

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

AT&T BROADBAND PHONE OF)	
WASHINGTON, LLC,)	
)	Docket No. UT-
Complainant,)	
)	COMPLAINT FOR EMERGENCY
v.)	RELIEF FOR VIOLATION OF
)	WAC 480-120-139
QWEST CORPORATION,)	(REVERSE SLAMMING)
)	
Respondent.)	
_____)	

Pursuant to RCW 80.04.110, WAC 480-09-400 & WAC 480-090-510, AT&T Broadband Phone of Washington, LLC (“AT&T Broadband”), brings the following Complaint against Qwest Corporation (“Qwest”). In support of its Complaint, AT&T Broadband alleges as follows:

PARTIES

1. Complainant. AT&T Broadband is registered and classified by the Commission as a competitive telecommunications company. AT&T Broadband is authorized to provide switched and non-switched local exchange and long distance services in Washington.

2. Respondent. Qwest is an incumbent local exchange company (“ILEC”), as defined in 47 U.S.C. § 251(h) and provides local exchange and other telecommunications services throughout the State of Washington.

JURISDICTION

3. Commission Jurisdiction. The Commission has jurisdiction over this Complaint and Respondent Qwest pursuant to RCW 80.04.110 (complaints), RCW 80.36.170 (unreasonable preference), and WAC 480-120-139 (changes in local exchange and intrastate toll services).

BACKGROUND

4. Service Areas Affected. AT&T Broadband provides facilities-based local exchange service in Washington, including Vancouver (as part of the greater Portland, Oregon market) and the greater Puget Sound area, including Seattle. Qwest is the ILEC that provides local service in these areas, and AT&T Broadband obtains services from Qwest to enable AT&T Broadband to provide local service to its customers, particularly local number portability (“LNP”).

5. Qwest Rejection of AT&T Broadband Orders. During the week of February 18, 2002, AT&T Broadband began receiving rejections from Qwest when placing orders for LNP in Vancouver. The rejection notices stated, “Please have end user contact current local service provider to have local service freeze removed.”

6. Qwest Local Service Freeze Implementation. The number of these rejections quickly increased during the week of February 25, 2002. AT&T Broadband contacted Qwest about these rejections, and Qwest informed AT&T Broadband that Qwest was now offering preferred carrier local service freezes in Washington, and that customers are required to contact Qwest to have the freezes removed.

7. Customer Inability to Remove Freeze. AT&T Broadband notified its customers

that they would need to contact the Qwest business office to have the preferred carrier freezes on local service removed. The vast majority of these customers informed AT&T Broadband that they had not authorized any freeze on their local service. Virtually every customer also notified AT&T Broadband that when they contacted Qwest to remove the freeze, the Qwest customer service representatives were unable to assist them. The customers' most common complaints to AT&T Broadband were that Qwest failed to remove the freeze despite multiple requests from the customer to do so. In at least one case, the customer informed AT&T Broadband that Qwest had told the customer that a fee of \$5.00 would be added to the customer's next bill to cover the cost of removing the local service freeze.

8. AT&T Broadband Escalation Attempt. On or about March 4, 2002, AT&T Broadband escalated the issue to Qwest Western Region personnel. Qwest informed AT&T Broadband of the following process: AT&T Broadband should instruct the customer to call the business office to have the freeze removed. The customer service record would be updated in three to five days to reflect the removal, but AT&T Broadband would be able to submit a local service request ("LSR") on the next business day without receiving a rejection or delaying the service installation.

9. Continued Customer Inability to Remove Freeze. Qwest, however, has not implemented this process. Customers continued to contact AT&T Broadband complaining that they were unable to get Qwest to remove the freeze on their local service, and AT&T Broadband continued to receive rejection notices from Qwest after the customer had notified Qwest to remove the local service freeze.

