

1  EXPEDITE  
2  No Hearing Set  
3  Hearing is Set  
4 Date:  
5 Time:

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9 SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

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11 State of Washington, Utilities and  
12 Transportation Commission,

13 Plaintiff,

14 v.

15 Globcom, Inc.,

16 Defendant.

CASE NO.

PETITION TO ENFORCE  
ADMINISTRATIVE ORDER AND  
RECOVER REGULATORY  
PENALTY

17 Plaintiff, State of Washington, Washington Utilities and Transportation Commission,  
18 alleges as follows:

19 I. INTRODUCTION

20 1.1 This is a civil action to recover penalties owed to the Plaintiff, Washington  
21 Utilities and Transportation Commission (Commission or WUTC), by the Defendant,  
22 Globcom, Inc., for violations of WAC 480-120-166, which prescribes the time in which a  
23 telecommunications company must respond to a Commission-referred complaint.

24 1.2 The Commission seeks an order from this Court enforcing its Notice of  
25 Penalties Incurred and Due for Violations of Laws, Rules, and Regulations, dated March 29,  
26

1 2004 (Penalty Assessment). The Penalty Assessment was entered under Commission Docket  
2 No. UT-040449 and required payment of monetary penalties for violations of WAC 480-120-  
3 166. The Penalty Assessment, along with proof of service and a certificate of authenticity, is  
4 attached to this petition as Exhibit A.

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6 1.3 Title 80 RCW and chapter 480-120 WAC govern telecommunications  
7 companies doing business in the State of Washington.

8 1.4 Defendant, Globcom, was a telecommunications company doing business in  
9 Washington when the Commission issued the Penalty Assessment. A letter from the  
10 Commission's Executive Secretary, Globcom's telecommunications registration, and  
11 certificate of authenticity are attached to this petition as Exhibit B. Globcom is currently  
12 providing telecommunication service in Washington.

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14 1.5 The Commission was authorized by Title 80 RCW and chapter 480-120 WAC  
15 to issue the Penalty Assessment against Globcom.

16 1.6 RCW 34.05.578 authorizes an administrative agency to petition Superior Court  
17 for any relief necessary for enforcement of its rules or orders, in addition to other remedies  
18 provided by law.

19 1.7 RCW 80.04.405 authorizes the Commission to petition Superior Court for  
20 recovery of penalties issued pursuant to that statute.

## 21 II. JURISDICTION AND VENUE

22  
23 2.1 Pursuant to RCW 34.05.578, RCW 80.01.100, and RCW 80.04.405, the Office  
24 of the Attorney General is authorized to seek the judicial orders requested on behalf of the  
25 Commission, and this Court is authorized to grant those orders.  
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1           2.2     This Court has jurisdiction over the parties and subject matter of this action  
2 pursuant to RCW 34.05.578 and RCW 80.04.405.

3           2.3     Venue is appropriate in Thurston County under RCW 4.12.020, RCW 4.12.025,  
4 and RCW 80.04.405.  
5

6   III.     PARTIES

7           3.1     The Plaintiff, the Utilities and Transportation Commission, is an agency of the  
8 State of Washington, with its headquarters located in the Chandler Plaza Building, 1300 S.  
9 Evergreen Park Drive SW, P.O. Box 47250, Olympia, Washington 98504-7250. The  
10 Commission is charged with regulating telecommunications companies doing business in the  
11 State of Washington.

12           3.2     The Defendant is Globcom, Inc., 2100 Sanders Road, Suite 150, Northbrook,  
13 Illinois 60062. The registered agent for Globcom is TCS Corporate Services, Inc., 1780  
14 Barnes Boulevard SW, Tumwater, Washington 98512-0410. Globcom's Chief Executive  
15 Officer is Glenn Koffman, 2100 Sanders Road, Suite 150, Northbrook, Illinois 60062. The  
16 Defendant was doing business in the State of Washington when the Commission entered its  
17 Penalty Assessment and continues to provide telecommunication service in Washington.  
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19   IV.     STATEMENT OF FACTS

20           4.1     On March 29, 2004, the Commission issued a Notice of Penalties Incurred and  
21 Due for Violations of Laws, Rules, and Regulations (Penalty Assessment). The Commission  
22 issued the Penalty Assessment pursuant to its authority under Title 80 RCW. *See* RCW  
23 80.04.405.  
24

1           4.2     The Commission based the Penalty Assessment on 235 violations of WAC 480-  
2 120-166, which prescribes the amount of time in which telecommunications companies are  
3 required to respond to Commission-referred customer complaints. The violations were  
4 incurred during the investigation of three customer complaints filed with the Commission.  
5 Globcom incurred 91 violations associated with the first complaint, 88 violations associated  
6 with the second complaint, and 56 violations associated with the third complaint.<sup>1</sup> *See Exhibit*  
7 *A.*

9           4.3     The Commission provided Globcom with the opportunity to challenge the  
10 penalty assessed. The Penalty Assessment notified Globcom that it could apply for mitigation  
11 of the penalty or request a hearing within 15 days of receipt of the notice. *See Exhibit A*

12           4.4     Each violation of WAC 480-120-166 was assessed a penalty of \$100 pursuant  
13 to RCW 80.04.405. The total penalty assessed was \$23,500. *See Exhibit A.*

14           4.5     Globcom failed to respond to the Penalty Assessment, either by paying the  
15 penalty assessed, by requesting mitigation of the penalty, or by requesting a hearing within 15  
16 days of receiving the notice. *See Exhibit C* attached to this petition, Declaration of M. Carlene  
17 Hughes at ¶ 4.

