

Agenda Date: October 23, 2002  
Item Number: A3

**Docket:** UT-020577

Company Name: Tel West Communications, LLC

Staff: Dennis Shutler, Compliance Specialist, Business Practices Investigations  
Vicki Elliott, Assistant Director, Consumer Affairs

**Recommendation:**

Issue a Complaint against Tel West Communications, LLC. Accept the proposed Settlement Agreement to resolve the Complaint.

**Discussion:**

The proposed Complaint and Settlement Agreement in this matter comes from a Staff investigation into the disconnection, rates and charges, and refunding practices of Tel West Communications, LLC (Tel West).

In February 2002, Staff initiated a broad review of specific telecommunications companies specializing in advertising and providing basic local residential service to customers that have been disconnected by the traditional incumbent local exchange company because the customer had an unpaid, overdue balance. These companies generally offer such service without a deposit, but at considerably higher prices. In this case, Tel West offers basic local residential service for \$49.99 per month. The company has about 2,300 customers in Washington State.

Staff began this investigation on April 2, 2002. In its investigation, Staff found a number of violations of WAC 480-120-081(5)(a) and (b), failing to provide proper notice prior to disconnection of service; WAC 480-120-116 failing to provide a refund; and RCW 80.36.130, billing customers rates and charges not listed in the price list on file with the Commission.

Staff completed its report of findings on July 1, 2002. In August 2002, Staff notified Tel West of its findings and invited the company to enter into discussions to resolve these issues. Staff and Tel West shared information and discussed a possible resolution. These discussions resulted in the proposed Settlement Agreement presented today.

Briefly, in the Agreement, Tel West has agreed to make changes to its processes and procedures so that it is able to comply with applicable rules and statutes. In addition, Tel West has agreed to pay the Commission a total penalty of \$10,000. This amount represents penalties of:

- \$8,000 for nineteen violations of WAC 480-120-081(5)(a) for failing to provide written notices of service disconnection to its customers;
- \$1,000 for one violation of WAC 480-120-116 for failing to issue a refund to a customer; and
- \$1,000 for twenty violations of RCW 80.36.130(1) for billing customers rates and charges not listed in its price list on file with the Commission.

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**Recommendation**

Staff recommends the Commission issue a Complaint against Tel West Communications, LLC, and accept the proposed Settlement Agreement to resolve the Complaint.

**ATTACHMENT**

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
COMMISSION**

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	DOCKET NO. UT-020577
	)	
Complainant,	)	
	)	SETTLEMENT AGREEMENT
v.	)	
	)	
TEL WEST COMMUNICATIONS, LLC	)	
	)	
Respondent.	)	
.....	)	

1 All parties to this proceeding enter into this Settlement Agreement to resolve all issues raised in the above docket.

**I. PARTIES**

2 The parties to this Agreement are Tel West Communications, LLC and the Staff of the Washington Utilities and Transportation Commission (Staff) (collectively, “the Parties”).

**II. BACKGROUND**

3 Staff initiated an investigation into the disconnection, refunding, and rates and charges practices of Tel West. Staff issued a report with its findings on July 1, 2002.

**III. AGREEMENT**

4 The Parties have reached agreement on the issues raised in the above docket and wish to present their agreement for the Commission’s consideration and approval. The Parties therefore adopt the following Settlement Agreement, which the Parties entered into voluntarily to resolve the matters in dispute between them and to expedite the orderly disposition of this proceeding.

5 The Parties agree that Tel West has violated several Commission rules, although Tel West states that such violations were not committed knowingly or willfully. The parties agree that Tel West will pay the Commission monetary penalties totaling \$10,000. This amount represents penalties of \$8,000 for 19 violations of WAC 480-120-081(5)(a); \$1,000 for 1 violation of WAC 480-120-

116; and \$1,000 for 20 violations of RCW 80.36.130(1). The total amount shall be ordered due and payable 15 days after the Commission issues an order adopting this Agreement.

6 The Parties agree that Tel West will comply with all applicable Commission rules. Under the Settlement Agreement, Tel West commits to full compliance with Washington's disconnection rules set forth in WAC 480-120-081(5)(a); refunding rules set forth in WAC 480-120-116; and rates and charges rules set forth in RCW 80.36.130(1).

7 The Parties agree that this Agreement does not preclude the Commission from pursuing penalties for violations of Commission rules not related to the subject matter of this Agreement, or for subsequent violations of WAC 480-120-081(5)(a); WAC 480-120-116; and RCW 80.36.130(1).

#### **IV. GENERAL PROVISIONS**

8 The Parties agree that this Settlement Agreement is a settlement of all contested issues between them in this proceeding. The Parties understand that this Settlement Agreement is not binding on the Commission unless and until the Commission adopts this Agreement.

9 The Parties agree to cooperate in submitting this Agreement promptly to the Commission for acceptance. The Parties agree to support adoption of this Agreement in proceedings before the Commission through testimony or briefing. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.

10 The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty, and delay. The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission Order fully adopting those terms. This Agreement shall not be construed against either party because it was a drafter of this Agreement.

11 The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein. Accordingly, the Parties recommend that the Commission adopt this Agreement in its entirety.

12 The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. Copies sent by facsimile are as effective as original documents.

13 The Parties shall take all actions necessary as appropriate to carry out this Agreement.

14 In the event that the Commission rejects all or any portion of this Agreement, each party reserves the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 days. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and either party shall be entitled to seek

reconsideration of the Order rejecting all or part of the Agreement. Additionally, the Parties will jointly request a pre-hearing conference be reconvened for purposes of establishing a procedural schedule to complete the case.

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION STAFF

CHRISTINE O. GREGOIRE  
Attorney General

TEL WEST COMMUNICATIONS, LLC

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LISA WATSON  
Assistant Attorney General  
Counsel for Commission Staff  
Dated: \_\_\_\_\_, 2002.

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DONALD O. TAYLOR  
Regulatory Compliance Consultant  
Dated: \_\_\_\_\_, 2002.