



# Investigation Report

## Qwest Corporation

UT-091870

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Compliance Investigations

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## TABLE OF CONTENTS

<b>Section</b>	<b>Page</b>
Purpose, Scope and Authority.....	2
Executive Summary .....	3
Background.....	5
Findings and Results – Published Rates to be Charged.....	6
Findings and Results – Refusing Service.....	7
Findings and Results – Establishing Credit – Residential Services.....	9
Findings and Results – Form of Bills .....	11
Findings and Results – Refunding an Overcharge.....	14
Findings and Results – Commission-Referred Complaints .....	15
Findings and Results – Discontinuing Service – Company Initiated .....	17
Findings and Results – Restoring Service after Discontinuation.....	20
Findings and Results – Payment Arrangements .....	22
Findings and Results – Repair Standards.....	24
Summary of Findings and Results .....	26

## **PURPOSE, SCOPE, AND AUTHORITY**

### **Purpose**

The purpose of this staff investigation is to determine if Qwest Corporation (Qwest) has corrected the deficiencies identified in the commission's September 2008 investigation by increasing its compliance with commission rules and improving service to its customers.

### **Scope**

The scope of this investigation includes Qwest's business practices as reflected in consumer complaints filed with the commission. Staff evaluated the company's compliance with each of the telecommunications laws or rules as they related to Qwest complaints received during the investigation period of March 1 through June 30, 2009.

### **Authority**

Staff conducts this investigation pursuant to Revised Code of Washington (RCW) 80.01.040(3). RCW 80.04.070 grants the commission specific authority to conduct such an investigation.

### **Investigation Staff**

Rayne Pearson – Compliance Investigator, Compliance Investigations Section

## EXECUTIVE SUMMARY

In 2008, staff identified Qwest for investigation as part of the Consumer Protection section's ongoing compliance assessment of local exchange carriers (LECs). During the 2008 investigation, staff reviewed consumer complaints filed between January 1 and June 30, 2008, and found that Qwest violated the following law and commission rules:

- RCW 80.36.130 Published Rates to be Charged
- WAC 480-120-103 Application for Service
- WAC 480-120-147 Changes in Local Exchange and Intrastate Toll Services
- WAC 480-120-161 Form of Bills
- WAC 480-120-165 Customer Complaints
- WAC 480-120-166 Commission-referred complaints
- WAC 480-120-171 Discontinuing Service – Customer Requested
- WAC 480-120-172 Discontinuing Service – Company Initiated
- WAC 480-120-173 Restoring Service after Discontinuation
- WAC 480-120-174 Payment Arrangements
- WAC 480-120-440 Repair Standards for Service Interruptions

In January 2009, staff met with Qwest representatives Mark Reynolds, Susan McKown, and Kathy Cortwright to discuss the violations identified in the investigation. Qwest made assurances to staff that every effort would be made to ensure future compliance. Staff informed Qwest that it would conduct a follow-up investigation in mid-2009 to determine whether the company increased its compliance.

During this follow-up investigation, staff reviewed 102 consumer complaints filed with the commission between March 1 and June 30, 2009.

### Findings

Staff found that Qwest corrected its processes and is now in compliance with the following four commission rules:

- WAC 480-120-103 Application for Service
- WAC 480-120-147 Changes in Services
- WAC 480-120-165 Customer Complaints
- WAC 480-120-171 Discontinuing Service – Customer Requested

Staff found no violations of these rules during the four-month period of review.

Staff also found that Qwest is in continuing violation of the following statute and rules:

- RCW 80.36.130 Published Rates to be Charged
- WAC 480-120-161 Form of Bills

- WAC 480-120-166 Commission-referred complaints
- WAC 480-120-172 Discontinuing Service – Company Initiated
- WAC 480-120-173 Restoring Service after Discontinuation
- WAC 480-120-174 Payment Arrangements
- WAC 480-120-440 Repair Standards for Service Interruptions

Violations continued despite ongoing technical assistance provided during the commission's complaint process and as a result of staff's 2008 investigation.

Staff also found the following, additional violations not found in the 2008 investigation:

- WAC 480-120-061 Refusing Service
- WAC 480-120-122 Establishing credit— Residential services
- WAC 480-120-163 Refunding an Overcharge

**Recommendation**

Staff recommends the commission issue a penalty against Qwest for 69 violations of laws and rules enforced by the commission for a total penalty of \$69,000.

