

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UT-032162
)	
Complainant,)	
)	COMPLAINT AND NOTICE OF
v.)	PREHEARING CONFERENCE
)	(Set for August 24, 2004, 9:30 a.m.)
QWEST CORPORATION,)	
)	
Respondent.)	
.....)	

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

I. INTRODUCTION

2 Telecommunications companies that are not competitively classified, including Qwest Corporation (Qwest), are required by state law and administrative rules to keep accurate accounts, and to file accurate reports relating to their financial condition, financial operations, and financial transactions with affiliates. *RCW 80.04.080; RCW 80.04.090; WAC 480-120-302; WAC 480-120-304; WAC 480-146-360; former WAC 480-120-031.*

3 Telecommunications companies serving more than two percent of the access lines in the state of Washington must file accurate annual financial reports by May 1 of each year. *WAC 480-120-302; WAC 480-120-304; former WAC 480-120-031(4).* Telecommunications companies serving more than two percent of the access lines also must file quarterly financial reports no later than 90 days after the close of the quarter being reported. *See WAC 480-120-302, WAC 480-120-304; former WAC 480-120-031(9).* Companies must file their affiliated interest reports by June 1 of each year. *WAC 480-146-360.*

II. PARTIES

4 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.

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

III. JURISDICTION

6 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040,
RCW 80.04.080, RCW 80.04.090, RCW 80.04.110, RCW 80.04.380, and RCW
80.36.140.

IV. FACTUAL ALLEGATIONS

7 Qwest is a telecommunications company authorized to provide
telecommunications service in the state of Washington.

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

9 Beginning in 2000, Qwest engaged in numerous practices that caused its financial
accounts to violate generally accepted accounting principles (GAAP). Qwest's
financial reports submitted for the periods 2000 through 2001, including those
filed with the Commission, were later determined to be inaccurate and required
restatement.

10 According to Qwest, the restatement of its 2002 and 2001 financial reports caused
the company to be unable to timely file its 2002 annual report, its 2002 affiliated
interest report, and its fourth quarter 2002 and first quarter 2003 quarterly
reports. On April 3, 2003, Qwest petitioned the Commission for an extension of
time to file these reports.

11 By order dated April 23, 2003, the Commission granted Qwest an extension until
August 1, 2003 to file its 2002 annual report, fourth quarter 2002 report, and first

quarter 2003 report. The Commission also granted Qwest an extension until September 1, 2003 to file its 2002 affiliated interest report.¹

- 12 On June 30, 2003, Qwest requested a second extension of time to file its 2002 annual report, 2002 affiliated interest report, fourth quarter 2002 report, and first quarter 2003 report. Again, Qwest cited the restatement of the 2000 through 2001 financial results as the reason for the requested extension.
- 13 By order dated July 23, 2003, the Commission denied Qwest's second request for an extension of time to file the reports. The Commission ordered Qwest to file its 2002 annual report, fourth quarter 2002 report, and first quarter 2003 report by August 1, 2003, and its 2002 affiliated interest report by September 1, 2003.² The order provided that failure to file the reports at the end of the Order No. 1 extension period may result in the assessment of penalties.
- 14 Despite the Commission's order, Qwest did not file its reports until months after the extension period expired. Specifically, Qwest was delinquent in filing the following reports:
- (a) 2002 annual report was due on August 1, 2003; Qwest filed it on December 23, 2003 (144 days late).
 - (b) 2002 affiliated interest report was due on September 1, 2003; Qwest filed it on December 29, 2003 (119 days late).
 - (c) Fourth quarter 2002 report was due on August 1, 2003; Qwest filed it on, December 30, 2003 (151 days late).
 - (d) First quarter 2003 report was due on August 1, 2003; Qwest filed it on April 29, 2004 (272 days late).

- 15 In addition to its failure to comply with the Commission's order requiring the company to file its reports by August 1, 2003 and September 1, 2003, Qwest also failed to file two subsequent quarterly reports on time. Specifically, Qwest's was delinquent in filing the following reports:

¹ *In re Qwest Corporation*, Docket No. UT-030459, Order No. 1, ¶ 15 (April 23, 2003).

² *In re Qwest Corporation*, Docket No. UT-030459, Order No. 2, ¶¶ 14-15 (July 23, 2003).

- (a) Second quarter 2003 report was due on September 28, 2003; Qwest filed it on April 29, 2004 (214 days late).
- (b) Third quarter 2003 report was due on December 29, 2003, Qwest filed it on April 29, 2004 (122 days late).

**V. FIRST CAUSE OF ACTION
(Violation of RCW 80.04.080, WAC 480-120-304(1), and Commission Order)
(Failure to File Annual Report on Time)**

- 16 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-15 above.
- 17 RCW 80.04.080 requires public service companies to file detailed annual financial reports with the Commission. The statute also authorizes the Commission to prescribe the form of such reports and the dates by which the reports must be filed.
- 18 WAC 480-120-304(1) requires Qwest to file its annual reports by May 1 of each year. The Commission granted Qwest an extension of time until August 1, 2003 to file its 2002 annual report. Qwest filed its 2002 annual report on December 23, 2003.
- 19 By failing to file its 2002 annual report until December 23, 2003, Qwest violated RCW 80.04.080, WAC 480-120-304(1), and the Commission's order dated July 23, 2003.
- 20 Pursuant to RCW 80.04.380, each day that Qwest's 2002 annual report was delinquent constitutes a separate violation of RCW 80.04.080, WAC 480-120-304(1), and the Commission's July 23, 2003 order. Accordingly, Qwest committed 144 violations of RCW 80.04.080, WAC 480-120-304(1), and the Commission's July 23, 2003 order.

