

SERVICE DATE

JUL 23 1991

NOTE! An important notice to parties about administrative relief appears at the end of this order.

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CTSI OF WASHINGTON, INC.,)	
)	
Complainant,)	DOCKET NO. UT-910090
)	
vs.)	INITIAL ORDER
)	DISMISSING COMPLAINT
U S WEST COMMUNICATIONS, INC.,)	
)	
Respondent.)	
.....)	

On January 22, 1991, CTSI of Washington, Inc. ("CTSI" or "complainant") filed this complaint against U S WEST Communications, Inc. ("U S WEST" or "respondent"). In its complaint, CTSI alleges that a dispute exists between complainant and respondent relating to resale of tie lines, off-premises extensions and Digital Interface Trunks. CTSI specifically requests the Commission to determine and declare that certain U S WEST tariffs are unjust and unreasonable to the extent they prohibit complainant's activity. CTSI further requests the Commission to direct respondent to amend its existing tariffs. The respondent filed an answer to the complaint and the matter was scheduled for a hearing on June 24, 1991.

On June 6, 1991, respondent U S WEST filed a Motion to Dismiss the above complaint as not properly brought under RCW 80.04.110. Respondent pointed out that the complainant was not registered with the Commission as a telecommunications company and was filing the complaint "...simply as any other customer of USWC..." Respondent noted that the complaint related to the reasonableness of its tariffs and that the complaint was signed only by complainant; that the complaint lacked the signatures of 24 other consumers or purchasers as required by RCW 80.04.110. Accordingly, U S WEST requested the Commission to dismiss the complaint. The hearing was continued so the motion could be considered.

The complainant did not answer the Motion to Dismiss within the 20 day period provided in WAC 480-09-425; it did not file an answer at all. In an attempt to provide complainant and other parties every opportunity to be heard, the Administrative Law Judge extended the time to answer to July 10, 1991. In the letter to the parties, the Administrative Law Judge noted the importance of filing an answer within the stated time period; the

parties were informed that a ruling would be made on the motion without further hearing.

Again, the complainant did not file an answer to the Motion to Dismiss.

Commission staff filed an answer supporting the dismissal of the complaint. Commission staff asserted that the complainant had previously filed the same complaint in July, 1990, which it withdrew. Commission staff noted that complainant was given two opportunities to respond to the motion in this proceeding, which it neglected to take. It argued that complainant failed to prosecute its complaint; that its failure to respond when given ample opportunity is tantamount to a default. Commission staff therefore urged the Commission to dismiss the complaint.

The Commission should dismiss the complaint in Docket No. UT-910090. CTSI is not complaining of a act or thing done by respondent, but rather complains that respondent's tariff is unreasonable. The Commission shall not entertain a complaint "...as to the reasonableness of the schedule of the rates or charges..." of any telecommunications company unless the complaint is signed by "...not less than twenty-five consumers or purchasers..." of such telecommunications service. RCW 80.04.110. The complainant is not a registered telecommunications company. It purchases services from respondent and, in its complaint, argues that respondent's tariffs are unjust and unreasonable. It urges the Commission to require respondent to amend its tariffs. Such a complaint without the required twenty-five signatures is properly subject to dismissal.

The Commission staff likewise argues that the complaint should be dismissed. Complainant was afforded ample opportunity to prosecute its complaint, which it failed to take. Complainant knew the importance of filing an answer within the time period. Complainant was also given additional time to respond. The Commission expects a complainant to attend to and prosecute its complaint. The orderly administration of Commission business and the need for an end to proceedings requires that a complainant observe deadlines that the Commission sets. Order M. V. No. 139291, In re Larry Trapp Trucking, Inc., App. No. E-19700 (Mar., 1989). The Commission should dismiss the complaint.

O R D E R

IT IS ORDERED That the complaint of CTSI of Washington, Inc., designated Docket No. UT-910090, is dismissed.

DATED at Olympia, Washington, and effective this 23rd day of July, 1991.

OFFICE OF ADMINISTRATIVE HEARINGS



ELMER E. CANFIELD
Administrative Law Judge

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 affirm, reverse, or modify this initial order.