## **BACKGROUND**

In August 2008, staff reviewed 212 consumer complaints filed against Qwest for the six-month period of January 1 to June 30, 2008, to determine Qwest's compliance with rules and laws enforced by the commission. Staff found that Qwest violated 11 consumer protection laws and rules. As a result, staff provided Qwest with a copy of the written investigation report and compliance letter and met with Qwest staff to discuss the findings. During that meeting, staff explained its findings and provided technical assistance in all areas, including:

- RCW 80.36.130 Published Rates to be Charged
- WAC 480-120-103 Application for Service
- WAC 480-120-147 Changes in Local Exchange and Intrastate Toll Services
- WAC 480-120-161 Form of Bills
- WAC 480-120-165 Customer Complaints
- WAC 480-120-166 Commission-referred complaints
- WAC 480-120-171 Discontinuing Service – Customer Requested
- WAC 480-120-172 Discontinuing Service – Company Initiated
- WAC 480-120-173 Restoring Service after Discontinuation
- WAC 480-120-174 Payment Arrangements
- WAC 480-120-440 Repair Standards for Service Interruptions

In this investigation, staff reviewed 102 consumer complaints for the four-month period of March 1 to June 30, 2009, to determine if Qwest improved its compliance with commission laws and rules.

### **Company Information**

Qwest operates in 14 western states. Qwest headquarters for the state of Washington is located in Seattle at 1600 Seventh Avenue.

Qwest is Washington State's largest local exchange carrier. Qwest reported intrastate revenues of \$656,042,778 for calendar year 2008.

### **Report Format**

This investigation report is divided into sections based on each rule the company violated. Within each section, staff presents the rule itself, the results of the 2008 investigation, the results of this investigation, and staff's recommendation for sanctions, if applicable.

## **FINDINGS AND RESULTS**

### **RCW 80.36.130 Published Rates to be Charged**

**RCW 80.36.130** states, in part:

*Except as provided in RCW 80.04.130 and 80.36.150, no telecommunications company shall charge, demand, collect or receive different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file and in effect at that time, nor shall any telecommunications company refund or remit, directly or indirectly, any portion of the rate or charge so specified, nor extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are specified in its schedule filed and in effect at the time, and regularly and uniformly extended to all persons and corporations under like circumstances for like or substantially similar service.*

#### **2008 Investigation Findings**

Staff found that Qwest improperly billed customers 19 times in the complaints reviewed during the 2008 investigation. Staff recorded violations in each consumer complaint and provided Qwest with technical assistance.

#### **2009 Investigation Findings**

In its review of Qwest complaints from March through June 2009, staff found only one complaint citing a violation of RCW 80.36.130:

##### **Complaint 106512**

In this complaint, the customer requested WTAP service and rates on February 27, 2009. Qwest did not place the customer on WTAP until March 25. The customer was improperly billed non-WTAP charges for the period of February 27 to March 25, 2009. Staff recorded one violation of RCW 80.36.130.

Qwest failed to bill one customer in violation of RCW 80.36.130; however, the company has significantly decreased the number of violations since the 2008 investigation.

#### **2009 Investigation Results**

Staff finds one violation of RCW 80.36.130.

#### **Recommendation**

Because of the company's significantly increased compliance, staff regards this investigation as the company's technical assistance for RCW 80.36.130. If future violations are found, staff may recommend penalties or other sanctions.

## **FINDINGS AND RESULTS**

### **WAC 480-120-061, Refusing service**

**WAC 480-120-061** states, in part:

*(1) A company may refuse to connect with, or provide service to, an applicant under the following conditions:*

*(a) When service will adversely affect the service to existing customers.*

*(b) When the installation is considered hazardous.*

*(c) When the applicant has not complied with commission rules, company tariff, or rates, terms and conditions pursuant to competitive classification, and state, county, or municipal codes concerning the provision of telecommunications service such as building and electrical codes.*

*(d) When the company is unable to substantiate the identity of the individual requesting service.*

*(i) Companies must allow the applicant to substantiate identity with one piece of identification chosen from a list, provided by the company, of at least four sources of identification. The list must include a current driver's license or other picture identification.*

#### **2008 Investigation Findings**

Staff did not find any violations of WAC 480-120-061 in its 2008 investigation.

#### **2009 Investigation Findings**

Staff found that Qwest refused service to customers who would not provide Qwest with their social security numbers. The rule states companies must allow an applicant to verify his or her identity with one piece of identification chosen by the customer from a list of at least four options. The list, which is provided by the company, must include a current driver's license or other picture identification. Failure to comply with WAC 480-120-061 is demonstrated by the following complaints:

##### **Complaint 106665**

In this complaint, the customer was refused service unless she either supplied her social security number or paid a deposit. In June 2009, commission staff issued one violation of WAC 480-120-061(1)(d)(i) for not accepting a form of identification other than a social security number.

