

Docket UT-073014
Industry Coalition's Proposed Modifications to the Commission's Draft Rule
February 22, 2008

WAC 480-120-071 Extension of service.

(1) **Definitions.** The following definitions apply to this section unless the context clearly indicates otherwise:

"Applicant" means any person applying to a telecommunications company for new tariffed residential basic local exchange service. Applicant does not include developers requesting service for developments.

"Cost of service extension" means the direct and indirect costs of the material and labor to plan and construct the facilities including, but not limited to, permitting fees, rights-of-way fees, and payments to subcontractors, and does not include the cost of reinforcement, network upgrade, or similar costs.

"Developer" means any owner of a development who offers it for disposition, or ~~the principal~~ agent of ~~such an inactive~~ owner.

[Proposed modification seeks to broaden the definition of developer by removing seemingly unnecessary qualifications on an owner's agent.]

"Development" means land which is divided or is proposed to be divided for the purpose of disposition into four or more lots, parcels, or units.

"Distribution plant" means telephone equipment and facilities necessary to provide new tariffed residential basic local exchange service to a premise, but does not include drop wire.

"Drop wire" means company-supplied wire and pedestals to be placed between a premise and the company distribution plant at the applicant's property line. For drop wire installed after ~~the effective date of this section~~ January 15, 2001, a drop wire must be sufficient in capacity to allow the provisioning of three individual basic exchange voice-grade access lines.

[Proposed modification inserts the date after which the drop wire capacity qualification should apply.]

~~“Eligible telecommunications carrier” has the same meaning as in WAC 480-123-020.~~

[Proposed modification removes the definition because the term is no longer used in subsection (4) (a) due to proposed modifications to that subsection.]

"Extension of service" or “extension” means an extension of company distribution plant for new tariffed residential basic local exchange service to a location where no distribution plant of the extending company exists at the time an extension is requested. An extension is constructed at the request of one or more applicants for service who pay a charge under this section. Extensions of service do not include ~~applicant~~ trenches, conduits, or other support structure for placement of company-provided facilities from the applicant’s property line to the premises to be served. Extension of service, as defined in this rule, does not apply to extensions to developments or to extensions for temporary occupancy or temporary service.

[Proposed modification seeks to include the term “extension” as a synonym with “extension of service” as both terms are used interchangeably throughout the rule. Also, the modifying term “applicant” has been removed because there should be no qualifications that extensions of service do not include trenches, conduits, or other supporting structure for placement of company-provided facilities from the applicant’s property line to the premises to be served.]

“Extraordinary cost” means a substantial expense resulting from circumstances or conditions beyond the control of the company that are ~~extraordinary and~~ unlikely to occur in the normal course of planning, ~~and~~ constructing and maintaining facilities contemplated by this rule.

[Proposed modification seeks to remove term in the definition that is part of the term being defined. Also, the term ‘maintaining’ is added as an activity for which extraordinary cost should be considered because maintenance of facilities represents a significant expense in the provisioning of quality services.]

"Premises" means any structure that is used as a residence, but does not include predominantly commercial or industrial structures.

"Tariffed" means offered under a tariff filed with the commission, ~~or offered under an alternative form of regulation.~~

[Proposed modification seeks to remove part of the definition because it is confusing and unnecessary. The requirement for companies under an alternative form of regulation to file an extension of service tariff is clearly stated in subsection (2) (a) to the proposed rule.]

"Temporary occupancy" means occupancy definitely known to be for less than one year but does not include intermittent or seasonal use when the intermittent or seasonal use will occur in more than a one-year period.

"Temporary service" means service definitely known to be for a short period of time, such as service provided for construction huts, sales campaigns, athletic contests, conventions, fairs, circuses, and similar events.

(2) Tariffed residential basic local exchange service.

(a) Each company required to file tariffs under RCW 80.36.100, and each company required to do so under an alternative form of regulation, must have on file with the commission an extension of service tariff for residential basic local exchange service consistent with this rule. Each company must extend service consistent with its tariff and this section.

(b) The company must process extension applications in a timely manner, consistent with the following:

(i) When there will be no charge for an extension as a result of the allowances required under subsection (3) of this section, the company must construct the extension

and provide new tariffed residential basic local exchange service within thirteen months of receipt of the applicant's request-completed application for service unless the commission grants the company's request to charge the applicant for extension costs.

