

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of

WASHINGTON INDEPENDENT
TELECOMMUNICATIONS
ASSOCIATION,

Petitioner,

Seeking Exemption from the Provisions of
WAC 480-123-110(4) that Conflict with
Laws of 2019, Chapter 365, §12.

DOCKET UT-190409

ORDER 01

ORDER GRANTING MODIFICATION
OF AND EXEMPTION FROM RULE

BACKGROUND

- 1 On May 22, 2019, the Washington Independent Telecommunications Association (WITA) filed a petition on behalf of each of its members requesting that the Washington Utilities and Transportation Commission (Commission) modify the application of WAC 480-123-110(4).
- 2 WAC 480-123-110(4) concerns the timing of petitions filed under the state Universal Communications Services Program (Program), and currently provides that the program is set to expire on June 30, 2019. However, Second Substitute Senate Bill 5511 (2SSB 5511)¹ effective May 13, 2019, amends the Program and extends it for another five years. Accordingly, WITA requests that the Commission modify the application of WAC 480-123-110(4) to reflect the Program’s extension.
- 3 Commission Staff (Staff) reviewed the petition in light of current rules and the intent of the new legislation, and recommends granting the petition. Staff believes that permitting the rules to remain in effect will allow a timely distribution of the Program support to WITA members and other companies for the first year of the newly funded five-year Program.

DISCUSSION

- 4 We grant WITA’s petition for modification of and exemption from WAC 480-123-110(4), which concerns the timing of petitions filed under the state Universal Communications Services Program. The rule provides in relevant part: “Program support is available annually

¹ Laws of 2019, Chapter 365, §12.

until the expiration of the program on June 30, 2019.” Because 2SSB 5511 extended the state Universal Communications Services Program for an additional five years through June 30, 2024, we agree that the rule should not expire by its terms on June 30, 2019, but should remain in effect until the Commission establishes new rules to implement 2SSB 5511. Allowing the Program rules to remain in effect is in the public interest and is consistent with the purposes underlying the regulation and applicable statutes.

FINDINGS AND CONCLUSIONS

- 5 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate public service companies, including competitively classified telecommunications companies.
- 6 (2) WAC 480-123-110(4) concerns the timing of petitions filed under the state Universal Communications Services Program and provides in relevant part: “Program support is available annually until the expiration of the program on June 30, 2019.”
- 7 (3) 2SSB 5511, Laws of 2019, Chapter 365, §12, enacted effective May 13, 2019, extended the state Universal Communications Services Program for an additional five years through June 30, 2024. Therefore, the portion of WAC 480-123-110(4) stating that the Program will expire June 30, 2019, is no longer consistent with the law.
- 8 (4) Under WAC 480-120-015, the Commission may grant an exemption from any rule in WAC 480-120, if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. See also WAC 480-07-110.
- 9 (5) This matter came before the Commission at its regularly scheduled meeting on June 13, 2019.
- 10 (6) After reviewing WITA’s petition filed in Docket UT-190409 on May 22, 2019, and giving due consideration, the Commission finds that the requested exemption is in the public interest, is consistent with the purposes underlying the regulation and applicable statutes, and that it should be granted.

ORDER

THE COMMISSION ORDERS:

- 11 (1) Washington Independent Telecommunications Association's petition for a modification of and an exemption from the June 30, 2019, expiration date set out in WAC 480-123-110(4) is granted.
- 12 (2) The state Universal Communications Services Program rules will remain effective until such time as the Commission amends its rules to implement the new program as required by 2SSB 5511.

DATED at Olympia, Washington, and effective June 13, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner