

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,)	
)	DOCKET NO. UT-011329
Complainant,)	
)	COMPLAINT AND
v.)	NOTICE OF PREHEARING
)	CONFERENCE
QWEST CORPORATION,)	(October 22, 2001)
)	
Respondent.)	
.....)	

1 The Washington Utilities and Transportation Commission (Commission) on its own
motion, and through its Staff, alleges as follows:

I. PARTIES

2 The Commission is an agency of the State of Washington, authorized by state law to
regulate the rates, practices, accounts, and services of public service companies,
including telecommunications companies, under the provisions of Title 80 RCW.

3 Respondent Qwest Corporation (Qwest) is a telecommunications company subject to
regulation by the Commission pursuant to RCW 80.01.040(3).

II. JURISDICTION

4 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW
80.04.110, RCW 80.36.100, RCW 80.36.130, RCW 80.36.140, RCW 80.36.150, RCW
80.36.170, RCW 80.36.180, RCW 80.36.186, and WAC 480-80-330.

III. FACTUAL ALLEGATIONS

5 Qwest is a telecommunications company authorized to provide telecommunications
service in the State of Washington.

6 Qwest is subject to regulation under the provisions of Title 80 RCW.

7 Before or during October 1999, Qwest developed a Centrex Customer Loyalty Program
(CCLP) under which certain customers of Qwest's Centrex Prime, Centrex Plus, Centron,
and Centron XL (Centrex) services would receive a service credit.

- 8 Qwest initiated the CCLP to retain customers who were large users of Centrex service.
- 9 Qwest provided the service credit to at least one Washington customer.
- 10 Although Qwest initiated the CCLP in October of 1999, the company provided the CCLP credit retroactive to January 1999.
- 11 Qwest provided the CCLP credit during all or a portion of years 2000 and 2001.
- 12 Qwest failed to file a contract with the Commission that reflected either the service credit or the actual charge the customer paid under the CCLP.
- 13 Qwest did not file a tariff revision to offer or provide the CCLP.
- 14 Qwest did not provide written notice to customers of the availability, applicability, or other provisions of the CCLP.
- 15 Qwest configured and operated its billing system so as to avoid the appearance on any customer's bill of an identified CCLP credit.
- 16 Centrex Prime, Centrex Plus, Centron and Centron XL are telecommunications services provided by Qwest that, with the exception of associated feature packages, have not been competitively classified by the Commission.

IV. FIRST CLAIM FOR RELIEF (Violation of RCW 80.36.100)

- 17 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-16 above.
- 18 RCW 80.36.100 requires telecommunications companies to file tariffs setting forth the rates, terms, and conditions of all regulated services they provide in the state of Washington.
- 19 Qwest violated RCW 80.36.100 by not filing a tariff covering its CCLP when the company provided service under the CCLP to at least one customer in Washington.

V. SECOND CAUSE OF ACTION (Violation of RCW 80.36.130)

- 20 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-16 above.
- 21 RCW 80.36.130 prohibits telecommunications companies from charging a different rate for a service than the rate set forth in the company's tariff. RCW 80.36.130 also prohibits telecommunications companies from refunding or remitting, directly or

indirectly, any portion of the tariffed rate of a service. RCW 80.36.130 also prohibits telecommunications companies from extending a contract or agreement to any customer that is different from that set forth in its tariff and extended to all customers under similar circumstances. RCW 80.36.130 also prohibits a telecommunications company from giving customers free or reduced service, unless provided to the company's employees or charitable organizations.

22 Qwest violated RCW 80.36.130 by charging a rate for Centrex service that was different from its tariffed rate; by providing refunds or service credits to at least one Washington customer under the CCLP; by entering into an agreement for the price of a service that was different than the tariffed rate for that service and not extended to all similarly situated customers; and/or by providing a service at a reduced price to at least one Washington customer under the CCLP.

23 The number of violations of RCW 80.36.130 by Qwest is at least 310,000.

VI. THIRD CAUSE OF ACTION
(Violation of RCW 80.36.150)

24 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-16 above.

25 RCW 80.36.150 requires telecommunications companies to file agreements, arrangements, or contracts for services with the Commission. RCW 80.36.150 requires that contracts for noncompetitive services, like Centrex, be in the public interest. RCW 80.36.150 requires telecommunications companies providing noncompetitive services through contracts to make those services available to all purchasers under the same or substantially the same circumstances under the same rate, terms, and conditions set forth in the contract.

26 Qwest violated RCW 80.36.150 by failing to file the CCLP agreement with the Commission; by failing to demonstrate that the CCLP is in the public interest; and/or by failing to make the rates, terms, and conditions of the CCLP available to those customers similarly situated to the customers receiving the benefits of the CCLP.

