

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant

V.

NW FIBER, LLC,

Respondent

DOCKET UT-220774

COMPLAINT

and

NOTICE OF PREHEARING
CONFERENCE

**(Set for November 30, 2022,
at 1:30 p.m.)**

1 The Washington Utilities and Transportation Commission (Commission) on its own motion, and through its staff (Staff), alleges as follows:

I. PARTIES

2 The Commission is an agency of the state of Washington authorized by statute to regulate the rates, services, facilities, and practices of public service companies, including telecommunications companies.

3 NW Fiber, LLC, (NW Fiber) is a Washington limited liability company engaging in business as a telecommunications company.

II. BACKGROUND

4 In February 2021, NW Fiber filed with the Commission a petition requesting designation as an Eligible Telecommunications Carrier (ETC) in specified census blocks in Whitman County.¹

5 The Commission granted NW Fiber's petition and designated it as an ETC in May 2021.²

6 NW Fiber became inactive as a limited liability corporation on August 20, 2021, due to voluntary dissolution.³

¹ See generally *in re Petition of NW Fiber, LLC*, Docket UT-210101, Order 01 (May 20, 2021).

² *Id.*

³ Certificate of Dissolution, Office of the Secretary of State, Corporations & Charities Division, at 1. (Aug. 20, 2021).

III. JURISDICTION

7 The Commission has jurisdiction over the subject matter of this complaint under
RCW 80.01.040, RCW 80.01.060, RCW 80.04.110, chapter 80.36 RCW, and chapter 480-
123 WAC.

IV. APPLICABLE LAWS AND REGULATIONS

8 State law defines the term “telecommunications company” to include “[e]very corporation,
company, association, joint stock association, partnership, and person, their lessees, trustees,
or receivers appointed by any court whatsoever . . . owning, operating, or managing any
facilities used to provide telecommunications for hire, sale, or resale to the general public
within this state.”⁴

9 As relevant, “[t]elecommunications” means “the transmission of information by wire, radio,
optical cable, electromagnetic, or other means.” RCW 80.04.010(27). “[I]nformation” means
“knowledge or intelligence represented by any form of writing, signs, signals, pictures,
sounds, or any other symbols.”⁵

10 Telecommunications companies are public service companies,⁶ and therefore subject to
regulation by the Commission under the public service laws.⁷

11 The Commission will grant a petition for designation as an ETC under specified
circumstances.⁸

12 The Commission may, after notice and an opportunity to be heard, “revoke . . . a
designation” as an ETC “if it determines that the ETC has failed to comply with the
requirements of section 47 U.S.C. Sec. 214(e)(1) or any other conditions imposed by the
[C]ommission.”⁹

13 47 U.S.C. § 214(e)(1) requires a common carrier designated as an ETC to “throughout the
service area for which the designation is received . . . (A) offer the services that are
supported by the Federal universal service support mechanisms under [47 U.S.C. § 254(c)],
either using its own facilities or a combination of its own facilities and resale of another

⁴ RCW 80.040.010(28).

⁵ *Id.*

⁶ RCW 80.04.010(23),

⁷ RCW 80.01.040(1), (3); *see generally* RCW 80.36.005-.855.

⁸ WAC 480-123-040.

⁹ WAC 480-123-050.

carrier's services . . . and (B) advertise the availability of such services and the charges therefor using media of general distribution.”

14 An LLC may voluntarily dissolve.¹⁰

15 An LLC that has dissolved “continues only for the purpose of winding up its activities.”¹¹ It must cease business activity after “a reasonable time,” RCW 25.15.297(2)(a), and must “settle and close the [LLC's] activities . . . and marshal and distribute the assets of the” LLC.¹²

V. FIRST CAUSE OF ACTION

16 The Commission realleges paragraphs 2 through 15, above.

17 NW Fiber has violated 47 U.S.C. § 214(e)(1)(A) by failing to provide common carrier services supported by federal universal service support mechanisms throughout the territory for which it received designation as an ETC as it has voluntarily dissolved and can no longer provide that service.

VI. SECOND CAUSE OF ACTION

18 The Commission realleges paragraphs 2 through 15, above.

19 NW Fiber has violated 47 U.S.C. § 214(e)(1)(B) by failing to advertise the provision of common carrier services supported by federal universal service support mechanisms throughout the territory for which it received designation as an ETC as it has voluntarily dissolved and can no longer engage in advertising.

