

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

WHATCOM COMMUNITY)	
COLLEGE,)	DOCKET NO. UT-050770
)	
Complainant,)	ORDER NO. 04
)	
v.)	ORDER ACCEPTING
)	SETTLEMENT AGREEMENT,
QWEST CORPORATION,)	ON CONDITION; DISMISSING
)	COMPLAINT
Respondent.)	
)	
.....)	

1 **Synopsis:** *The Commission approves a proposed settlement agreement between the parties to this complaint, on condition; grants the request of Whatcom Community College to withdraw its formal complaint against Qwest Corporation, subject to parties' acceptance of the condition, and dismisses the proceeding.*

BACKGROUND

2 On May 19, 2005, Whatcom Community College filed a formal complaint against Qwest Corporation. The complainant alleges that the respondent billed for services after the services were canceled. Qwest responded, raising affirmative defenses and moving to strike portions of the complaint.

3 The Commission convened a prehearing conference on the complaint on August 3, 2005, before Administrative Law Judge C. Robert Wallis.

4 On December 18, 2005, Whatcom Community College filed with the Commission a Motion to Withdraw Complaint. On January 13, 2006, the parties filed a proposed settlement agreement for Commission approval.

5 In the settlement agreement, the parties agree to a refund of a specified portion
of charges paid. They agree that the specified refund will fully resolve the issues
in the complaint, and agree that the proposed resolution does not indicate
liability or fault.

6 The agreement, however, provides that any future disputes arising from the
settlement agreement concerning its terms will be settled by arbitration,
specifying a commercial arbitrator and an out-of-state venue for arbitration.

7 Washington law provides in Title 80 that the Commission has jurisdiction over
disputes involving regulated telecommunications companies. RCW 80.04.200
and RCW 80.04.210 provide that the Commission has jurisdiction over disputes
involving Commission orders. RCW 80.04.410 provides that Commission orders
are final and conclusive unless set aside or annulled (only) pursuant to review
under Title 80 RCW. Washington law also provides that the Commission cannot
delegate the exercise of its jurisdictional discretion to any other person or entity.¹

8 Consequently, the Commission cannot accept Paragraph 6 of the proposed
settlement agreement, in which the parties agree to a dispute resolution
procedure not within the Commission's jurisdiction.

9 In other respects, the parties' agreement is consistent with the public interest and
with law, pursuant to RCW 34.05.060 and WAC 480-07-740.

10 The Commission approves the parties' settlement agreement, subject to the
parties' submitting, within ten business days after the service of this order,
consent to striking Paragraph 6 from the settlement agreement. If the parties fail
to consent, the matter will be set for hearing pursuant to WAC 480-07-750(2).

¹ See, Finnigan, *et al.*, eds., *Washington Administrative Law Practice Manual*, "Adjudications under the APA," Paragraph 9.04[D] (2004 release).

ORDER

- 11 THE COMMISSION ORDERS That the proposed settlement agreement between Whatcom Community College and Qwest Corporation is approved, on condition that the parties both agree, within ten business days after the service of this order, to strike Paragraph 6 from the settlement agreement.
- 12 The Commission grants Whatcom Community College's request to withdraw its formal complaint against Qwest Corporation by dismissing the complaint.
- 13 The Commission retains jurisdiction over the subject matter of and the parties to this proceeding for purposes of effectuating the terms of this order.

DATED at Olympia, Washington, and effective this 31st day of January, 2006

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.