##### **Complaint 106668**

In this complaint, the customer called Qwest to add features to her service. Qwest told her that she could not change her service without providing both her social security and driver's license numbers. In October 2009, commission staff issued one violation of WAC 480-120-061(1)(d)(i) for failing to give the customer other options for verifying her identity.



Staff finds that Qwest appears to have instituted a new policy for verifying customer identity. In the two complaints received by staff, Qwest required one customer to provide one particular form of identification, and another customer to provide more than one form of identification. Both actions violated the rule.

### **2009 Investigation Results**

Staff finds two violations of WAC 480-120-061.

### **Recommendation**

Staff regards this investigation as the company's technical assistance for WAC 480-120-061. If future violations are found, staff may recommend penalties or other sanctions.

## **FINDINGS AND RESULTS**

### **WAC 480-120-122, Establishing credit–Residential services**

**WAC 480-120-122** states, in part:

*This section applies only to the provision of residential services.*

*(1) For a local exchange company (LEC) that offers basic service as part of any bundled package of services, the requirements of this subsection apply only to its lowest-priced, flat-rated residential basic service offering. The LEC may require an applicant or customer of residential basic service to pay a local service deposit only if:*

*(a) The applicant or customer has received two or more delinquency notices for basic service during the last twelve month period with that company or another company;*

*(b) The applicant or customer has had basic service discontinued by any telecommunications company;*

*(c) The applicant or customer has an unpaid, overdue basic service balance owing to any telecommunications company;*

*(d) The applicant's or customer's service is being restored following a discontinuation for nonpayment or acquiring service through deceptive means under WAC 480-120-172(1); or*

*(e) The applicant or customer has been disconnected for taking service under deceptive means as described in WAC 480-120-172(1)...*

*(8)(a) A company authorized by the commission to collect deposits or advanced payments may require a customer to pay unbilled toll charges or pay a new or additional deposit amount when the customer's toll charges exceed thirty dollars, or exceed customary use over the previous six months by twenty dollars or by twenty percent, whichever is greater. A company may toll-restrict a customer's services if the customer is unable pay the toll or deposit amount.*

*(b) When a customer has exceeded the toll levels in (a) of this subsection, the company may require payment before the close of the next business day following delivery of either written or oral notice to the customer indicating that failure to pay one of the following may result in toll restriction of the customer's service. The company must give the customer the option to pay one of the following:*

*(i) All outstanding toll charges specified in the notice; or*

*(ii) All toll charges accrued to the time of payment providing the customer was notified the customer would be liable for all unbilled toll charges that accrued between the time of the notice and time of the payment; or*

*(iii) Payment of a new or additional deposit in light of the customer's actual use based upon two months customary use.*

#### **2008 Investigation Findings**

Staff did not find any violations of WAC 480-120-122 in its 2008 investigation.

#### **2009 Investigation Findings**

Staff finds that Qwest failed to comply with WAC 480-120-122, as demonstrated by the following complaints:

**Complaint 105880**

In this complaint, Qwest discontinued a customer's service without proper notice because of high toll charges, not yet billed, for collect calls from a correctional facility. Staff recorded one violation of WAC 480-120-122(8)(b) because the company disconnected the customer for high toll charges without an opportunity for the customer to pay the charges or a deposit before the close of the next business day.

**Complaint 106291**

In April 2009, this customer's service was discontinued without proper notice because of high toll charges. Staff recorded one violation of WAC 480-120-122(8)(b) because the company disconnected the customer for high toll charges without an opportunity for the customer to pay the charges or a deposit before the close of the next business day.

**Complaint 106321**

In this complaint, the customer was disconnected without notice for collect calls not yet billed. Service was disconnected the same day Qwest called to notify the customer of the high toll charges. Staff recorded one violation of WAC 480-120-122(8)(b) because the company disconnected the customer for high toll charges without an opportunity for the customer to pay the charges or a deposit before the close of the next business day.

**Complaint 106665**

In this complaint, a former Qwest customer was returning to Qwest service. Qwest required the customer to either provide her social security number or pay a deposit before it would provide service. However, the customer's prior bill was paid in full and there were no other circumstances present that allow the company to require a deposit. Staff recorded one violation of WAC 480-120-122(1) for requiring a deposit without apparent justification.

**2009 Investigation Results**

Staff finds four violations of WAC 480-120-122.

**Recommendation**

Staff regards this investigation as the company's technical assistance for 480-120-122. If future violations are found, staff may recommend penalties or other sanctions.