VI. SECOND CAUSE OF ACTION
(Violation of RCW 80.04.080, WAC 480-120-304(2), and Commission Order)
(Failure to File Quarterly Reports on Time)

- 21 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-15 above.
- 22 RCW 80.04.080 requires public service companies to file detailed financial reports with the Commission. The statute also authorizes the Commission to prescribe the form of such reports and the dates by which the reports must be filed.
- 23 WAC 480-120-304(2) requires Qwest to file quarterly financial reports within 90 days after the close of the relevant quarter, or by May 1 for the fourth quarter report. The Commission granted Qwest an extension of time until August 1, 2003 to file its 2002 fourth quarter report and its 2003 first quarter report. Qwest filed its fourth quarter 2002 report on December 30, 2003 and its first quarter 2003 report on April 29, 2004.
- 24 By failing to file its fourth quarter 2002 report until December 30, 2003, and its first quarter 2003 report until April 29, 2004, Qwest violated RCW 80.04.080, WAC 480-120-304(2), and the Commission's order dated July 23, 2003.
- 25 Pursuant to RCW 80.04.380, each day Qwest's fourth quarter 2002 and first quarter 2003 reports were delinquent constitutes a separate violation of RCW 80.04.080, WAC 480-120-304(1), and the Commission's July 23, 2003 order. Accordingly, Qwest committed 423 violations of RCW 80.04.080, WAC 480-120-304(2), and the Commission's July 23, 2003 order.

VII. THIRD CAUSE OF ACTION
(Violation of RCW 80.04.080 and WAC 480-120-304(2))
(Failure to File Quarterly Reports on Time)

- 26 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-15 above.
- 27 WAC 480-120-304(2) requires Qwest to file quarterly financial reports within 90 days after the close of the relevant quarter, or by May 1 for the fourth quarter

report. Qwest filed its second quarter 2003 report on April 29, 2004. Qwest filed its third quarter 2003 report on April 29, 2004.

28 By failing to file its second and third quarter 2003 reports until April 29, 2004, Qwest violated RCW 80.04.080 and WAC 480-120-304(2).

29 Pursuant to RCW 80.04.380, each day that Qwest's second and third quarter 2003 reports were delinquent constitutes a separate violation of RCW 80.04.080 and WAC 480-120-304(1). Accordingly, Qwest committed 336 violations of RCW 80.04.080 and WAC 480-120-304(2).

VIII. FOURTH CAUSE OF ACTION
(Violation of RCW 80.04.080, WAC 480-146-360, and Commission Order)
(Failure to File Affiliated Interest Report on Time)

30 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-15 above.

31 RCW 80.04.080 requires public service companies to file reports as prescribed by the Commission detailed financial reports with the Commission. The statute also authorizes the Commission to prescribe the form of such reports and the dates by which the reports must be filed.

32 WAC 480-146-360 requires Qwest to file by June 1 of every year a report of all affiliated interest transactions that occurred during the preceding calendar year. The Commission granted Qwest an extension of time until September 1, 2003 to file its 2002 affiliated interest report. Qwest filed its 2002 affiliated interest report on December 29, 2003.

33 By failing to file its 2002 affiliated interest report until December 29, 2003, Qwest violated RCW 80.04.080, WAC 480-146-360, and the Commission's order dated July 23, 2003.

34 Pursuant to RCW 80.04.380, each day that Qwest's 2002 affiliated interest report was delinquent constitutes a separate violation of RCW 80.04.080, WAC 480-146-360, and the Commission's July 23, 2003 order. Accordingly, Qwest committed 119 violations of RCW 80.04.080, WAC 480-120-304(1), and the Commission's July 23, 2003 order.

IX. FIFTH CAUSE OF ACTION
(Violation of RCW 80.04.080, WAC 480-120-304, and WAC 480-146-360)
(Failure to File Accurate Reports)

- 35 The Commission, through its Staff, realleges the allegations contained in paragraphs 2-15 above.
- 36 RCW 80.04.080 requires public service companies to file detailed financial reports with the Commission. The statute also authorizes the Commission to prescribe the form of such reports and the dates by which the reports must be filed. The Commission requires regulated companies to file annual and quarterly financial reports; and annual affiliated interest reports.
- 37 RCW 80.04.080 requires the filing of accurate financial reports. Qwest's annual and quarterly financial reports for 2000 and 2001 were inaccurate and required restatement. Specifically, Qwest had filed the following inaccurate financial reports with the Commission:
- (a) Inaccurate first quarter 2000 report filed on June 29, 2000; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 1,278 days.
 - (b) Inaccurate second quarter 2000 report filed on September 28, 2000; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 1,187 days.
 - (c) Inaccurate third quarter 2000 report filed on December 29, 2000; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 1,095 days.
 - (d) Inaccurate fourth quarter 2000 report filed on May 1, 2001; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 972 days.
 - (e) Inaccurate first quarter 2001 report filed on June 29, 2001; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 913 days.

