

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

APPLICATION FOR MITIGATION OF PENALITES

I have read and understand RCW 9.72.030, which prescribes penalties for making false affidavits (printed below), and hereby make, under oath, application for mitigation of the penalties (as described on the attached form), for the following reasons:

Please see attached letter dated July 20, 2005 to the Washington Utilities and Transportation Commission.

RECORDED
05 JUL 21 AM 11:17
OFFICE OF THE CLERK
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

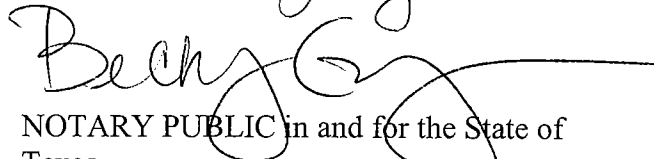
NOTE: This form must be completed, signed and notarized, and received by the Commission within 15 days of your receipt of this form.

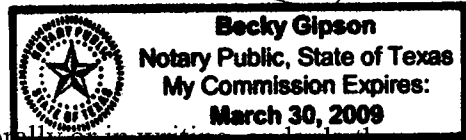
I swear that the foregoing is a true and complete statement of the facts in this case.



Signature of Applicant

Sworn to and subscribed to me
this 20th day of July 2005


NOTARY PUBLIC in and for the State of
Texas.



RCW 9.72.030

“Perjury-Second Degree: Every person who, whether orally or in writing, and whether as a volunteer or in a proceeding or investigation authorized by law, shall knowingly swear falsely concerning any matter whatsoever shall be guilty of perjury in the second degree and shall be punished by imprisonment in the state penitentiary for not more than five years or by imprisonment in the county jail for not more than one year.”

July 20, 2005

VIA OVERNIGHT DELIVERY

Mark H. Sidran, Chairman

Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive, S.W.
Post Office Box 47250
Olympia, Washington 98504-7250

Re: Application for Mitigation of Penalties
Penalty Assessment No: UT-050713
Excel Telecommunications, Inc.

RECEIVED
07 JUL 21 10:11:17
COMMUNICATIONS SECTION

Dear Chairman Sidran:

Excel Telecommunications, Inc. ("Excel" or "Company") is in receipt of the Notice of Penalties Incurred and Due for Violations of Laws, Rules and Regulations from the Washington Utilities and Transportation Commission ("UTC"). It is the Company's intent that this response will serve as the requested reasoning to accompany Excel's Application for Mitigation of Penalties.

The UTC has indicated that it believes Excel has committed one or more violations of Washington Utilities and Transportation rules, specifically Washington Administrative Code (WAC) 480-120-166, which requires telecommunications 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 to the company; of non-service-affecting informal complaints to Commission staff within five business days from the date the Commission staff passes the complaint to the company; and for requests from Commission staff for additional information on pending complaints within three days. The UTC's investigation concluded that Excel was non-responsive on 26 occasions (i.e., 26 days) and as a result, has assessed a penalty against the Company in the amount of \$2,600.00. Below, Excel has provided a detailed explanation of what the Company believes to be a very reasonable basis for mitigation of penalties. These reasons include, but are not limited to, lack of clarity related to UTC's expectations, conflicting dates between Company and UTC records and differing interpretation of WAC 480-120-166 as it relates to response times for additional information requests.

Synopsis of Responses to Complaints Involved in Investigation

Complaint Number 87463/Colleen Larson – According to the UTC, Complaint Number 87463 was sent to the Company on January 28, 2004 with a response due date of February 5, 2004. Further, the UTC's investigation determined that Excel responded to the above-noted complaint on February 6, 2004, thereby violating the required response time by one (1) day. The Company's records reflect the same information as reported by the UTC. However, while management's tracking records reflected that this complaint

response was due and sent on February 5, 2004, it appears that the transmission itself did not occur until first thing the following morning at 8:11 am (CST) on February 6, 2004 (6:11 am PST). Notably, the UTC was in receipt of the complaint response before it opened for operations that day and this resulted in no tangible delay or detriment. Further, it is important to note that Excel no longer employs the analyst responsible for this complaint. The Company believes that the violation for this complaint should be dismissed or waived for inadvertent human error.