VII. REQUEST FOR RELIEF

20 Staff requests that the Commission find that the NW Fiber has failed to comply with the requirements of 47 U.S.C. § 214(e)(1)

21 Staff requests that the Commission revoke NW Fiber's designation as an ETC.

22 Staff further requests that the Commission order such other or additional relief as is appropriate under the circumstances.

¹⁰ RCW 25.15.165(3).

¹¹ RCW 25.15.297(1).

¹² RCW 25.15.297(2)(b).

VIII. PROBABLE CAUSE

23 Based on the Certificate of Dissolution of NW Fiber issued by the Secretary of State, which was filed and effective on August 20, 2021, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this Complaint.

IX. NOTICE OF PREHEARING CONFERENCE

24 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05 relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to RCW 34.05.413, RCW 34.05.422, RCW 34.05.431, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission's procedural rules, chapter 480-07 WAC, will apply in this proceeding.

25 **THE COMMISSION GIVES NOTICE** That it will hold a virtual prehearing conference in this matter at 1:30 p.m. on November 30, 2022. To attend by phone, call (253) 215-8782 and enter the Meeting ID: 863 8062 9428# and Passcode: 436136#. To attend via Zoom, [click here to join meeting](#).¹³

26 The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing dates for distributing evidence, identify the issues in the proceeding, and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.

27 **INTERVENTION:** Persons who wish to intervene should file a petition to intervene in writing at least three business days before the date of the prehearing conference. *See* WAC 480-07-355(a). The Commission will consider oral petitions to intervene during the conference, but strongly prefers written petitions to intervene. Party representatives must file a notice of appearance with the Commission no later than the business day before the conference. *See* WAC 480-07-345(2). Parties with more than one representative must identify one individual as the "lead" for purposes of official service. Any party or witness in need of an interpreter or other assistance should fill out the form attached to this notice and return it to the Commission. The Commission will set the time and place for any evidentiary hearings at the prehearing conference, on the record of a later conference or hearing session, or by later written notice.

28 **THE COMMISSION GIVES NOTICE** that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default under RCW 34.05.440 and WAC 480-07-450.

¹³ <https://utc-wa-gov.zoom.us/j/86380629428?pwd=YVZoQTFZTGc5b3VyRlZpZm5QRXNIQT09>.

29 The names and mailing addresses of all known parties and their known representatives are as follows:

Respondent:	NW Fiber, LLC James Kusznr, Governor ¹⁴ 212 S. Main St Ste. 1 Colfax, WA 99111 (509) 339-7670 jim@nwfiber.com
Representative	Kusznr Industries LLC Registered Agent 212 S. Main St. Colfax, WA 99111
Complainant:	Washington Utilities and Transportation Commission 621 Woodland Park Loop SE P.O. Box 47250 Olympia, WA 98504-7250 (360) 664-1160
Representatives:	Jeff Roberson Office of the Attorney General P.O. Box 40128 Olympia, WA 98504-7250 (360) 664-1188 jeff.roberson@utc.wa.gov

30 Administrative Law Judge Gregory J. Kopta, from the Commission's Administrative Law Division, will preside during this proceeding.¹⁵

31 The Commission will give parties notice of any other procedural phase of the proceeding in writing or on the record, as appropriate during this proceeding.

DATED at Lacey, Washington, and effective November 7, 2022.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ Rayne Pearson
RAYNE PEARSON

¹⁴ NW Fiber lists its governing member as James Kusznr with its filings with the Commission. It lists its governing member and registered agent as Kusznr Industries LLC with the Secretary of State.

¹⁵ Judge Kopta may be reached by telephone at (360) 664-1355 or by email at gregory.kopta@utc.wa.gov.

Administrative Law Director

Inquiries may be addressed to:

Amanda Maxwell
Executive Director and Secretary
621 Woodland Square Loop S.E.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearings are accessible to persons with disabilities and persons who do not speak English as a first language. If limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please provide the information requested below via email to Paige Doyle, paralegal, at paige.doyle@utc.wa.gov:

(PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____