~~(ii) When access certification under subsection (4) of this section is required, the company must request the certification within one month of the receipt of the applicant's request for service.~~

[Proposed modification seeks to reflect changes in subsection (4) (a), following.]

(iii) For an extension that exceeds the allowances required under subsection (3) of this section, Wwithin four months of receipt of the applicant's access certification completed application for service, the company must either provide the applicant a bill for the estimated cost of construction of the extension under subsection 5(a) or inform the applicant that the company refuses to extend service under subsection (4)(ba) of this section.

[Proposed modification seeks to clarify the application of the provision.]

~~(iviii)~~ When the company bills for the estimated construction charges, including extraordinary costs under subsections (3)(b) and (3)(c) of this section, it must complete the extension and provide new tariffed residential basic local exchange service within twelve months after the applicant meets the payment terms established by the company (e.g., payment in full, partial payment on a schedule). or, If there are multiple applicants under subsection (3) of this section, after then all applicants ~~must~~ meet the payment terms established by the company.

(3) Allowances.

(a) A company's tariff must allow for an extension of service up to one-tenth mile long at no charge to the applicant, unless extraordinary costs are incurred (see subsections (3)(b) and (3)(c)). The tariff must also permit multiple applicants to aggregate their one-tenth mile allowances when an extension to two or more applicants would follow a single

construction path. A company's tariff may allow for an extension of service for distances over one-tenth mile at no charge to the applicant.

[Proposed modifications seek to clarify the application of the provision and to allow companies to provide greater allowances than are required by the rule.]

(b) If the company determines the cost of an extension up to one-tenth mile would be extraordinary, the company may petition for permission to charge the applicant(s) for extraordinary costs that exceed a reasonable allowance. The petition must be in the form required under WAC 480-07-370(b) (ii) and must be filed within 120 days after the completed application for extension of service is received by the company.

(c) As an alternative to the petition process in subsection (3) (b), the company may file in its tariff, a maximum allowance for an extension of service up to one-tenth mile. The maximum allowance shall be based on the representative cost of a service extension for a distance of one-tenth mile. The maximum allowance must either be approved by the Commission, or allowed to become effective by operation of law. If a maximum allowance is established as provided in this subsection, applicants shall be required to pay any cost exceeding the maximum allowance so established.

[Proposed modifications seek to establish a time frame for filing petitions under subsection (3) (b). Also, subsection (3) (c) is proposed to allow a company that wants to provide detailed cost support for extensions of service for the distance of one-tenth mile the opportunity to establish a set maximum allowance in lieu of multiple costly and time-consuming petitions.]

(4) ~~Applicant access certification~~ Consideration of alternative providers.

~~(a) A company tariff must include a requirement that an applicant for an extension longer than one-tenth mile certify that the applicant does not have access to reliable and adequate service from another telecommunications carrier at the location for which the applicant requests service. Company requests for such certification must provide the names and contact information for all eligible telecommunications carriers designated for~~

~~the location at which the applicant requests service and the names of any other telecommunications carrier which the company believes may provide service to the location.~~

[Proposed modification seeks to eliminate a time-consuming and seemingly unnecessary step in the process. Because the company is required to evaluate applications that exceed one-tenth mile to determine if reliable and adequate service is available from another telecommunications carrier at the location for which service is requested, the process should start with the company notifying the customer if it believes such service is available, thereby eliminating an unnecessary and customer unfriendly step in the process.]

(ba) For any extensions longer than one-tenth mile of service, a company may refuse to extend service if it has determined that reliable and adequate service from another telecommunications ~~provider~~carrier is available at the location for which the applicant requests service.

[Proposed modification seeks to extend the ‘Consideration of Other Providers’ provision to any extension of service. Also, proposed modification replaces the term telecommunications carrier with the term telecommunications provider as a more inclusive term – i.e., inclusive of providers of alternative technologies such as satellite service.]

A company that refuses to extend service based on its determination of the availability of reliable and adequate service must:

- (i) Inform the applicant in writing that the company has made the determination;
- (ii) Provide detailed support for the company’s determination; and
- (iii) Inform the applicant that the applicant may petition the commission to compel the company to extend service based on the applicant’s demonstration that the company has made an incorrect determination.