Complaint Number 90484/Howard Smith – According to the UTC, Complaint Number 90484 was sent to the Company on September 1, 2004, November 2, 2004 and November 17, 2004 with dues dates of September 6, 2004, November 5, 2004 and November 22, 2004, respectively. Further, the UTC's investigation reflects that Excel responded to these complaints on September 8, 2004, November 9, 2004 and November 30, 2004, totaling 15 days late between the three responses.

Excel's own records indicate that complaint number 90484 was initially received on August 17, 2004 and was closed with a response sent on August 19, 2004. Subsequently, Excel sent a follow-up response via email to Ms. Otto of the UTC on September 1, 2004 as a result of a voice mail she left the assigned Company analyst on the same day. However, in an email dated September 8, 2004 (see attached Exhibit A), Ms. Otto states that she called Monica on September 1, 2004 requesting additional information and had not received a response. As noted above, Monica did respond to the request left in Ms. Otto's voice mail on the same day. Ms. Otto had another follow-up question, which she forwarded to the analyst in an email on September 1, 2004. The email simply stated "Monica, thanks. Would you please explain how the company arrived at the credit amount. Thanks. Diana." This email did not include a due date for a response and the Company considered the ongoing dialogue to be specific follow-up and was unaware that the UTC considered the formal response deadlines pursuant to WAC 480-120-166 to be "re-opened." Thereafter, on September 8, 2004, Ms. Otto sent an email to the Company analyst indicating that because a response had not been sent to the question she left in a voice mail message on September 1, 2004, a violation was being cited. As noted above, Excel's records indicate that the assigned analyst responded to Ms. Otto's September 1st voice mail the same day of receipt. Additionally, it is important to note that upon receipt of the email on September 8, 2004 noting violations, the Company responded to Ms. Otto on the same day. Furthermore, the UTC's information indicates that this complaint was reopened on November 17, 2004 and that the Company did not respond until November 30, 2004. Excel's records indicate that the Company responded to the reopened complaint on the same day of receipt (November 17, 2004). However, further records indicate that Ms. Otto sent an email to the Company on November 30, 2004 indicating that a response was never received to the reopened complaint. At that time, the Company analyst forwarded an email attachment to Ms. Otto reflecting Excel's response from November 17, 2004. Excel has attached a copy of this email transmission for your reference (Exhibits B and C). So, Excel indeed responded timely and the UTC should eliminate and or waive any violation associated with this period (6 days).

Please note that numerous emails were exchanged between the Company analyst and the UTC staff person throughout the time period this complaint was being resolved. As a result of these emails and because it was unclear when the complaints were actually opened, closed and reopened, Excel's dates conflict with those recorded by the UTC. In addition, it is apparent through emails exchanged between the Company analyst and UTC staff that in some cases emails prompted a new "open" date in the UTC's records and in some cases, did not. This inconsistency lends to the confusion regarding the UTC's expectations related to complaint response requirements. As such, it is the Company's position that the "open" and "close" dates of this complaint are questionable and were not communicated clearly. Furthermore, Excel would like to note that this complaint was the result of ongoing repair issues and as a Competitive Local Exchange carrier, the Company has a very limited amount of control over the completion of certain repairs as it depends solely on the Incumbent Local Exchange carrier ("ILEC") to carry out these tasks. As such, many times, Excel's ability to provide full resolution to a complaint depends on the service level of the underlying ILEC. Finally, it is difficult to obtain complete clarity as to all of the details regarding the communication between UTC staff and the Company analyst in this matter, as said analyst is no longer employed by Excel. Given that there was no change to the substance of the original response sent on August 19, 2004 through the course of the ongoing follow-up, Excel requests that the violations associated with this complaint be dismissed entirely or waived based upon the vague nature of WAC 480-120-166 with respect to deadlines for responses to informal, non-core issue follow-up inquiries. Alternatively, the violations should be reduced from 10 to 4 due to the proof attached as Exhibits B and C.

Complaint Number 91531/Helen Dawes – According to the UTC, Complaint Number 91531 was sent to the Company on November 17, 2004 with a response due date of November 22, 2004. The UTC's investigation determined that Excel responded on December 13, 2004, which is 15 days in excess of the required response time. The Company's records indicate that complaint number 91531 was initially received on October 29, 2004. Subsequently, Excel received email correspondence from UTC staff on November 11, 2004 requesting a response. At that time, the Company responded to the UTC and attached Excel's earlier response, which had been previously sent to the UTC via email on November 9, 2004. The Company's response requested additional information for the customer because there were no account records listed under the information initially provided by the UTC. Further, the UTC faxed bill copies to Excel on November 17, 2004 (which is the UTC's date shown for opening of this complaint). Unfortunately, a final response to this complaint was not sent to the UTC until December 13, 2004, and the Company sincerely regrets this delay. However, as with the Howard Smith complaint, the Company believes that the "open" and "close" dates were not communicated clearly. Excel requests that violations associated with this complaint be dismissed entirely or waived based on the vague nature of WAC 480-120-166.