- (f) Inaccurate second quarter 2001 report filed on September 28, 2001; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 822 days.
- (g) Inaccurate third quarter 2001 report filed on December 29, 2001; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 730 days.
- (h) Inaccurate fourth quarter 2001 report filed on May 1, 2002; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 607 days.
- (i) Inaccurate 2000 annual report filed on May 1, 2001; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 972 days.
- (j) Inaccurate 2001 annual report filed on May 1, 2002; restatement filed on December 29, 2003. Qwest's inaccurate report was on file for 607 days.
- (k) Inaccurate 2000 affiliated interest report filed on June 1, 2000; restatement filed on December 23, 2003. Qwest's inaccurate report was on file for 935 days.
- (l) Inaccurate 2001 affiliated interest report filed on June 1, 2002; restatement filed on December 23, 2003. Qwest's inaccurate report was on file for 570 days.

38 By failing to file accurate reports with the Commission, Qwest violated RCW 80.04.080, WAC 480-120-304, *former* WAC 480-120-031, and WAC 480-146-360.

39 Pursuant to RCW 80.04.380, each day Qwest failed to have accurate financial reports and affiliated interest reports on file with Commission constitutes a separate violation of RCW 80. 80.04.080, WAC 480-120-304, *former* WAC 480-120-031, and WAC 480-146-360. Accordingly, Qwest committed 10,688 violations of 80.04.080, WAC 480-120-304, *former* WAC 480-120-031, and WAC 480-146-360.

X. SIXTH CAUSE OF ACTION
(Violation of RCW 80.04.090, WAC 480-120-302, former WAC 480-120-031)
(Failure to Keep Accurate Accounts)

- 40 The Commission, through its Staff, realleges the allegations contained in Paragraphs 2-15 above.
- 41 RCW 80.04.080 authorizes the Commission to prescribe the form of all accounts kept by regulated utilities. Pursuant to WAC 480-120-302 and *former* WAC 480-120-031, the Commission requires telecommunications companies to use the Uniform System of Accounts (USOA) for Class A and Class B Telephone Companies published by the Federal Communications Commission. *47 C.F.R. Part 32.*
- 42 During 2000 and 2001 Qwest maintained inaccurate accounts. The accounts were restated on October 8, 2003.
- 43 Pursuant to RCW 80.04.380, each day Qwest failed to have accurate accounts constitutes a separate violation of RCW 80.04.090, WAC 480-120-302, and *former* WAC 480-120-031. Accordingly, Qwest committed 1,376 violations of 80.04.090, WAC 480-120-302, or *former* WAC 480-120-031.
- 44 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:
- 45 (1) To determine whether Qwest has violated the statutes and rules set forth in the allegations above;
- 46 (2) To determine whether the Commission should impose penalties against Qwest in an amount to be proved at hearing; and
- 47 (3) To make such other determinations and enter such orders as may be just and reasonable.

NOTICE OF PREHEARING CONFERENCE

48 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 statutes within chapter 80.04 RCW and chapter 80.36 RCW, particularly RCW 80.04.010, RCW 80.04.080, RCW 80.04.090, RCW 80.04.110, RCW 80.04.380, RCW 80.04.405, RCW 80.36.140. Rules involved include but are not limited to those within chapters 480-09, 480-120, and 480-146WAC, specifically WAC 480-120-302, WAC 480-120-304, WAC 480-146-360. The ultimate issues are as stated in the above complaint.

49 **NOTICE IS HEREBY GIVEN** That a prehearing conference in this matter will be held at **9:30 a.m., Tuesday, August 24, 2004**, 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 480-07-430. Petitions to intervene should be made in writing prior to that date or made orally at that time. Appearances will be taken.

50 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.

51 **THE COMMISSION GIVES NOTICE that any party who fails to attend or participate in the prehearing conference set by this Notice, or any other stage of this proceeding, may be held in default in accordance with RCW 34.05.440. The parties are further advised that the sanction provisions of WAC 480-07-450 are specifically invoked.**

52 C. Robert Wallis 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.

53 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 A. Anderl
Attorney at Law
1600 Seventh Avenue, Room 3206
Seattle, WA 98191
(206) 345-1574

54 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 10th day of August, 2004.

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

[Service Date August 10, 2004]

NOTICE

PLEASE BE ADVISED that the hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and that 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 designated below and returned to:

Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250.

(SUPPLY ALL REQUESTED INFORMATION)

Docket No.: **UT-032162**

Case Name: **WUTC v. Qwest Corporation**

Hearing Date: _____

Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) (No)

Do you need a certified sign language interpreter: (Yes) (No)

Visual _____ Tactile _____

Other type of assistance needed: _____

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

Name: _____

Address: _____

Phone No.: (____)_____