

July 13, 2001

**NOTICE OF COMPLAINTS
AND
REQUIREMENT FOR ANSWER
(August 2, 2001)**

RE: Bernice Brannan, et. al. v. Qwest Corporation
Docket No. UT-010988

Bernice Brannan, et. al. v. Sanitary Service Company
Docket No. TG-010989

Bernice Brannan, et. al. v. Puget Sound Energy
Docket No. UE-010990

Terry McNeil, et. al. v. Puget Sound Energy
Docket No. UE-010995

Terry McNeil, et. al. v. Verizon Northwest, Inc.
Docket No. UT-010996

TO ALL PARTIES:

On July 6, 2001, the Washington Utilities and Transportation Commission received a Formal Complaint by Bernice Brannan, 4145 Patos Drive, Ferndale, Washington, and twenty-six other named individuals, requesting that the Commission remove the Lummi Business Utility tax from the tariffs of Puget Sound Energy, Sanitary Service Company and Qwest Corporation, to the extent the tax is passed-through to non-tribal members located on fee land within the Lummi Reservation. The Complainants cite the following cases in support of their allegation that the tax is illegal and invalid as to those non-tribal members: *Atkinson Trading Company, Inc. v. Shirley, et. al.*, 532 U.S. ____ (2001) and *Big Horn Electric Coop., Inc. v. Adams*, 219 F.3d 944 (9th Cir. 2000).

On July 9, 2001, the Commission received a Complaint by Terry McNeil, 16750 Warren Street, La Conner, Washington, and twenty-seven other named individuals, requesting that the Commission remove the Swinomish Utility Business Activity tax from the tariffs

of Puget Sound Energy and Verizon Northwest, Inc., to the extent the tax is passed-through to non-tribal members located on fee land within the Swinomish Reservation. The Complainants also cite the *Atkinson* and *Big Horn Electric* cases as authority for their allegation that the tax is illegal and invalid as to those non-tribal members.

Neither of the complaints received by the Commission complies with the pleading requirements of WAC 480-09-420. However, each complaint places at issue the tariffs of the named companies to the extent those tariffs pass through to non-tribal members located on fee land within the reservation, utility taxes assessed by the Lummi and Swinomish tribes. The Commission has authority to liberally construe pleadings and make exceptions to its procedural rules as circumstances may warrant. WAC 480-09-010(3). WAC 480-09-425(4).

Therefore, the Commission will consider these complaints as filed under RCW 80.04.110 and will disregard any defects or errors in the pleadings since it appears that the substantial rights of no party will be prejudiced.

NOTICE IS FURTHER GIVEN That the Commission requires each company addressed by the complaints to answer the complaints in writing within 20 days from service of the complaints, as set forth in WAC 480-09-425(3). Each company should include whatever factual statement and legal argument it believes is relevant to the complaint against it. After receipt of the answers, the Commission will give notice of any other procedural phases it deems appropriate for the remainder of these proceedings.

Sincerely

CAROLE J. WASHBURN
Secretary