Normal Practices

Excel provides telecommunications services in and throughout the United States. As such, the Company's Regulatory staff works with regulatory agencies in each state to resolve consumer concerns on a daily basis. It is a common practice for most agencies to

communicate directly with an assigned analyst via email to obtain additional information and/or to ask questions. However, these agencies will clearly indicate in the subject line of the email, or elsewhere, if the complaint is considered a follow-up or a re-opened complaint and typically will also include a due date for response. It has not been Excel's experience that casual email dialogue related to a complaint between Company analysts and agency staff automatically warrants the reopening of a complaint, as appears to be the case with the UTC's expectation. Further, when Company analysts receive voice mail messages, which may include additional questions about a complaint, this is not typically interpreted as a re-opening of a complaint and therefore subject to agency rules and regulations related to complaint response times. As a result of this investigation, Excel now has a better understanding of the UTC's unique expectations in this regard and has counseled its Regulatory analysts accordingly.

Company Changes

Excel believes it is important to reiterate that the Company no longer employs the analysts responsible for the delay in responding to complaints involved in the above-noted matters. Further, as a result of the UTC's investigation and because full compliance with rules and regulations is extremely important to Excel, all future complaints received from the UTC will be assigned to a specific, tenured analyst who is fully aware of the UTC's complaint response requirements and unique expectations. The analyst assigned to respond to UTC complaints has worked for the Company's Regulatory Department for approximately three years and has an outstanding reputation in regard to timely and accurate responses to consumer complaints. In addition to assigning a specific analyst to UTC complaints, the Regulatory Department Senior Manager will directly oversee the inbox through which all complaints from the UTC are received, and will route them as needed to eliminate delays. Going forward, Excel will change its processes to indicate that a complaint should be reopened and a new due date assigned each time an email or voicemail is received from the UTC regarding additional information on a complaint. This type of treatment is specific to Washington UTC complaints and has never been required by or implemented for any other state. Excel has full confidence in these improvements and is certain that these process changes will work to prevent future occurrences of late complaint responses.

Company Audit

Further, Excel has examined its records related to complaints received from the UTC in 2005, and to date, as also noted in the UTC's investigation information, all responses to these complaints during these six and one-half months have been sent on or before the due date. Based on this information, it is Excel's position that the response time associated with complaints sent to the Company has already improved in order to meet or exceed the UTC's due date requirements. As such, it is Excel's hope that the UTC will recognize that the Company had achieved full compliance with complaint response requirements prior to receipt of the investigation information.

Chapter 11 Bankruptcy Protection

In addition, please be advised that on November 1, 2004, Excel filed for Chapter 11 bankruptcy protection. The Washington UTC was provided with notice of this filing on or about November 3, 2004. As a result of this protective bankruptcy filing, the Company may be unable to comply with the UTC's requirements related to payment of penalties resulting from rule violations.

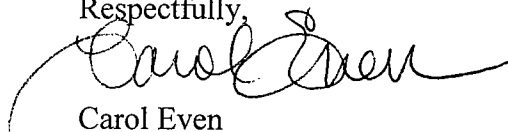
Summary and Prayer for Relief

In summary, we believe the subject complaints are anomalies in our process and should warrant some leniency for a differing interpretation of a vague code, WAC 480-120-166, and leniency for human-error lest the UTC be compelling "perfection" as opposed to a standard of care that is based on reasonable business expectations. Due to the aforementioned facts, Excel prays that the UTC will dismiss and/or waive the penalties assessed against the Company or significantly reduce the assessment. At a minimum, the total number of violations should be reduced from 26 to 20 or fewer.

Excel sincerely appreciates your attention to this matter and the opportunity to file an application for mitigation. Should you have any questions or need additional information, please contact the undersigned directly at (972) 478-3327.

