⁸ *ETC Designation Order*, ¶29.

⁹ *Id.*

exemption have been decommissioned. Many of the remaining cell sites are either in-building or have overlapping coverage from another site.

II. The Commission's Proposed Rulemaking

On May 7, 2014 the Commission initiated a rulemaking to consider amending or eliminating requirements in WAC 480-123 (among other Commission rules), including the battery back-up provisions in WAC 480-123-030(1)(g) and WAC 480-123-070(6).¹⁰

On May 9, 2014, the Commission opened docket UT-140680 and issued a Notice of Opportunity to File Written Comments and Notice of Workshop.¹¹ On May 16, 2014, the Commission Staff posted on the Commission's website preliminary changes Staff is considering proposing in the rulemaking. With respect to WAC 480-123-030(1)(g), the Commission Staff's draft redline reads as follows:

(g) Information that demonstrates its ability to remain functional in emergency situations including a description of how it complies with WAC 480-120-411 or, for a wireless carrier, information that demonstrates that, when commercial power is not available, it has a reasonable amount of backup power (fixed, portable or other backup power source) for its cell sites, and backup power for its switches is as prescribed in WAC 480-120-411(3) for LEC central offices; and cell sites do not include any small cell facility as defined in RCW 80.36.375(2)(d)¹² or any in building wireless installation it has at least four hours of back up battery power at each cell site, back up generators

¹⁰ CR 101.

¹¹ Rulemaking Notice.

¹² RCW 80.36.375(2)(d) defines "small cell facility" as follows:

(d)"Small cell facility" means a personal wireless services facility that meets both of the following qualifications:

(i) Each antenna is located inside an antenna enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and

(ii) Primary equipment enclosures are no larger than seventeen cubic feet in volume. The following associated equipment may be located outside the primary equipment enclosure and if so located, are not included in the calculation of equipment volume: Electric meter, concealment, telecomm demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch.

at each microwave hub, and at least five hours back up battery power and back up generators at each switch.

If the rule¹³ is revised in this manner, most (and perhaps all) of the remaining nineteen cell sites subject to the temporary exemption would no longer be covered by the Commission's back-up power rule, thus obviating the need for T-Mobile to bring these sites "into compliance." Even if the Commission determines as part of the rulemaking that it should adopt a variation on the amendment to the rule proposed by Commission Staff, the impact on the cell sites subject to the temporary exemption cannot be determined until the amended rule is adopted.

It is T-Mobile's understanding that the proposed rulemaking in UT-140680 will not culminate until February 2015 at the earliest. It would not serve the public interest to require T-Mobile to bring cell sites "into compliance" by December 31, 2014 under a soon to be obsolete back-up power rule.

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¹³ No change is proposed to WAC 480-123-070(6). However, that rule requires annual certification of compliance with WAC 480-123-030(1)(g). Thus, a change to the requirements of WAC 480-123-030(1)(g) will directly impact the annual certification requirement of WAC 480-123-070(6).

CONCLUSION

For the reasons stated above, T-Mobile respectfully requests that the Commission extend T-Mobile's temporary exemption from WAC 480-123-030(1)(g) and WAC 480-123-070(6) until six months following the adoption of rules as a result of the recently initiated rulemaking in Commission docket UT-140680.

Dated this 25th day of July, 2014.

Respectfully submitted,

T-Mobile West LLC

By: 

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CERTIFICATE OF SERVICE

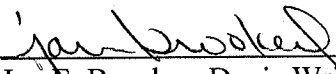
Docket No. UT-101060

I hereby certify that, on July 25, 2014, the original and 12 true and correct copies of **LETTER TO STEPHEN V. KING DATED JULY 25, 2014 and T-MOBILE WEST CORPORATION'S PETITION FOR EXTENSION OF TEMPORARY EXEMPTION FROM WAC 480-123-030(1)(G) AND WAC 480-123-070(6)** were electronically filed with the Washington Utilities & Transportation Commission and mailed via UPS next day delivery to:

Stephen V. King
Executive Director & Secretary
Washington Utilities and Transportation Commission
1300 S Evergreen Park Drive SW
Olympia, WA 98504-7250

On the same date, a true and correct copy was sent by email to the individuals on the Master Service List as follows:

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