## **FINDINGS AND RESULTS**

### **WAC 480-120-161, Form of bills**

**WAC 480-120-161** states, in part:

*(2) Length of time for payment of a bill. Bill due dates must reflect a date which at a minimum allows a customer fifteen days from the date of mailing for payment.*

*(4) Bill organization. Telephone bills must be clearly organized, and must comply with the following requirements:*

*(a) Bills may only include charges for services that have been requested by the customer or other individuals authorized to request such services on behalf of the customer, and that have been provided by the company; ...*

*(10) Crediting customer payments. Unless otherwise specified by the customer, payments that are less than the total bill balance must be credited first to basic service, with any remainder credited to any other charges on the bill....*

#### **2008 Investigation Findings**

WAC 480-120-161(4)(a) states that telephone bills must be clearly organized, and may only include charges for services that have been requested by the customer (or other individuals authorized to request such services on behalf of the customer) and provided by the company. In the 2008 investigation, staff found 27 violations of WAC 480-120-161 in 10 consumer complaints. Staff notified Qwest of the violations and provided technical assistance within the context of each complaint.

In addition, staff provided technical assistance through the 2008 investigation by providing Qwest with a copy of the written investigation report and compliance letter. Staff also met with Qwest to discuss the findings. During that meeting, staff explained its findings and provided technical assistance regarding WAC 480-120-161.

#### **2009 Investigation Findings**

Staff finds that Qwest continued to improperly bill customers in violation of WAC 480-120-161. Staff cited 31 violations in the following complaints:

##### **Complaint 105889**

In this complaint, Qwest failed to bill proper tariff charges from March 2005 to May 2009. Staff recorded 51 violations of WAC 480-120-161(4)(a). Of the violations cited, 12 occurred within the two-year statute of limitations, between April 1, 2008, and April 1, 2010.

##### **Complaint 106199**

When staff requested the mailing date for the customer's bills in connection with this complaint, Qwest responded that it did not have that information. Staff recorded one violation of WAC 480-120-161(2) for failure to provide the mailing date for the customer's bills. Additionally, when the customer made a payment that was less than the total amount owed, Qwest failed to properly apply the payment. Staff recorded one

violation of WAC 480-120-161(10) for failing to first apply the customer's partial payment to the regulated portion of the bill.

**Complaint 106201**

In this complaint, the customer contracted for a promotional long distance rate in December 2008. Qwest did not bill the promotional rate correctly until May 2009. Staff issued four violations of 480-120-161(4)(a) for billing for services not requested by the customer for the period January through April 2009.

**Complaint 106232**

In this complaint, the customer ordered a long distance plan that included 100 minutes of free long distance per month for six months. Qwest established an incorrect plan and billed the customer five cents per minute for long distance calls. Staff recorded four violations of 480-120-161(4)(a), for billing for services not requested by the customer, for December 2008 through March 2009.

Additionally, when the customer discontinued service, the final bill did not reflect a due date as required by 480-120-161(2). The bill stated only that it was "due upon receipt." Staff recorded one violation of WAC 480-120-161(2).

**Complaint 106376**

In this complaint, the customer cancelled long distance service effective April 1, 2009. On May 16, 2009, Qwest billed the customer for long distance services that accrued after the April 1 date. Staff recorded one violation of WAC 480-120-161 (4)(a) for billing long distance service not requested by the customer.

**Complaint 106409**

In this complaint, the customer ordered a Choice Home Plus Package with unlimited long distance. Qwest did not properly implement the customer's order. Staff recorded three violations of 480-120-161(4)(a) for billing for services not requested by the customer in February through April 2009.

**Complaint 106609**

In this complaint, the customer attempted to cancel services three times: twice by including letters with his payments, and again by calling Qwest customer service. Qwest did not initiate the cancellation correctly. Staff recorded one violation of WAC 480-120-161(4)(a) for billing for services not requested by the customer in April 2009.

**Complaint 106763**

In this complaint, the customer was improperly billed for bundled services. Staff recorded one violation of WAC 480-120-161(4)(a) for billing for services not requested by the customer in May 2009.

**Complaint 106862**

In this complaint, the customer notified Qwest that he had sold his business in April 2009. In both April and May, Qwest improperly billed the customer after service was transferred. Staff recorded two violations of 480-120-161(4)(a) for billing for services not requested by the customer.

Staff finds that Qwest improperly billed customers for services it did not provide, and failed to reflect an appropriate due date on customer bills. In staff's 2008 investigation report, staff noted violations of WAC 480-120-161 in ten complaints. In each of these complaints, staff notified Qwest of the violations and provided technical assistance. In addition, staff provided technical assistance through the 2008 investigation by providing Qwest with a copy of the written investigation report and compliance letter. Staff also met with Qwest to discuss the findings. During that meeting, staff explained its findings and provided technical assistance regarding WAC 480-120-161.

**2009 Investigation Results**

Staff finds 31 violations of WAC 480-120-161.

**Recommendation**

Staff recommends a penalty of \$31,000 for 31 violations of WAC 480-120-161.