We respectfully request that you provide the Company with an opportunity to engage in a dialogue with your offices prior to any adverse determination being finalized given our unique circumstances as a result of our bankruptcy.

Respectfully,



Carol Even
Sr. Manager, Regulatory Affairs

cc: Betty Young, Compliance Specialist (via email)

Becky Gipson
Director, Regulatory Affairs

Melissa A. Drennan
Vice President, Litigation and Compliance

Exhibit A

Carol Even

From: Monica Rodriguez
Sent: Thursday, September 09, 2004 10:53 AM
To: 'Diana Otto'
Cc: Nicole Mizell
Subject: RE: WA - UTC complaint 90484 for Howard P Smith

Diana,

The Company respectfully requests that any violation associated with this complaint be waived. Is there any way that this can be done?

Thank you,
Monica
214-424-4495

-----Original Message-----

From: Diana Otto [mailto:dotto@wutc.wa.gov]
Sent: Wednesday, September 08, 2004 5:49 PM
To: Monica Rodriguez
Subject: RE: WA - UTC complaint 90484 for Howard P Smith

Thanks, Monica.

I just left a message for the customer and it appears there is still a humming on the line, but it could be simply that her recorder has the hum from when she recorded it some time ago. Hopefully, that's the reason.

I'm going to close this as resolved today, but have left it up to the customer to call me again if the problem still exists.

Thanks for you help.
Diana

Monica Rodriguez
<MRodriguez@vartec.net>

09/08/2004 01:18
PM

"'dotto@wutc.wa.gov'"
<dotto@wutc.wa.gov>

To
cc
Nicole Mizell <nymizell@vartec.net>
Subject
RE: WA - UTC complaint 90484 for
Howard P Smith

Ms. Otto:

Please note that the \$75.88 credited to the account for telephone number (509) 337-6246 was for the period of July 12, 2004 and August 20, 2004 when Mr. Smith was experiencing problems with his telephone line. I apologize for the delay in responding.

Kind Regards,
Monica Rodriguez
Regulatory Analyst
214-424-4495

-----Original Message-----

From: Stacy Sendrowski
Sent: Wednesday, September 08, 2004 3:12 PM
To: Monica Rodriguez
Cc: Nicole Mizell
Subject: FW: WA - UTC complaint 90484 for Howard P Smith

-----Original Message-----

From: Diana Otto [mailto:dotto@wutc.wa.gov]
Sent: Wednesday, September 08, 2004 3:01 PM
To: Regulatory Affairs
Subject: WA - UTC complaint 90484 for Howard P Smith

Excel, I called Monica Rodriguez on 9/1/04 requesting additional information (see activity below). I have not gotten a response yet. I'm recording a violation of WAC 480-120-166(8) for failure to respond timely. Daily violations will be recorded until a response is received. Thank you.
Diana Otto

----- Forwarded by Diana Otto/WUTC on 09/08/2004 12:57 PM -----
Washington UTC Complaint 90484

Company: Excel Telecommunications, Inc.

Customer: Account#

Howard P Smith
Contact: Donna Jean
1936 Miller Rd
Waitsburg, WA 99361
Phone: (509) 337-6246

Complaint: 90484 Serviced by: Diana Otto
Opened on: 08/17/2004 Grouped by: Quality Of Service

Description:

Since June 26 forward, terrible loud buzzing on line (I can hardly hear the customer speak). She has filed 3 trouble reports and each time there is no improvement. She said that Excel keeps blaming Qwest (who repairs the lines) for not getting this repaired. 2 miles of cable needs to be replaced, due date for repair of 8/20/04. Qwest has blamed the county for delaying repair saying it hasn't given permission to work in the area. The customer spoke with the county engineer about 1 week ago and Qwest hadn't even requested permission. Customer doesn't believe the work will be done by 8/20/04. Excel has agreed to credit the customer her service charges for June and July, but now August will need to be also. Why is this repair

work taking so long and will it actually be corrected by 8/20/04? Please provide all pertinent information about this complaint - repair history, etc. Service effecting complaint.

8/17/04 9:25)passed to Excel via email.

