

DEC - 1 1994

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Petition of	)	
	)	
VALUE ADDED COMMUNICATIONS	)	DOCKET NO. UT-931579
	)	
for Classification as a	)	ORDER GRANTING PETITION
Competitive Telecommunications	)	
Company	)	
	)	
. . . . .	)	

By petition filed December 27, 1993, in Docket No. UT-931579, Value Added Communications (VAC or company), seeks classification as a competitive telecommunications company pursuant to RCW 80.36.320 and WAC 480-120-023. In support of its petition, the company alleges inter alia that its services are designed to compete with other interexchange carrier's alternate operator services. It is stated in the petition that users have readily available alternatives, and there are no captive customers for VAC's services. The company pre-filed written testimony in support of its petition, which accompanied the petition.

VAC stipulates to various pricing limitations related to its provision of alternate operator services. The conditions stipulated in the petition are the following:

- no location surcharge for operator services;
- rates charged shall not exceed the "prevailing operator service charges" in the relevant market as that term is defined WAC 480-120-141 (10) (b);
- rates may not vary at the option of the customer; and,
- consequences for failing to abide by the agreed conditions.

The proposed conditions will provide sufficient protection for the public. The company's agreements regarding rates will prevent price gouging. The existence of consequences for failure to abide by the agreement should ensure that the Commission can monitor compliance.

The Commission accepts the conditions stipulated in the petition. The petition for classification as a competitive telecommunications company is granted, subject to the conditions set forth in the petition. The requested waivers are also granted.

In conjunction with classification, the company is seeking waiver of the requirements of chapter 80.08 RCW (securities), chapter 80.12 RCW (transfers of property), chapter 80.16 RCW (affiliated interests), various provisions of chapter 80.36 RCW (telecommunications) and chapter 480-120 WAC, and chapters 480-80, 480-143, and 480-146 WAC.

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 entered February, 18, 1994. In that notice, the Commission directed interested persons seeking to intervene to file a written petition to intervene not later than March 15, 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.

On its own motion, the Commission considered whether waiver of RCW 80.04.300 and 80.04.320 and chapter 480-140 WAC is appropriate. The Commission finds that waiver of these statutory provisions and Commission rules is in the public interest.

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 VAC should be classified as a competitive telecommunication company, and the extent to which the company 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 Value Added Communications is registered as a telecommunications company with the Commission, providing alternate operator services.

2. Alternative providers of service to that of VAC include AT&T Communications, Inc., U S WEST Communications, Inc., MCI Communications Corporation, and 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. VAC has no captive customer base.
5. The services offered by VAC are subject to effective competition so long as they are offered under the conditions contained in the petition. These conditions are necessary to ensure that the alternate operator services are subject to effective competition.
6. VAC should be permitted to provide services under a price list. The price list must comply with the conditions stipulated in the petition.
7. VAC 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 to and 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. Value Added Communications should be classified as a competitive telecommunications company pursuant to RCW 80.36.320 (1), subject to the conditions contained in the petition.
3. VAC should 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, and subject to the conditions contained in the petition.
4. VAC 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.

Based on these findings and conclusions, the Commission enters the following order.

### ***ORDER***

#### **THE COMMISSION ORDERS:**

1. The petition of Value Added Communications for classification as a competitive telecommunications company is granted.

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

3. VAC is authorized to offer services under a price list, the format of which will be subject to prior approval by the Commission, to be effective after 10 days notice to the Commission and to customers. In the event of a price reduction, or a change in terms and 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, the company 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.

4. The Commission retains jurisdiction over the subject matter and the parties to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective this 29<sup>th</sup> day of November 1994.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

*Sharon L. Nelson*

SHARON L. NELSON, Chairman

*Richard Hemstad*

RICHARD HEMSTAD, Commissioner

*Wm R. Gillis*

WILLIAM R. GILLIS, 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;  
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).