## **FINDINGS AND RESULTS**

### **WAC 480-120-163, Refunding an overcharge**

**WAC 480-120-163** states, in part:

*A company must refund overcharges to the customer with interest, retroactive to the time of the overcharge, up to a maximum of two years, as set forth in RCW 80.04.230 and 80.04.240. This rule does not limit other remedies available to customers.*

#### **2008 Investigation Findings**

Staff did not find any violations of WAC 480-120-163 in its 2008 investigation.

#### **2009 Investigation Findings**

Staff found that Qwest violated WAC 480-120-163 for failure to refund overcharges, as demonstrated by the following complaint:

##### **Complaint 106742**

In this complaint, the customer was billed over \$40 a month for 13 years of service he did not receive. Qwest told the customer he would only receive a six-month credit for the error. WAC 480-120-163 requires Qwest to refund overcharges for up to two years.

Commission staff issued one violation of WAC 480-120-163 against Qwest for initially telling the customer it would only refund overcharges for a six-month period.

#### **2009 Investigation Results**

Staff finds one violation of WAC 480-120-163.

#### **Recommendation**

Staff regards this investigation as the company's technical assistance for WAC 480-120-163. If future violations are found, staff may recommend penalties or other sanctions.

## **FINDINGS AND RESULTS**

### **WAC 480-120-166, Commission-referred complaints**

**WAC 480-120-166** states, in part:

- (4) When the commission staff refers an informal complaint to a company, the company must:*
- (a) Stop any pending action involving the issues raised in the complaint provided any amounts not in dispute are paid when due (e.g., if the complaint involves a disconnect threat or collection action, the disconnect or collection must be stopped);*
  - (b) Thoroughly investigate all issues raised in the complaint and provide a complete report of the results of its investigation to the commission, including, if applicable, information that demonstrates that the company's action was in compliance with commission rules; and*
  - (c) Take corrective action, if warranted, as soon as appropriate under the circumstances.*

#### **2008 Investigation Findings**

In the 2008 investigation, staff identified a number of complaints that included violations, for a total of 149 violations of WAC 480-120-166. In each case, Qwest failed to respond timely to commission-referred complaints. Staff notified Qwest of the violations and provided technical assistance within the context of each complaint.

In addition, staff provided technical assistance through the 2008 investigation by providing Qwest with a copy of the written investigation report and compliance letter. Staff also met with Qwest to discuss the findings. During that meeting, staff explained its findings and provided technical assistance regarding WAC 480-120-166.

#### **2009 Investigation Findings**

Staff finds that Qwest failed to respond timely to staff as required by WAC 480-120-166, as demonstrated by the following complaints:

##### **Complaint 105884**

In this complaint, staff asked Qwest to provide a customer account history. Qwest submitted account data, but failed to provide the corresponding due dates for the billing information. Staff must know the due dates for bills in order to determine compliance with commission rules. Staff recorded one violation WAC 480-120-166(4)(b) for failing to provide a complete response to a commission-referred complaint.

##### **Complaint 105889**

After receiving an initial response to this complaint, staff requested additional information, which was due by April 7, 2009. Qwest did not respond with the information until April 15. Staff recorded six violations of WAC 480-120-166(8) for each day Qwest failed to provide the information past the due date.

##### **Complaint 106321**

In this complaint, Qwest's response to staff's request for customer account information contained inaccurate data. The account notes stated that an unbilled toll notice was sent to



the customer on April 15, 2009, but Qwest later confirmed that the notice was never sent. Staff recorded one violation of WAC 480-120-166(4)(b) for providing inaccurate information in response to a complaint.

**Complaint 106568**

On May 26, 2009, staff requested additional information in connection with this complaint. Qwest did not respond. Staff requested the information again on June 5, and Qwest responded the same day. Staff recorded one violation of WAC 480-120-166(8).

In the 2008 investigation, staff identified a number of complaints that included violations, for a total of 149 violations of WAC 480-120-166. In each case, Qwest failed to respond timely to commission-referred complaints. Staff notified Qwest of the violations and provided technical assistance within the context of each complaint.

In addition, staff provided technical assistance through the 2008 investigation by providing Qwest with a copy of the written investigation report and compliance letter. Staff also met with Qwest to discuss the findings. During that meeting, staff explained its findings and provided technical assistance regarding WAC 480-120-166.

During the 2009 investigation, staff found nine violations of WAC 480-120-166.

**2009 Investigation Results**

Staff finds nine violations of WAC 480-120-166.

**Recommendation**

Because of the company's significant increased compliance, staff regards this investigation as the company's technical assistance for WAC 480-120-166. If future violations are found, staff may recommend penalties or other sanctions.