Activity:

*** 08/17/2004 09:26 AM Email: Diana Otto << System Administrator <<WA - UTC complaint 90484 for Howard P Smith>> Your message

To: Regulatory Affairs
Subject: WA - UTC complaint 90484 for Howard P Smith
Sent: Tue, 17 Aug 2004 11:25:45 -0500

was delivered to the following recipient(s):

Regulatory Affairs on Tue, 17 Aug 2004 11:26:00 -0500
MSEXCH:MSEExchangeMTA:VarTec:SNCORMAIL08

Message-ID:

<OFC97122CC.993F7B2E-ON88256EF3.005A35A2-88256EF3.005A6D7D@wutc.wa.gov>

From: Diana Otto <dotto@wutc.wa.gov>

To: Regulatory Affairs <Regulatoryaffairs@vartec.net>

Subject: WA - UTC complaint 90484 for Howard P Smith

Date: Tue, 17 Aug 2004 11:25:45 -0500

Return-Receipt-To: Diana Otto <dotto@wutc.wa.gov>

MIME-Version: 1.0

X-Mailer: Internet Mail Service (5.5.2656.59)

X-MS-Embedded-Report:

Content-Type: text/plain; charset="iso-8859-1"

*** 08/17/2004 10:02 AM Phone: Diana Otto << customer

Mrs called - left message on voice mail that it appears they are getting some

action on the project today. Will Shimmel, a Qwest right away manager, was

just there. He said he was getting permission from the land owners to bury the

new cable. Mr. Shimmel didn't know what caused the delay, but he was very nice. She told him she had called the Commission and he said that was probably

the right thing to do. She's not certain whether she needs the complaint now

or not, but she will leave it up to me.

(The complaint will remain open since it was already passed - for answer from Excel.)

*** 08/19/2004 03:08 PM Email: Diana Otto << Monica Rodriguez Ms. Otto,

Attached is a document submitted by Excel's repair department with all repair history for telephone number (509) 337-6246. Please note that on July 20, 2004, Excel was advised that it would take Qwest 30 days to replace the damaged cable.

[Tuesday, July 20, 2004 4:04:55 PM Magalis Correa Per Karen at Qwest spoke to Dave Scholl who is the supervisor for network operations at Cell 509-301-7210 and Off 509-529-0040 and he advised that this issue is pending for a construction crew to replaced two miles of cable. Per Dave this job would take about 30 days to be completed. Advised Mrs. Smith.]

The Company's repair technicians have been in contact with Qwest on August 11, 2004, August 12, 2004 and August 17, 2004 in an attempt to get updates on this issue. The due date given by Qwest is tomorrow, August 20, 2004; however, an update has not been given as to whether this commitment date will be met.

Many thanks!

Monica Rodriguez
Regulatory Analyst
mrodriguez@vartec.net
214-424-4495

Please note that beginning June 7, 2004 through August 20, 2004, the Company's business hours will be 7:30 am to 5:30 pm Monday through Thursday and 8:00 am to 12:00 pm on Fridays.

<<509-337-6246.doc>>
- 509-337-6246.doc

NOTE: BELOW IS A PRINT-OUT OF THE ATTACHMENT:

TT-000000255090

Wednesday, June 23, 2004 1:34:21 PM Eric Morel
Vendor Referral ID: VRF-00000150376
Vendor Referred TO: Qwest
Vendor Ticket Number: 5093376246
Contact Phone Number: 888-405-0083
Commitment Date/Time: 06/24/04 19:00:00
VR Status: Open
VR Created: 06/23/04 13:33:55

Wednesday, June 23, 2004 1:34:50 PM Eric Morel
CLEC LTRC

ISSUE: HUMMING
MLT: HRD GROUND
TEST CALL: HUMMING ON LINE
ETA/ETR: 6-24-04 BY 7 PM (5093376246)
DISPATCH INFO: Qwest DPO

COMMENTS: Called customer and spoke to Mrs. Smith and was advised that there needs to be a cable repaired.

Joseph w/Qwest repair will dispatch to the DMARC.

Called customer and the line is busy.

MLT Test Results: DC Resistance, Ground Fault

Friday, June 25, 2004 11:03:27 AM Eric Morel
CLEC LTRC- NOISE- Amy w/Qwest repair advised this is still pre-assigned to tech for today. This is with cable. Called customer and spoke to Mrs. Smith.

Monday, June 28, 2004 10:14:50 AM Eric Morel
CLEC LTRC- NOISE- Becky w/Qwest Repair advised this is with a tech for today.

Tuesday, June 29, 2004 3:44:47 PM Frank Devoe
clec ltrc- 255090
per the ilec repaired cable pair to restore service.

