

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of)	DOCKET NO. UT-040572
)	
PENALTY ASSESMENT AGAINST)	ORDER GRANTING MOTION
TEL WEST COMMUNICATIONS, LLC.)	FOR ADJUDICATION; NOTICE
)	OF BRIEF ADJUDICATION;
)	
.....)	(Set for Thursday, September 23, 2004 at 9:30 a.m.)

1 On June 23, 2004, the Commission assessed penalties upon Tel West Communications, LLC (also referred to herein as "Tel West" or "Respondent") in the amount of \$143,100.00, alleging that Respondent had violated provisions of law or rule: WAC 480-120-147(5), which requires companies to obtain customer authorization prior to adding a preferred carrier freeze to the customer's account, and WAC 480-120-166, which requires telecommunication companies to report the results of its investigation of service-affecting informal complaints to Commission staff within two business days from the date Commission staff passes the complaint; of non-service-affecting informal complaints to Commission staff within five business days from the date the Commission staff passes the complaint; and for requests from Commission staff for additional information on pending complaints within three days. On July 9, 2004, Tel West Communications, LLC, filed with the Commission an Application for Mitigation of Penalties.

2 On August 4, 2004¹ Commission Staff submitted a motion for the Commission to commence an adjudication regarding this matter pursuant to RCW 34.05.413. On

¹ On July 21, 2004, Commission Staff asked for an extension of time until August 4, 2004, stating that the Respondent had no objection to the extension. The response and motion for an adjudication are considered to be timely.

August 11, 2004 , Tel West responded to the request for an adjudication, stating that an oral evidentiary hearing appeared to be unnecessary but that the Respondent requested the opportunity for oral argument.

3 The Administrative Procedure Act² and the Commission's rules of practice and procedure³ both provide the opportunity for a brief adjudication to allow the consideration of petitions for mitigation of penalties. It appears that the Staff request for an adjudication and the Respondent's request for argument and consideration of its mitigation petition will both be best-served by invoking the relatively informal processes relating to brief adjudications, considering agreed evidence without need for an oral hearing, and allowing parties the opportunity to present oral argument.

4 Pursuant to RCW 34.05.482 and WAC 480-07-610, the Commission determines that a brief adjudicative proceeding is appropriate for resolving the issues that are raised in the penalty assessment.

5 The statutes and rules involved in this proceeding include chapter 34.05 RCW, chapter 480-07 WAC, WAC 480-15 – Part 5, WAC 480-15-620(1), WAC 480-15-690(1), and WAC 480-15-710.

6 NOTICE IS HEREBY GIVEN That a brief adjudicative proceeding will be held on Thursday, September 23, 2004, at 9:30 a.m. in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.

7 The record in this case will consist of any documents regarding the matter that are considered or prepared by the presiding officer for the brief adjudicative proceeding. The record includes all documents submitted as a part of the Penalty Assessment that has been filed. Parties should bring any other

² RCW 34.05.482

³ WAC 480-07-610

documents that they want the presiding officer to consider to the brief adjudicative proceeding on Thursday, September 23, 2004.

- 8 Written notice of any other formal proceedings that the Commission may deem appropriate will be given during the course of this case. The Commission will provide at its offices in Olympia, Washington, current records of the proceeding for use by the parties or others who may want to review them.
- 9 The names and know mailing addresses of the parties and their known representatives are as follows:

Company: Tel West Communications, LLC
3701 S. Norfolk Street, Suite 300
Seattle, WA 98118

Representative: Richard Busch
Attorney at Law
Graham & Dunn, PC
2801 Alaskan Way
Pier 70, Suite 300
Seattle, WA 98121-1128

Commission Staff: Lisa Watson
Assistant Attorney General
1400 S. Evergreen Park Drive SW
PO Box 40128
Olympia, WA 98504-0128

10 C. Robert Wallis, Administrative Law Judge, Washington Utilities and Transportation Commission, Administrative Law Division, is designated as the presiding officer of the brief adjudicative proceeding. Mr. Wallis' telephone number is (360) 664-1142.

DATED at Olympia, Washington and effective this 1st day of September, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN
Executive Secretary

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: Carole J. Washburn, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket No.: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____