VII. FOURTH CAUSE OF ACTION
(Violation of RCW 80.36.170)

27 The Commission, through its staff, realleges the allegations contained in paragraphs 2-16 above.

28 RCW 80.36.170 prohibits a telecommunications company from making or giving an undue or unreasonable preference or advantage to any customer or by subjecting any customer to undue or unreasonable prejudice or disadvantage whatsoever.

29 Qwest committed numerous violations of RCW 80.36.170 by giving CCLP customers an
undue or unreasonable preference or advantage in the pricing of Centrex service while
subjecting those customers who purchased that service from the tariff or under a lawfully
filed contract to undue or unreasonable prejudice or disadvantage.

**VIII. FIFTH CAUSE OF ACTION
(Violation of RCW 80.36.180)**

30 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-16
above.

31 RCW 80.36.180 prohibits a telecommunications company from engaging in rate
discrimination, either by special rates or rebates provided by the company to one
customer or class of customers that it does not provide to all other similarly situated
customers.

32 Qwest committed numerous violations of RCW 80.36.180 by providing service credits or
refunds under the CCLP to at least one Washington customer and not to all other
similarly situated customers, thereby discriminating against those customers who were
not offered the CCLP.

**IX. SIXTH CAUSE OF ACTION
(Violation of WAC 480-80-330)**

33 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-16
above.

34 WAC 480-80-330 requires contracts for telecommunications services to be filed with the
Commission. Such contracts must set forth the reasons the contract rate deviates from
the rates set forth in the tariff, explain the cost computations involved in determining the
contract rate, indicate why a contract is used rather than the tariff for the service
involved, and state the time period of the contract.

35 Qwest violated WAC 480-80-330 by failing to file the CCLP contract, agreement, or
arrangement with the Commission.

36 THEREFORE, the Commission enters into a full and complete investigation into the
matters alleged and will commence an adjudicative proceeding pursuant to chapter 34.05
RCW and chapter 480-09 WAC for the following purposes:

37 (1) To determine whether Qwest has violated the statutes set forth in the allegations
above;

38 (2) To determine whether the Commission should impose penalties against Qwest in an
amount to be proved at hearing; and

- 39 (3) To make such other determinations and enter such orders as may be just and reasonable.

NOTICE OF PREHEARING CONFERENCE

40 Hearing in this matter is being held pursuant to Part IV of chapter 34.05 RCW pertaining to adjudicative proceedings and RCW 80.04.110 and 80.04.120. The Commission has jurisdiction over this matter under Title 80 RCW, having legal authority to regulate the rates, practices, and services of telecommunications companies. Statutes involved include but are not limited to those within chapter 80.04 RCW and chapter 80.36 RCW, particularly RCW 80.04.010, RCW 80.04.110, RCW 80.04.380, RCW 80.04.405, RCW 80.36.100, RCW 80.36.130, RCW 80.36.140, RCW 80.36.150, RCW 80.36.170, and RCW 80.36.180. Rules involved include but are not limited to those within chapter 480-09 WAC and chapter 480-80 WAC, particularly WAC 480-80-330. The ultimate issues are as stated in the above complaint.

41 **NOTICE IS HEREBY GIVEN** That a prehearing conference in this matter will be held on Monday, October 22, 2001, at 1:30 p.m., in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The purpose of the prehearing conference is to consider formulating the issues in the proceeding, and to determine other matters to aid in its disposition, as specified in WAC 480-09-460. Petitions to intervene should be made in writing prior to that date or made orally at that time. Appearances will be taken.

42 If any party or witness needs an interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.

43 **NOTICE IS FURTHER GIVEN THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET HEREIN, OR OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH THE TERMS OF RCW 34.05.440. THE PARTIES ARE FURTHER ADVISED THAT THE SANCTION PROVISIONS OF WAC 480-09-700(4) ARE SPECIFICALLY INVOKED.**

44 Karen M Caillé has been appointed as the Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250 and will preside at the prehearing conference.

45 The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Shannon E. Smith
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P. O. Box 40128
Olympia, WA 98504-0128
(360) 664-1192

Respondent: Qwest Corporation
1600 Seventh Avenue
Seattle, WA 98191

Representative: Lisa Anderl
Attorney at Law
1600 Seventh Avenue, Room 3206
Seattle, WA 98191
(206) 345-1574

46 Notice of any other procedural phase will be given in writing or on the record as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington, and effective this day of September, 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

Inquiries may be addressed to:

Executive Secretary
Washington Utilities and
Transportation Commission
Chandler Plaza Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

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 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.: (____) _____