'TT Status' changed to Closed by Frank Devoe

TT-000000259160

Thursday, July 01, 2004 12:59:21 PM Magalis Correa
No duplicate reports.
No provisioning issues exist.
Test Call=Hum on the line
MLT Results=Ground fault
ILEC Contact=CEMR
ILEC Trouble Report=Qwest
ILEC Commitment=07/01/04 by 7:00 PM.
Advised Mrs. Smith.

'TT Status' changed to Open by Magalis Correa

MLT Test Results: DC Resistance, Ground Fault

Thursday, July 01, 2004 5:31:42 PM Magalis Correa

Qwest resolution:
Qwest Trouble Report ID: 0236071
Customer Ticket Number:
Circuit ID: 5093376246
TR State: closed
TR Status: closedOut
TR Status Time: 2004-07-01 14:18:00
Outage Duration: 00 d, 02 h, 21 m, 00 s
Maint Service Charge: 0
Restored Time: 2004-07-01 14:18:00
Trouble Found: cancelExclude
Activity Duration: Non-Billable:Delayed_Maintenance 00 d, 00 h, 00 m, 00 s
 Non-Billable:No Access 00 d, 00 h, 00 m, 00 s
 Non-Billable:Dispatch 00 d, 00 h, 00 m, 00 s
Comments: Disposition Code: 0650. Definition: Cancel Report. Cause Code:
600. Definition: Unknown

Customer cancelled report.

'TT Status' changed to Closed by Magalis Correa

TT-000000263856

Monday, July 12, 2004 1:59:26 PM Lorraine Mhlanga
cust called to report that she is still experiencing heavy static on the
line; Ref to closed TT#255090 & TT#259160...This is has been going on for
two and half weeks....cust is stating that ILEC Tech each time he comes out
he is stating that there's a cable damage in the fields.....cust is
requesting a tech to call her before closing the TT(s).....

Monday, July 12, 2004 4:20:48 PM Tracy Tran
Vendor Referral ID: VRF-00000156500
Vendor Referred TO: Qwest
Vendor Ticket Number: TN
Contact Phone Number: 8009541211
Appointment Date/Time: 07/13/04 19:00:00
VR Status: Open
VR Created: 07/12/04 16:19:49

Monday, July 12, 2004 4:22:59 PM Tracy Tran
No duplicate reports.

No provisioning issues exist.

Test Call= NA

MLT Results=Ground

ILEC Contact=QW

ILEC Trouble Report=Justin

ILEC Commitment=7/13 by 7PM

Contacted customer and spoke to Mr.Smith at TN. Advised of commitment & confirmed access is ok.

'TT Status' changed to Open by Tracy Tran

MLT Test Results: DC Resistance, Ground Fault

Wednesday, July 14, 2004 2:40:33 PM Frank Devoe

this has been sent to the construction cable dept with qwest to get their repaired close referral with the ilec no new commit date or time to be repaired.

Friday, July 16, 2004 2:10:55 PM Mike Memmer

**** The cust has lost DT ***** She is going to start harvesting her crops and needs DT. She needs the phone if someone gets injured in the fields. The cell phone has very poor reception. The cust wants a call back on when the cable will be repaired.

Friday, July 16, 2004 2:12:26 PM Mike Memmer

The cust said that the audio is one way. The caller can hear her but she can not understand the caller.

Friday, July 16, 2004 2:16:50 PM Mike Memmer

If you need to contact the cust please leave a message at the contact ani.

Saturday, July 17, 2004 10:29:04 AM Frank Devoe

Vendor Referral ID: VRF-00000158343

Vendor Referred TO: Qwest

Vendor Ticket Number: 0042538

Contact Phone Number: na

Appointment Date/Time: 07/19/04 19:00:00

VR Status: Open

VR Created: 07/17/04 10:28:32

Saturday, July 17, 2004 10:29:53 AM Frank Devoe

clerc- ltrc- 263856

opened new tricket with qwest for new commit fort 07/19/2004 by 7pm..

Tuesday, July 20, 2004 10:01:16 AM Patty Jauregui

cci stated ilec missed commit time req callback fr tec

Tuesday, July 20, 2004 4:04:55 PM Magalis Correa

Per Karen at Qwest spoke to Dave Scholl who is the supervisor for network operations at Cell 509-301-7210 and Off 509-529-0040 and he advised that this issue is pending for a construction crew to replaced two miles of cable. Per Dave this job would take about 30 days to be completed. Advised Mrs. Smith.