## **FINDINGS AND RESULTS**

### **WAC 480-120-172, Discontinuing service—Company initiated**

**WAC 480-120-172** states, in part:

*(3) A company may discontinue service after providing proper notice, or may issue a discontinuation notice, if, and only if:*

*(c) The company determines the customer has not paid regulated charges or has not paid a deposit as provided in the tariff or rates, terms and conditions of competitively classified services of the company or another company with which it has a billing and collection agreement, except for nonpayment of charges incurred from information delivery services as provided for in WAC 480-120-254 (Telephone solicitation) or disputed third party-billed charges; ...*

*(5) When a company discontinues service to a customer, it must also discontinue billing for service as of the date of the discontinuation...*

*(7) Discontinuation notice requirements. The company must provide the customer notice before discontinuing service in accordance with (a) through (c) of this subsection, except as provided in subsection (1) of this section, and except as provided in WAC 480-120-122(8).*

*(a) Each company must provide a written discontinuation notice to the customer either by first class mail, personal delivery to the customer's service address, or electronically delivered when the company has the technical capability and the customer consents to this delivery method.*

#### **2008 Investigation Findings**

In the 2008 investigation, staff cited complaints that had several violations of WAC 480-120-172:

- One violation for discontinuing service for delinquent payments.
- Eight violations for discontinuing service without proper notice.
- One violation for discontinuing service based on another customer's obligation.
- One violation for discontinuing service because of an allegedly fraudulent credit card transaction.

Staff notified Qwest of the violations and provided technical assistance within the context of each complaint. In the 2008 investigation, staff also noted that staff gave Qwest technical assistance for 30 violations of WAC 480-120-172 during 2006 and 2007.

In addition, staff provided technical assistance through the 2008 investigation by providing Qwest with a copy of the written investigation report and compliance letter. Staff also met with Qwest to discuss the findings. During that meeting, staff explained its findings and provided technical assistance regarding WAC 480-120-172.

## **2009 Investigation Findings**

Staff finds that Qwest failed to provide proper notice before discontinuing service and charged customers for services not provided in violation of WAC 480-120-172, as demonstrated by the following complaints:

### **Complaint 105889**

In this complaint, the customer was improperly billed a short-fall charge.<sup>1</sup> Qwest discontinued the customer's service for nonpayment of the improper charges. Staff recorded one violation of WAC 480-120-172(3)(c) for improperly discontinuing service.

### **Complaint 106133**

In this complaint, the customer asked the commission to investigate why he was billed for the time period when his service was discontinued and he was unable to make outgoing calls. Qwest stated that since the customer could still receive calls, billing was appropriate. Staff recorded one violation of WAC 480-120-172(5) and notified Qwest that it may not bill if a customer's service is discontinued, even if partially discontinued. Qwest implemented the changes to its systems to correct this problem in December 2009.

### **Complaint 106199**

In this complaint, the customer's service was discontinued without proper notice. Qwest made one phone call to the customer on March 24, 2009. Qwest initially told staff that it sent written notice, then later admitted it did not. Staff cited one violation of 480-120-172(7)(a) for not providing a written notice prior to discontinuing the customer's service.

### **Complaint 106291**

In this complaint, Qwest discontinued the customer's service because the customer's toll charges exceeded Qwest's threshold for unbilled toll calls on her account. However, Qwest did not provide proper notice before disconnection. Staff recorded one violation of WAC 480-120-172 for discontinuing the customer's service without proper notice.

### **Complaint 106730**

In this complaint the customer requested to terminate DSL service, but Qwest mistakenly terminated his telephone service. Staff recorded one violation of WAC 480-120-172(7), for discontinuing the customer's telephone service without notice.

Qwest discontinued service without giving proper notice and continued to bill customers for services after service was disconnected in violation of WAC 480-120-172.

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<sup>1</sup> A short-fall charge is billed when a customer fails to meet a monthly minimum financial commitment for a specific service.

Staff gave Qwest technical assistance on this issue several times. Staff recorded a number of violations of WAC 480-120-172 against Qwest in consumer complaints during 2006 and 2007. Staff also recorded eight violations between January 1 and June 30, 2008. In each of those complaints staff informed Qwest of the rule violation and provided technical assistance.

In addition, staff provided technical assistance through the 2008 investigation by providing Qwest with a copy of the written investigation report and compliance letter. Staff also met with Qwest to discuss the findings. During that meeting, staff explained its findings and provided technical assistance regarding WAC 480-120-172.

During the 2009 investigation, staff found five violations of WAC 480-120-166. Accordingly, staff finds that despite the technical assistance provided to Qwest for the past three years and the violations discussed and cited in staff's 2008 investigation, Qwest continued to violate this rule. Qwest failed to provide complete and accurate responses to commission-referred complaints within the required timeframes.