10. AT&T Broadband Subsequent Escalation Attempt. On March 7, 2002,

AT&T Broadband again escalated this issue, this time through a contact at Qwest's Executive Branch. This contact assisted AT&T Broadband and one customer immediately to remove a local service freeze that the customer previously had been unable to get Qwest to remove. When AT&T Broadband requested assistance with another customer, the contact became upset and stated, "Why should I help you take our customer?" The contact discontinued the conversation when the AT&T Broadband representative tried to explain that the customer was making the choice to move to another service provider.

11. AT&T Broadband Attempts to Assist Customers. AT&T Broadband representatives have joined customers on three-way conference calls with Qwest to remove the local service freeze. They have spent hours being transferred to, or being required to call a variety of, toll free numbers to have the local freezes removed. Qwest now is referring such requests to a third party vendor for processing. Qwest provided a temporary toll-free number to assist AT&T Broadband and its customers to work through the backlog of customer requests to remove local service freezes. This contact has been only of moderate assistance because of its limited availability and effectiveness. Customers are continuing to experience substantial delays in getting Qwest to remove their local service freeze, if Qwest removes those freezes at all, and AT&T Broadband is continuing to have its LSRs rejected long after the customer has notified Qwest to remove the freeze.

12. AT&T Broadband Further Escalation Attempts. AT&T Broadband continued to attempt to resolve this issue with Qwest. On or about March 20, 2002, AT&T Broadband provided Qwest with a written list of concerns, including customers' complaints that they are required to call Qwest multiple times to remove the local service freeze and the lack of any

process for, or consistency in, removing local service freezes through the Qwest retail office or available escalation measures. During a conference call on March 26, 2002, Qwest failed to provide any substantive response to these concerns, representing only that Qwest would respond in writing on April 3, 2002. Attempts to escalate the issue to Qwest law department personnel have similarly met with unreturned messages or vague assurances that Qwest is aware of AT&T Broadband's concerns.

13. Qwest Unauthorized Freezes. AT&T Broadband repeatedly has requested that Qwest provide documentation that it or its third party vendor has properly frozen these customers' preferred carrier for local service. To date, Qwest has provided no such documentation, although Qwest claims to possess such documentation. Over 95% of the Vancouver-area customers experiencing problems with removing a local service provider freeze from their Qwest account to obtain service from AT&T Broadband deny authorizing any such freeze. In addition, five Seattle-area AT&T Broadband employees with Qwest local service contacted Qwest to determine whether there is a local service provider freeze on their account. Qwest informed three of the five that they had authorized a freeze on their local service provider, and all three of those employees deny authorizing any such freeze. The scant undocumented information that Qwest has provided to AT&T Broadband, moreover, includes Qwest's representations that some customers requested a local service provider freeze *after* those customers requested that AT&T Broadband provide their local service.

14. Customer Inability to Change Local Service Provider. As of March 26, 2002, approximately 124 Qwest customers seeking local service from AT&T Broadband in Vancouver have had problems removing the local service freeze Qwest has imposed. AT&T

Broadband, as a result, has been unable to install local telephone service to these customers by the customer-requested installation date, if at all, and is devoting substantial resources in largely unsuccessful attempts to assist these customers. AT&T Broadband has been compelled to reschedule 67% of these customers' service installations at least once and has been able to install only 14% on the initial date requested by the customer. Their common lament is, "I just want to change my phone company." Approximately 15% of these customers have ordered a new telephone number, rather than continue to attempt to port their existing telephone number, to obtain local service from AT&T Broadband while approximately 10% have cancelled their request for service from AT&T Broadband altogether. Qwest has subjected customers seeking local service from AT&T Broadband in Seattle to similar difficulties when attempting to change their local service provider.

CLAIMS FOR RELIEF

A. Violation of WAC 480-120-139 (Preferred Carrier Freezes)

15. Reallegation. AT&T Broadband realleges and incorporates by reference the allegations in paragraphs 1-14 above as if fully set forth herein.

