

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

WASHINGTON UTILITIES AND	)	DOCKET UT-091870
TRANSPORTATION COMMISSION,	)	
	)	ORDER 03
Complainant,	)	
	)	
v.	)	
	)	FINAL ORDER APPROVING AND
QWEST CORPORATION,	)	ADOPTING SETTLEMENT
	)	
Respondent.	)	
	)	
.....	)	

1 **SYNOPSIS.** *The Commission finds that the Settlement Agreement entered into between the Commission Staff and Qwest Corporation resolving all issues in the complaint should be approved and adopted.*

**MEMORANDUM**

2 **PROCEEDING.** Docket UT-091870 involves a Complaint issued by the Washington Utilities and Transportation Commission (Commission) against Qwest Corporation (Company or Qwest) for alleged violations of the Commission’s rules governing telecommunications service quality. The Complaint sought \$69,000 in penalties based on 69 violations of the Commission’s rules.

3 **APPEARANCES.** Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).<sup>1</sup> Lisa Anderl, Associate General Counsel, Seattle, Washington, represents Qwest.

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<sup>1</sup> In formal proceedings, such as this, the Commission’s regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioners, the presiding administrative law judge, and the Commissioners’ policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See RCW 34.05.455.*

- 4 **PROCEDURAL HISTORY.** On April 30, 2010, the Commission issued a Complaint and Notice of Prehearing Conference. The complaint cited 69 violations of the Commission's rules designed to protect telecommunications customers in Washington and sought a total of \$69,000 in monetary penalties. On May 25, 2010, the Commission convened a prehearing conference before Administrative Law Judge Patricia Clark. On May 26, 2010, the Commission entered Order 01, Prehearing Conference Order, establishing a procedural schedule, including an evidentiary hearing and Order 02, Protective Order.
- 5 On July 1, 2010, the parties notified the Commission that they had reached an agreement in principle. On July 21, 2010, the parties filed a Settlement Agreement (Settlement) resolving all issues in the proceeding. On July 22, 2010, the Commission issued a Notice Establishing a Deadline for Filing a Narrative in Support of Settlement and Suspending the Procedural Schedule. On August 12, 2010, the parties timely filed a Narrative in Support of Settlement.
- 6 **SETTLEMENT AGREEMENT.** This section summarizes the parties' Settlement, which is attached as Appendix A. If there is any inconsistency between this summary and the Settlement Agreement, the express terms of the Settlement Agreement control.
- 7 The Commission issued a Complaint against Qwest seeking \$69,000 in monetary penalties based on 69 violations of the Commission's service quality rules. Specifically, the complaint asserted that Qwest violated: (1) WAC 480-120-161 at least 31 times by billing customers incorrectly, by continuing to bill for services customers had cancelled, by improperly omitting accurate due date information on bills, and by otherwise failing to comply with the rule's billing requirements; (2) WAC 480-120-172 at least five times by improperly discontinuing service, discontinuing service without proper notice, and billing a customer during a period of discontinued service; (3) WAC 480-120-173 at least 15 times by failing to restore service within the required time frames to one customer who was disconnected without proper notice and to two customers even after they had corrected the causes of the disconnections; (4) WAC 480-120-174 at least twice by failing to offer customers a payment plan; and (5) WAC 480-120-440 at least 16 times by failing to timely restore service following a service interruption.

- 8 According to the Settlement, Qwest admits that on 55 occasions it failed to comply with the Commission's service quality rules. Qwest agrees to pay a penalty of \$34,500 within 30 days after the effective date of the Settlement. Moreover, Qwest commits to providing ongoing training and internal process improvements regarding compliance with the Commission's service quality rules. The Staff will continue to monitor Qwest's compliance with Washington's service quality laws and rules. In their Narrative in Support of Settlement, the parties note that Qwest will offer training on verifying customer identity in compliance with WAC 480-120-061, establishing credit for residential services in compliance with WAC 480-120-122, and arranging customer payments in compliance with WAC 480-120-174. The parties further note that Qwest recently hired three additional customer service representative managers who have been trained specifically to research and respond to Washington complaints.
- 9 The Settlement represents a compromise of the parties' positions but the parties find that it is in their best interests to avoid the expense, inconvenience, uncertainty, and delay inherent in a litigated proceeding. The parties further argue that it is in the public interest to have this dispute conclude without the further expenditure of public resources on litigation. The parties note that Qwest has agreed to pay a substantial penalty and that it has admitted to most of the service quality violations. Qwest's customers are expected to benefit from the additional training that the Company's service representatives will be receiving.
- 10 **ADMINISTRATIVE REVIEW.** This matter was assigned to an Administrative Law Judge and would ordinarily be resolved through the issuance of an initial order. However, in this case the parties agreed to waive their rights to petition for administrative review of the initial order so that the order could become final when issued. An initial order does not become final by waiver of the parties' right to review; we also may designate an initial order for administrative review.<sup>2</sup> We have reviewed the Settlement and concluded that the most efficient and expeditious means to address the Settlement is to issue a final order in this matter.

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<sup>2</sup> WAC 480-07-825(7)(a)(ii) and WAC 480-07-825(8).

11 **DISCUSSION AND DECISION.** WAC 480-07-750(1) states, in pertinent part, that “[T]he commission will approve settlements when doing so is lawful, the settlement terms are supported by an appropriate record, and when the result is consistent with the public interest in light of all the information available to the commission.” The Commission considers settlements under a three-part inquiry which asks whether:

- any part of the settlement is contrary to law;
- any aspect of the proposal offends public policy; and
- the evidence supports the proposed elements of the settlement as a reasonable resolution of the issues at hand.<sup>3</sup>

12 After conducting this three-part inquiry, the Commission must reach one of three possible results:

- approve the proposed settlement without conditions;
- approve the proposed settlement subject to condition(s); or
- reject the proposed settlement.

13 The Settlement terms and conditions proposed by the parties are consistent with law and policy and reasonably resolve the issues in this proceeding. Qwest has acknowledged many of the violations and has agreed to pay a substantial penalty for the violations. The penalty of \$34,500 is a fair and adequate disposition of the service quality issues raised in the complaint.

14 Qwest has also undertaken reasonable efforts to ensure future compliance with the Commission’s service quality rules. These efforts include additional specific training targeted to the service quality violations noted in the complaint and hiring additional staff to research and respond to Washington complaints.

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<sup>3</sup> *Washington Utilities and Transportation Commission v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UT-080220, Order 05 (October 8, 2008).

15 We conclude that the Settlement is not contrary to law, is consistent with the public interest and the interest of each party and should be adopted, without conditions, in full resolution of the issues in this proceeding.

**ORDER**

THE COMMISSION ORDERS THAT:

- 16 (1) The Settlement Agreement filed by all parties to this proceeding on July 21, 2010, which is appended to, and adopted into, this Order by this reference, is approved and adopted in full resolution of the issues in this proceeding.
- 17 (2) Qwest Corporation is required, within 30 days following the date of this Order, to pay penalties in the amount of \$34,500.
- 18 (3) The Commission retains jurisdiction over to enforce this Order.

Dated at Olympia, Washington, and effective August 27, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

**NOTICE TO PARTIES: This is a Commission Final Order. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-07-870.**

# Appendix A

# Settlement Agreement