### **2009 Investigation Results**

Staff finds five violations of WAC 480-120-172.

### **Recommendation**

Staff recommends a penalty of \$5,000 at \$1,000 per violation for five violations of WAC 480-120-172.

## **FINDINGS AND RESULTS**

### **WAC 480-120-173, Restoring service after discontinuation**

**WAC 480-120-173** states, in part:

*(2) After the customer notifies the company that the causes for discontinuation have been corrected, and the company has verified the correction, the company must restore service(s) within the following periods:*

*(a) Service(s) that do not require a premises visit for reconnection must be restored within one business day; and*

*(b) Service(s) that require a premises visit for reconnection must be restored within two business days. Companies must offer customers a four-hour window during which the company will arrive to complete the restoration.*

#### **2008 Investigation Findings**

In 2008, staff determined that Qwest did not have a process in place to ensure that service was restored in a timely manner. Within the investigation report, staff notified Qwest of two violations issued in consumer complaints and discussed previous technical assistance provided in 2006 and 2007.

#### **2009 Investigation Findings**

Staff finds that Qwest failed to restore service in compliance with WAC 480-120-173, as demonstrated by the following complaints:

##### **Complaint 106144**

In this complaint, the customer's service was disconnected on March 18, 2009. The customer made a payment on March 20, but service was not restored until March 30. A company must restore discontinued service within one business day when payment or satisfactory arrangements for payment of all proper charges has been made. Staff recorded seven violations of WAC 480-120-173(1)(b).

##### **Complaint 106730**

On June 5, 2009, the customer was disconnected without proper notice. Service was not restored until June 12. When service is improperly disconnected, it must be restored within one business day. Staff recorded five violations of WAC 480-120-173(2)(a).

##### **Complaint 106744**

In June 2009, staff recorded three violations of WAC 480-120-173(2)(a) for failing to restore service within the required timeframe. The customer corrected the cause of the disconnection on June 10, 2009, but Qwest failed to restore service until June 15. A company must restore discontinued service within one business day when payment or satisfactory arrangements for payment of all proper charges are made.

Staff gave Qwest technical assistance on numerous occasions. Staff recorded two violations of WAC 480-120-173 against Qwest in consumer complaints identified in staff's 2008 investigation report. In each of those complaints staff informed Qwest of the rule violation and the timeframe for responding to staff-requested information.

In addition, staff provided technical assistance through the 2008 investigation by providing Qwest with a copy of the written investigation report and compliance letter. Staff also met with Qwest staff to discuss the findings. During that meeting, staff explained its findings and provided technical assistance regarding WAC 480-120-173.

During the 2009 investigation, staff found 15 violations of WAC 480-120-173. Accordingly, staff finds that despite the technical assistance provided to Qwest and the violations discussed and cited in staff's 2008 investigation, Qwest continues to violate this rule. .

### **2009 Investigation Results**

Staff finds 15 violations of WAC 480-120-173.

### **Recommendation**

Staff recommends a penalty of \$15,000 for 15 violations of WAC 480-120-173.

## **FINDINGS AND RESULTS**

### **WAC 480-120-174, Payment arrangements**

**WAC 480-120-174** states, in part:

*(1) General. Applicants or customers, excluding telecommunications companies as defined in RCW 80.04.010, are entitled to, and a company must allow, an initial use, and then, once every five years dating from the customer's most recent use of the option, an option to pay a prior obligation over not less than a six-month period. The company must restore service upon payment of the first installment if an applicant is entitled to the payment arrangement provided for in this section and, if applicable, the first installment of a deposit is paid as provided for in WAC 480-120-122 (Establishing credit -- Residential services).*

*(2) Restoring service based on Washington telephone assistance program (WTAP) or federal enhanced tribal lifeline program eligibility. Local exchange companies (LECs) must restore service for any customer who has had basic service discontinued for nonpayment under WAC 480-120-172(Discontinuing service -- Company initiated) if the customer was not a participant in either the Washington telephone assistance program (WTAP) or the federal enhanced tribal lifeline program at the time service was discontinued and if the customer is eligible to participate in WTAP or the federal enhanced tribal lifeline program at the time the restoration of service is requested. To have service restored under this subsection, a customer must establish eligibility for either WTAP or the federal enhanced tribal lifeline program, agree to continuing participation in WTAP or the federal enhanced tribal lifeline program, agree to pay unpaid basic service and ancillary service amounts due to the LEC at the monthly rate of no more than one and one-half times the telephone assistance rate required to be paid by WTAP participants as ordered by the commission under WAC 480-120-122 (Washington telephone assistance program rate), agree to toll restriction, or ancillary service restriction, or both, if the company requires it, until the unpaid amounts are paid. Companies must not charge for toll restriction when restoring service under this section.*

#### **2008 Investigation Findings**

During the 2008 investigation, staff found that Qwest failed to allow customers to make payment arrangements, and cited two violations of WAC 480-120-174. In the course of this investigation, staff found violations issued in two complaints for failing to offer payment arrangements, and failing to allow an eligible customer to make arrangements on a prior obligation.