16. Preferred Carrier Freeze. All local exchange companies must offer preferred carrier freezes, but “[t]he carrier offering the freeze must obtain separate authorization for each service for which a preferred carrier freeze is requested.” WAC 480-120-139(5). “No local exchange carrier may implement a preferred carrier freeze unless the customer’s request to impose a freeze has first been confirmed in accordance with the procedures outlined for confirming a change in preferred carrier.” WAC 480-120-139(5)(c).

All local exchange carriers must offer customers, at a minimum, the following procedures for lifting a preferred carrier freeze:

. . . .

(ii) A customer’s oral authorization to lift the freeze. This option must include a mechanism that allows a submitting carrier to conduct a three-way conference call with the executing carrier and the customer in order to lift the freeze.

WAC 480-120-139(5)(d).

17. Unauthorized Preferred Carrier Freezes. Qwest has imposed preferred carrier freezes on customers’ local exchange service without proper authorization in violation of WAC 480-120-139(5).

18. Refusal to Lift Preferred Carrier Freezes. Qwest has failed or refused to lift preferred carrier freezes on customers’ local exchange service despite repeated customer requests, including during three-way conference calls with the customer and AT&T Broadband,

in violation of WAC 480-120-139(5)(d).

B. Violation of RCW 80.36.170 (Unreasonable Preference)

19. Reallegation. AT&T Broadband realleges and incorporates by reference the allegations in paragraphs 1-14 above as if fully set forth herein.

20. Unreasonable Disadvantage. RCW 80.36.170 provides in relevant part:

No telecommunications company shall make or give any undue or unreasonable preference or advantage to any person, corporation, or locality, or subject any particular person, corporation, or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

21. Qwest Violation of RCW 80.36.170. Qwest's unauthorized imposition of preferred carrier freeze on local service and refusal to lift preferred carrier freezes on local service in response to customer requests is a form of slamming, is anticompetitive, and subjects AT&T Broadband and customers seeking local service from AT&T Broadband to undue and unreasonable prejudice or disadvantage in violation of RCW 80.36.170.

22. Need for Emergency Relief. Qwest's practices of reverse slamming of local service is an immediate danger to the public welfare requiring immediate action by the Commission as authorized in WAC 480-09-510.

PRAYER FOR RELIEF

WHEREFORE, AT&T Broadband prays for the following relief:

- A. An immediate or expedited order from the Commission requiring Qwest:
- (1) to discontinue any and all preferred carrier freezes on local service until Qwest has developed, adopted, and implemented Commission-approved policies and procedures for imposing and removing such freezes in compliance with WAC 480-120-139(5);
 - (2) to refund all customer payments for providing local service to customers who had not requested a preferred carrier freeze on their local service and/or for whom Qwest refused to lift a preferred carrier freeze for the month during which the customer requested local service from another local service provider and for any subsequent months, pursuant to WAC 480-120-139(6); and
 - (3) as authorized under RCW 80.04.380, to pay penalties of \$1,000 for each violation of WAC 480-120-139, *i.e.*, \$1,000 for each customer for whom Qwest has implemented an unauthorized preferred carrier freeze on local service and \$1,000 per customer for whom Qwest refused to lift a preferred carrier freeze on local service for each day after the customer requested that Qwest lift the freeze until the freeze was lifted; and

B. Such other or further relief as the Commission finds fair, just, reasonable, and sufficient.

DATED this _____ day of March, 2002.

DAVIS WRIGHT TREMAINE LLP
Attorneys for AT&T Broadband Phone of
Washington, LLC

By _____
Gregory J. Kopta
WSBA No. 20519

VERIFICATION

Mike Mason certifies as follows: I am a telephony operations senior manager for AT&T Broadband Phone of Washington, LLC; that I have read the foregoing Complaint, know the contents thereof and believe the same to be true.

Mike Mason

SUBSCRIBED AND SWORN to before me this _____ day of March, 2002.

NOTARY PUBLIC in and for the State of _____,
residing at _____.