(e**b**) An applicant may contest the company's refusal to extend service by filing a petition with the commission contending the company has made an incorrect determination of the availability of reliable and adequate service from another telecommunications carrier. The applicant must file a petition within 120 days of receipt of a company's refusal to extend service to the applicant in the form required under WAC 480-07-370(b)(ii).

Proposed modification seeks to establish a parallel time frame for filing petitions under subsection (4) (b) to that being proposed for subsection (3) (b).

(5) Determining costs and billing for extensions longer than allowances.

(a) If the company accepts an applicant's access certification application for an extension of service longer than the allowance, it must estimate the cost of the service extension that is attributable to distribution plant that must be extended beyond the one-tenth mile allowance (or beyond the total of any aggregated allowances).

[Proposed modification reflects proposed changes to subsection (4).]

(b) When two or more applicants request service and aggregate their allowances, and it is still necessary to construct an extension longer than the aggregated one-tenth mile allowances, the company must bill each applicant for an identical portion of the allowable charge (e.g., when two applicants aggregate allowances, the charge is divided by two; when five applicants aggregate allowances, the charge is divided by five). Multiple applicants may agree to divide the bill among themselves in amounts different from those billed so long as the billing company receives full payment.

(6) New applicants to existing extensions for which construction charges were paid.

The company tariff must require new applicants seeking service from an extension that is less than five-three years old, and for which the original applicant(s) paid construction charges under subsection (5) of this section, to pay a proportionate share of the original extension charges if requested by the then-current property owners who reside at the original applicant locations and who are subscribers to basic local exchange service

furnished by the company at those locations. and must require that Upon timely request, as provided in this subsection, the amount paid by such new applicants shall be proportionately refunded or credited to such then-current property owners. the original applicants who paid the extension charges required under subsection (5) of this section. Refund requests, if made, must be received by the company within 120 days of completion of service installation for the new applicant. The company must retain records pertaining to the construction charges paid as required under subsection (5) of this section for a period of at least ~~six~~four years from payment of the charges by the original applicant(s).

[Proposed modifications seek to reduce the timeframes for recompense by original applicants and designate that recompense be made to customers of the company at the original applicant locations. Also, it is proposed that the property owners at the original applicant locations be responsible for making refund requests. Finally, there is need for this provision to address the maximum allowable distance to a new applicant's location from the previous line extension, above which the application becomes one for a new line extension.]

(7) Requirements for supporting structures and trenches.

(a) A company tariff may condition construction on completion of support structures, trenches, or both on the applicant's property.

(i) Applicants are responsible for installation of all supporting structures required for placement of company-provided drop wire from the applicant's property line to the applicant's premises. The company may offer to construct supporting structures and dig trenches and may charge for those services, but the tariff may not require that applicants use only company services to construct supporting structures and dig trenches.

(ii) The company tariff may require that all supporting structures required for placement of company-provided drop wire from the applicant's property line to the premises are placed in accordance with company construction specifications. The tariff must require that, once in place and in use, all supporting structures and drop wire will be

maintained by the company as long as the company provides service, and any support structure and trenches constructed at company expense are owned by the company.

(b) The tariff must provide that once supporting structures, trenches, or both, have been constructed, the company will provide drop wire to applicants at no charge.

(8) Temporary service.

Each company required to file tariffs under RCW 80.36.100, and each company regulated under an alternative form of regulation, must have on file with the commission an extension of service tariff for temporary service consistent with this rule. Each company must extend service consistent with its tariff and this section. A company tariff for extension of temporary service may not provide allowances (e.g., one-tenth mile without charge) or discounts on the cost of construction.

(9) Application of prior rule and amended rule.

(a) WAC 480-120-071, as it was in effect on (day before effective date of amended rule), applies to applications for extension of service that a company has accepted on or before such date and for which it has not requested an exemption pursuant to said rule and WAC 480-120-103(4).

(b) WAC 480-120-071, as amended effective (effective date of amended rule), applies to all applications for extension of service made on or after such date.

[Proposed modification seeks to provide a transition process between application of the prior and proposed extension of service rules.]

(10) Construction of this rule.

The requirements of this section shall be construed to apply only to extensions of service, as defined in subsection (1) of this rule, and do not apply to any other form or method of providing service.

[Proposed modification seeks to limit the application of the rule to its intended and stated purpose.]