#### **2009 Investigation Findings**

Staff finds that Qwest failed to allow customers to make payment arrangements, in violation of WAC 480-120-174, as demonstrated by the following complaints:

##### **Complaint 106042**

In this complaint, the customer was denied WTAP phone service because of an unpaid balance on a prior account. The customer's request to speak to a supervisor was denied. Qwest stated that the customer would have to pay the entire balance of her previous account before she could obtain new service. Staff issued one violation of 480-120-

174(1) for failing to offer a six month payment arrangement for a prior obligation, as required.

**Complaint 106512**

In this complaint, Qwest disconnected service for a WTAP customer. WAC 480-120-174(2) requires the company to restore service for one and one-half times the WTAP rates (\$18 per month). When the customer attempted to restore service, Qwest failed to offer payment arrangements. Staff recorded one violation of WAC 480-120-174(2).

Qwest must allow eligible customers to make payment arrangements for prior obligations, and restore service once those arrangements are made. Qwest representatives failed to offer payment arrangements when customers requested reconnection of service, which constitutes a violation of WAC 480-120-174.

**2009 Investigation Results**

Staff finds two violations of WAC 480-120-174.

**Recommendation**

Staff recommends a penalty of \$2,000 for two violations of WAC 480-120-174.



## **FINDINGS AND RESULTS**

### **WAC 480-120-440, Repair standards for service interruptions**

**WAC 480-120-440** states, in part:

*A company must repair all out-of-service interruptions within forty-eight hours, unless the company is unable to make the repair because it is physically obstructed from doing so or because of force majeure, in which case the repair must be made as soon as practicable. The forty-eight hour requirement does not apply to out-of-service interruptions that are part of a major outage under WAC 480-120-412.*

#### **2008 Investigation Findings**

Staff found that, in one complaint, Qwest failed to restore a customer's service as required by WAC 480-120-440. Staff recorded one violation of WAC 480-120-440, and provided Qwest with technical assistance regarding compliance with the service repair rule.

#### **2009 Investigation Findings**

Staff finds that Qwest failed to restore service within 48 hours as required by WAC 480-120-440, as demonstrated by the following complaints:

##### **Complaint 105974**

In this complaint, the customer's service was initially interrupted in December 2008, with additional interruptions, until it was fully restored until May 2009. Staff recorded three violations of 480-120(440)(1)<sup>2</sup> which requires a company to repair out-of-service interruptions within 48 hours.

##### **Complaint 106186**

This customer's service was interrupted by construction. The customer reported that service was out on March 21, 2009. In accordance with the rule, service should have been restored on March 24, but was not restored until April 8. Although staff recorded 13 violations of 480-120-440(7) for failing to restore service within 48 business hours, staff cites one violation in the context of this investigation for the company's initial failure to timely restore service.

##### **Complaint 106266**

In this complaint, Qwest spliced the customer's line. The splice was done incorrectly, which cut off the customer's service between April 3 and April 8, 2009. Staff recorded two violations of WAC 480-120-440.

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<sup>2</sup> The complaint states the February 4 outage was not repaired until February 10, the February 12 outage was not repaired until February 17, and the February 20 outage received no response.

**Complaint 106544**

In this complaint, the customer called Qwest on May 5, 2009, to report intermittent static and no dial tone. Qwest did not restore the customer's service until May 19. Staff recorded 10 violations of WAC 480-120-440 for failure to timely restore service.

In staff's 2008 investigation (212 complaints filed from January through June 2008) one complaint resulted in one violation for failure to restore out-of-service interruptions within 48 hours. During the 2009 investigation (102 complaints filed from March through June 2009), staff found 28 violations in four complaints where Qwest failed to restore service.

**2009 Investigation Results**

Staff finds 16 violations of WAC 480-120-440.

**Recommendation**

Staff recommends a penalty of \$16,000 for 16 violations of WAC 480-120-440.

## **SUMMARY OF FINDINGS AND RESULTS**

As a result of this investigation, staff finds that Qwest is in violation of a number of consumer rules. Qwest has received prior technical assistance for each of the violations cited.

Staff recommends the commission issue a complaint for penalties against Qwest for 69 violations of commission laws and rules for a total penalty of \$69,000.



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