

SERVICE DATE  
MAY 21 1990

NOTICE TO PARTIES:

This is an initial order only. The action proposed in this order is not effective until a final order of the Utilities and Transportation Commission is entered. If you disagree with this initial order and want the Commission to consider your comments, you must take specific action within a time limit as outlined below.

Any party to this proceeding has twenty (20) days after the service date of this initial order to file a Petition for Administrative Review, under WAC 480-09-780(2). Requirements of a Petition are contained in WAC 480-09-780(4). As provided in WAC 480-09-780(5), any party may file an Answer to a Petition for Administrative Review within ten (10) days after service of the Petition. A Petition for Reopening may be filed by any party after the close of the record and before entry of a final order, under WAC 480-09-820(2). One copy of any Petition or Answer must be served on each party of record and each party's attorney or other authorized representative, with proof of service as required by WAC 480-09-120(2).

In accordance with WAC 480-09-100, all documents to be filed must be addressed to: Office of the Secretary, Washington Utilities and Transportation Commission, 1300 South Evergreen Park Drive S.W., Olympia, Washington, 98504-8002. After reviewing the Petitions for Administrative Review, Answers, briefs, and oral arguments, if any, the Commission will by final order adopt, modify or reject this initial order.

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

ULTIMATE LIFE CHURCH, a	)	
Washington non-profit	)	
corporation,	)	DOCKET NO. UT-90-0006
	)	
Complainant,	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW
vs.	)	AND INITIAL ORDER
	)	DISMISSING COMPLAINT
U S WEST COMMUNICATIONS, INC.,	)	
	)	
Respondent.	)	
. . . . .	)	

This matter came on regularly for hearing on due and proper notice to all interested parties on April 12, 1990, at Seattle, Washington, before Administrative Law Judge Alice L. Haenle of the Office of Administrative Hearings.

The parties were represented as follows:

COMPLAINANT: ULTIMATE LIFE CHURCH  
By Jay Gearon  
Vice President/Administrator  
P. O. Box 5764  
Bellevue, WA 98006

RESPONDENT: U.S. WEST COMMUNICATIONS, INC.  
By Mark Roellig and Mike Hudson  
Attorneys at Law  
1600 Bell Plaza, Room 3206  
Seattle, WA 98191

COMMISSION: WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION  
By Robert E. Simpson  
Assistant Attorney General  
1400 S. Evergreen Park Drive S.W.  
Olympia, WA 98504

Based on the entire record and the file in this matter, the undersigned administrative law judge makes the following proposed findings of fact and conclusions of law.

FINDINGS OF FACT

1. Ultimate Life Church is a non-profit Washington corporation. Complainant maintains a facility in Bellevue, which has been assigned telephone number 206-367-6603 by U.S. West Communications. Jay Gearon is vice president/administrator of complainant.

2. Pacific Northwest Bell Telephone Company, d/b/a U.S. West Communications, is a public service company providing telecommunications service within the State of Washington.

3. On November 23, 1987, service was ordered for a location at 10520 Bridgeport Way S.W. in Lakewood. The location was assigned telephone number 206-584-2460. The order was placed by Jay Gearon. The responsible party was identified as Ultimate Life Church.

4. On May 5, 1988, service was ordered for a location at 3421 Kitsap Way, Suite D, Bremerton. The location was assigned telephone number 206-479-2958. Service was ordered by "Joe". He identified the responsible party as Ultimate Life Church.

5. Jay Gearon arranged for Yellow Pages advertising for the 1988/89 telephone directory, with billing to the Ultimate Life Church address in Bellevue. The advertisement included phone numbers for both a Tacoma location and the Bellevue location. Mr. Gearon testified that arrangements were made within his organization for Tacoma to reimburse the Bellevue congregation for a portion of the cost of the advertising.

6. Mr. Gearon at the hearing described his organization as operating three congregations in King County, located at Seattle, Bellevue and Federal Way, under the administrative and financial control of the corporation. He also testified that congregations at Bremerton, Tacoma and Everett were operating "independently" of the corporation. He stated that a third party would have to ask the entity itself, presumably the Bellevue headquarters, to find out which congregations were under administrative control of the corporation [TR 26].

7. Complainant contends it has no legal responsibility for debts incurred by separate "congregations" established by persons ordained by the Ultimate Life Church as ministers. In this instance, congregations at Lakewood and Bremerton were established by Joe and Karla Clemmons.

8. After telephone service was disconnected at the Lakewood and Bremerton locations, respondent transferred unpaid balances to the Ultimate Life Church account of phone number 206-367-6603. The amount transferred was \$839.18. Of that amount, \$492.23 is attributable to the 479- number and \$346.95 is attributable to the 584- number. Respondent's witness did not know what portion of the \$346.95, if any, was attributable to unpaid Yellow Pages advertising [TR 105-106, TR 112].

9. Respondent routinely accepts orders for new service made by telephone call. Respondent accepts the information regarding the identity of the responsible party on an account, based on the information given by the person placing the order. Although the Commission's rules provide that deposits may be required under certain circumstances, no deposits were required for the Bremerton or Lakewood accounts.

10. Mr. Gearon testified that he had had several contacts with respondent in 1988 and 1989, including requests on several occasions that bills be sent to other locations. Mr. Gearon did not complete any paperwork that would have altered respondent's records regarding the responsible party for either the Lakewood or Bremerton account. The Ultimate Life Church remained the responsible party on the two accounts. Mr. Gearon's contacts with respondent regarding change in billing address did

not have the effect of relieving complainant as the responsible party.

11. Respondent did not attempt to collect the amounts due from the individuals Karla or Joe Clemmons because respondent's records show a corporation as the responsible party.

12. Mr. Gearon, Mr. and Ms. Clemmons were acting as agents of the Ultimate Life Church, with apparent authority to bind the Ultimate Life Church. Complainant's internal structure with some congregations "under the control" of the headquarters location, and some other congregations not under its control, with all locations using the name "Ultimate Life Church", will not insulate complainant from the claims of third party creditors who have provided services in good faith, at the request of agents of complainant. If Mr. Gearon in his capacity wishes to pursue a claim against Mr. and Ms. Clemmons personally for improperly incurring debts on behalf of complainant, that claim should be made in court.

#### CONCLUSIONS OF LAW

1. The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this complaint and the parties thereto.

2. Respondent has properly billed the amount at issue. Complainant is responsible for the debt, incurred by its agents with apparent authority to bind complainant. Complainant should pay the amount at issue immediately.

3. The complaint should be dismissed.

Based on the above proposed findings of fact and conclusions of law, the undersigned administrative law judge enters the following order.

#### ORDER

WHEREFORE, IT IS HEREBY ORDERED That the complaint filed by the Ultimate Life Church against U.S. West Communications is dismissed; and

IT IS FURTHER ORDERED That complainant shall pay the amount at issue immediately.

DOCKET NO. UT-90-0006

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DATED at Olympia, Washington, and effective this 21st  
day of May, 1990.

OFFICE OF ADMINISTRATIVE HEARINGS

*Alice L. Haenle*

ALICE L. HAENLE  
Administrative Law Judge