Wednesday, August 11, 2004 7:09:09 PM Carlton Webb

Mrs. Smith wants to verify the status of the trouble ticket. ETR commit 08-20-04 by 5pm.

Thursday, August 12, 2004 11:28:58 AM Dayetta Johnson

Cust ci to ck status of ticket,,,,,,,Adv of Etr 8-20-04 by 5pm

Tuesday, August 17, 2004 12:59:17 PM Tracy Tran

Called and left msg for Dave to call back on this TR status.

*** 09/01/2004 11:38 AM Phone: Diana Otto >> Monica
called Monica - left message asking if the cable has been repaired yet and
if
so, was the work completed on 8/20/04 as planned. I explained I would like
this info prior to calling the customer.

*** 09/01/2004 11:51 AM Email: Diana Otto << Monica Rodriguez
Hello, Diana,

It appears that the repairs were completed on 8/20 and that representative
issued a credit in the amount of \$75.88 to Mr. Smith's account. Please let
me know if you require any additional information.

Many thanks!

Monica Rodriguez
Regulatory Analyst
mrodriguez@vartec.net
214-424-4495

Please note that beginning June 7, 2004 through August 20, 2004, the
Company's business hours will be 7:30 am to 5:30 pm Monday through Thursday
and 8:00 am to 12:00 pm on Fridays.

*** 09/01/2004 12:00 PM Email: Diana Otto >> Monica
Monica, thanks. Would you please explain how the company arrived at the
credit
amount.
Thanks.
Diana

Exhibit B

Becky Gipson

From: Monica Rodriguez
Sent: Tuesday, November 30, 2004 2:13 PM
To: 'Diana Otto'
Subject: RE: WA - UTC complaint 90484 for Howard P Smith



→ see exhibit C

RE: WA - UTC
complaint 90484 f...

Diana,

Attached is the response I forwarded to you on 11/17/04 regarding the credits.

Thank you,
Monica

-----Original Message-----

From: Diana Otto [mailto:dotto@wutc.wa.gov]
Sent: Tuesday, November 30, 2004 2:09 PM
To: Monica Rodriguez
Subject: WA - UTC complaint 90484 for Howard P Smith

Monica, I emailed you on 11/17/04 with a question about the credit and then the balance owing. I've gotten no response which was due on 11/22/04. I am recording violations of WAC 480-120-166(8) for failing to respond timely. To date, there are 5 violations being recorded for the 5 business days you are now late, through yesterday.

Then while I was away, Gail from our office spoke with the customer on 11/22 who said that her service had been one-way denied. Gail then emailed Excel and instructed that the service be restored immediately due to the complaint being open and to contact me to confirm. To date, I've had no response. I'm again recording a violation of WAC 480-120-166(8) for failing to respond to me per the request made by Gail, which would have been due no later than 11/25/04. This is two more violations through yesterday. Further, I am recording a violation of WAC 480-120-172(8) for restricting the customer's service while the complaint was under investigation.

Total violations being recorded today is 8 and additional violations for lack of response will be recorded daily until a proper response is received. Your attention to this will be very much appreciated.

Diana -

Exhibit C

Becky Gipson

To: Monica Rodriguez
Subject: RE: WA - UTC complaint 90484 for Howard P Smith

-----Original Message-----

From: Monica Rodriguez
Sent: Wednesday, November 17, 2004 11:36 AM
To: 'Diana Otto'
Subject: RE: WA - UTC complaint 90484 for Howard P Smith

Diana,

The final credit will total \$150.00 for the months of August, September, and October 2004. I have placed this account on hold until the adjustments post which should be within the next one to two billing statements. Her current balance is \$116.90. As such, Mr. and Ms. Smith will have a bill of approximately \$30.00 once the adjustment is posted.

Thanks
Monica

-----Original Message-----

From: Diana Otto [mailto:dotto@wutc.wa.gov]
Sent: Monday, November 15, 2004 12:34 PM
To: Monica Rodriguez
Subject: WA - UTC complaint 90484 for Howard P Smith

Monica, when will we have a final credit amount to post on this account? The customer advised me today that she has a final disconnection notice from Excel. She would like to know what she really owes once credits have applied. Then she will pay in full if there is any balance owing.
Diana