18           4.6     In May 2004, representatives of Globcom contacted Commission Staff  
19 indicating an intent to pay the penalty, but also expressing a desire to explain the circumstances  
20 surrounding the penalty. Staff expressed concern about the Commission's ability to address a  
21 late-filed mitigation plea, but informed the Company that it could file such a plea or request a  
22 Commission ruling on the matter. *Exhibit C* at ¶ 5.

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<sup>1</sup> The text of the Penalty Assessment states that Globcom was non-responsive to Commission-referred customer complaints on 178 occasions. This is a typographical error, as the sum of the violations associated with

1           4.7     The Commission sent a letter to Globcom on June 1, 2004, requesting payment  
2 of the penalty. Globcom was informed that if it failed to pay the penalty, the Commission  
3 would refer the matter to the Office of the Attorney General for collection. Exhibit C at ¶ 6;  
4 Exhibit C, Attachment 2.

5           4.8     Globcom did not respond to the Commission's letter dated June 1, 2004. On  
6 June 22, 2004, Ms. M. Carlene Hughes of Commission Staff sent Globcom an electronic mail  
7 message (e-mail) requesting whether Globcom intended to pay the penalty. Exhibit C at ¶ 7;  
8 Exhibit C, Attachment 3. Globcom did not respond to Ms. Hughes' e-mail. Exhibit C at ¶ 8.

9           4.9     On July 19, 2004, the Office of the Attorney General sent a letter to Globcom  
10 on behalf of the Commission. That letter provided Globcom with a final opportunity to pay the  
11 penalties imposed by the Commission's Penalty Assessment. Exhibit C at ¶ 8; Exhibit C;  
12 Attachment 4. Globcom did not respond to the letter dated July 19, 2004. Exhibit C at ¶ 8.

13           4.10    The State of Washington, Plaintiff, and its citizens will suffer harm unless the  
14 Court orders Globcom to remit the penalties as assessed by the Commission. The penalties  
15 should be paid into the state treasury and credited to the public service revolving fund, as  
16 required by RCW 80.04.405.

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19                           V.     CAUSE OF ACTION (RCW 80.04.405; RCW 34.05.578)

20           5.1     Plaintiff realleges Paragraphs 1.1 through 4.10.

21           5.2     The Commission is the administrative agency responsible for the  
22 implementation of Title 80 RCW. The Commission is vested with the authority to issue orders  
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the three customer complaints totals 235.

1 and penalty assessments under Title 80 RCW, regulating telecommunications companies doing  
2 business in the State of Washington.

3 5.3 The Commission lawfully issued its Notice of Penalties Incurred and Due for  
4 Violations of Laws, Rules, and Regulations, on March 29, 2004, in Docket No. UT-040449.

5 5.4 The Defendant, Globcom, Inc., did not respond to or appeal the Penalty  
6 Assessment, thus the Penalty Assessment is valid and binding on the Defendant.

7 5.5 RCW 34.05.586 limits the Defendant's ability to challenge the Penalty  
8 Assessment because the Defendant failed to appeal the Penalty Assessment.

9 5.6 Based on the foregoing, the Court should grant the Commission an order  
10 enforcing the Penalty Assessment requiring Globcom to pay penalties totaling \$23,500.

#### 11 VI. REQUEST FOR RELIEF

12 Plaintiff, State of Washington, Washington Utilities and Transportation Commission,  
13 hereby requests this Court grant the following relief:

14 6.1 Grant Plaintiff's attached Motion for Order to Show Cause and issue the  
15 attached Order to Show Cause Why Enforcing the WUTC's Notice of Penalties Incurred and  
16 Due for Violations of Laws, Rules, and Regulations dated March 29, 2004, in Docket No. UT-  
17 040449 Should Not be Issued.

18 6.2 Issue an Order Enforcing the WUTC's Notice of Penalties Incurred and Due for  
19 Violations of Laws, Rules, and Regulations dated March 29, 2004, in Docket No. UT-040449.

20 6.3 Issue an Order of Default and Default Judgment, if needed, or alternatively  
21 issue an Order of Judgment.

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6.4 Retain jurisdiction over the Defendant until the Commission’s Notice of Penalties Incurred and Due for Violations of Laws, Rules, and Regulations has been satisfied.

6.5 Award Plaintiff its costs and other disbursements, including all fees and costs awardable by law, incurred herein.

6.6 Award Plaintiff any other relief the Court deems proper.

DATED this \_\_\_ day of February 2005.

ROB MCKENNA  
Attorney General

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LISA WATSON, WSBA No. 31549  
Assistant Attorney General  
Washington Utilities and  
Transportation Commission  
(360) 664-1186