

Agenda Date: January 28, 2010
Item Number: A1

Docket: UT-091550
Company: Qwest Corporation

Staff: John Cupp, Regulatory Analyst
Consumer Protection

Recommendation

Deny Qwest's petition for exemption from the provisions of WAC 480-120-021 and WAC 480-120-166 to the extent that those rules define a business day as ending at 5 p.m. Pacific time.

Discussion

On September 23, 2009, Qwest Corporation (Qwest or the company) filed with the Washington Utilities and Transportation Commission (commission) a petition requesting an exemption from the provisions of WAC 480-120-021 (Definitions) and WAC 480-120-166 (Commission-referred complaints). WAC 480-120-021 defines business days as days of the week excluding Saturdays, Sundays, and official state holidays. WAC 480-120-166 explains the number of days a company has to respond to commission-referred complaints. Qwest seeks the exemption so that the company may respond to consumer complaints by 7 p.m. Pacific time on the date the response is due because it has employees who work alternate schedules, and are frequently or regularly at work after 5:00 p.m.

Qwest Corporation is subject to response requirements set forth in WAC 480-120-166, requiring telecommunications companies to respond to commission-referred complaints as follows: Subsection (6) says companies must provide initial responses to service-affecting commission complaints within two business days. Subsection (7) allows companies five business days to provide an initial response to non service-affecting complaints. Subsection (8) allows companies three business days to answer requests for additional information in the course of the complaint process.

The commission's procedural rules, WAC 480-07, explain how companies are to conduct business with the commission. WAC 480-07-120 defines a business day as any day when the commission's offices are open to the public, and that the commission office hours are from 8 a.m. to 5 p.m.

In July of 2009, staff sent a letter to regulated companies in the water, electric, gas, household goods, passenger transportation, solid waste and telecommunications companies. The letter reminded companies of the number of days (varies by industry) and the time of day (5 p.m.) the companies must respond to informal complaints. The letter also explained how companies may avoid violating response rules by requesting an extension of time to respond, per WAC 480-120-166.

Staff considers 5 p.m. as the end of the business day in terms of sending complaints to companies. If a complaint is sent to a company after 5 p.m., it is treated as if it were sent the following business day. From January 2008 through August 2009, in a total of 633 complaints, Qwest responded after 5 p.m. on the due date just 25 times during that period. It seems reasonable that Qwest staff request extensions as needed, rather than request an exemption from the rules.

All regulated companies, in all time zones, are required to respond by 5 p.m. Pacific time. The commission regulates nearly 900 companies. Allowing a single company an exemption from this rule would establish a precedent for all other regulated companies to submit similar requests. An exemption would create a situation of disparate treatment among companies, and introduce opportunity for mistakes by commission staff who would potentially be required to track dozens of different due date times and record violations appropriately.

Conclusion

Based on staff's analysis and research, staff recommends the commission deny Qwest's petition for exemption from the provisions of WAC 480-120-021 and WAC 480-120-166 to the extent those rules define a business day as ending at 5 p.m. Pacific time.