

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

FRONTIER COMMUNICATIONS
NORTHWEST, LLC D/B/A ZIPLY
FIBER,

Complainant,

v.

KALAMA TELEPHONE COMPANY,

Respondent.

DOCKET UT- _____

FORMAL COMPLAINT

1 Frontier Communications Northwest, LLC d/b/a Ziplly Fiber (Ziplly Fiber), formally
complains against Kalama Telephone Company (Kalama) and alleges as follows:

I. OVERVIEW

2 Ziplly Fiber complains against Kalama Telephone Company (Kalama) for violations of
state laws and Commission rules arising from Kalama's unlawful encroachment on
Ziplly Fiber's service territory, Kalama's unlawful competition outside its service
territory without proper certification by the Commission, and Kalama's unlawful
operations outside its Commission-defined service territory without publicly posting a
tariff and/or price catalog for the services it offers.

II. PARTIES

3 Ziplly Fiber is a certificated incumbent local exchange carrier with a WUTC-defined
service territory in Washington. Ziplly Fiber's service territory adjoins Kalama's service
territory.

4 Kalama Telephone Company is a certificated incumbent local exchange carrier offering
telecommunications services in a WUTC-defined service territory in the state of
Washington.

III. JURISDICTION

5 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW
80.01.070, chapter 80.04 RCW including RCW 80.04.015, RCW 80.04.090, RCW
80.04.110, RCW 80.04.160, RCW 80.04.220, RCW 80.04.380, chapter 80.36 RCW
including RCW 80.36.080, RCW 80.36.140, RCW 80.36.170, RCW 80.36.180, RCW
80.36.186, RCW 80.36.230, RCW 80.36.240, RCW 80.36.300, RCW 80.36.320, RCW
80.36.330, RCW 80.36.350, RCW 80.36.855, and chapters 480-80 and 480-120 of the
Washington Administrative Code (WAC).

IV. ALLEGATIONS AND CLAIMS

6 The WUTC is granted the power to define service territory in RCW 80.36.230, and has
done so for both Ziplly Fiber and Kalama.

7 At all times relevant to this Complaint, Kalama's defined service territory appeared on a
map filed with their Commission-approved tariff.

8 At all times relevant to this Complaint, Ziplly Fiber's ILEC service territory in
Washington appeared on exchange maps filed with its tariffs and approved by the
Commission.

9 Kalama extended telecommunications services to several (at least ten) customers in
Ziplly Fiber's Woodland Exchange between 2010 and the present.

10 Kalama knew, or should have known, that they were extending service to customers
outside their certificated service territory.

11 Kalama has admitted in writing that they knowingly accepted at least one additional
order for service within the Ziplly Fiber service territory within the last twelve months,
even after they notified Ziplly Fiber's predecessor Frontier that Kalama was serving
customers outside their certificated service territory and in Frontier's Woodland
exchange.

12 Kalama's CFO and outside counsel have both made written admissions to Kalama
serving customers outside their tariffed ILEC service territory.

- 13 Kalama has no certificate to provide competitive services outside its ILEC service territory.
- 14 Kalama appears to have no publicly filed tariff or price list for providing services outside its ILEC service territory.
- 15 Kalama is violating its WUTC-approved tariff by serving outside its defined service territory.
- 16 On information and belief, Kalama worked with a developer to shield its intent to serve the area in question from Ziplly Fiber's predecessor, Frontier.
- 17 Kalama's actions violated RCW 80.04.015 (Conduct of business subject to regulation – Determination by commission).
- 18 Kalama is subject to penalties under RCW 80.04.380 by violating and/or failing to comply with state statutes and Commission rules.
- 19 Kalama's actions violated RCW 80.36.140 (Rates and services fixed by commission, when).
- 20 Kalama has violated RCW 80.36.170 by giving an unreasonable preference to approximately 10 Ziplly Fiber service territory residents whom they allowed to subscribe for Kalama service.
- 21 Kalama has violated RCW 80.36.186 by giving itself an undue preference or advantage, and subjecting Ziplly Fiber to a competitive disadvantage.
- 22 On information and belief, Kalama may have violated RCW 80.36.300(4) by subsidizing competitive ventures with revenue derived from noncompetitive sources.
- 23 Kalama has flouted WUTC authority by neglecting to apply for classification as a competitive telecommunications company under RCW 80.36.320 before competing outside their service territory.
- 24 WAC 480-80-010 and WAC 480-120-011 prohibit public service companies from deviating from Commission rules.

- 25 Kalama is a public service company under the definition in WAC 480-80-030.
- 26 Kalama is not a competitive telecommunications company as defined in WAC 480-80-030.
- 27 Under RCW 80.04.380, the Commission may penalize a public service company that violates any provision of Title 80 RCW or any rule of the Commission up to \$1,000 per day for each and every offense. Every violation is a separate and distinct offense.

V. REQUEST FOR RELIEF

- 28 Ziplly Fiber requests that the Commission find that Kalama committed numerous violations of state laws and Commission rules as set forth in the allegations above.
- 29 Ziplly Fiber requests that the Commission find that Kalama has unlawfully granted itself an unfair competitive advantage by encroaching on Ziplly Fiber's service territory without appropriate authority.
- 30 Ziplly Fiber requests that the Commission find that Kalama has committed tortious interference with business expectancy against Ziplly Fiber within the meaning of WPI 352.02.
- 31 Ziplly Fiber requests that the Commission find that Kalama must pay Ziplly Fiber reparations and damages under RCW 80.04.220 and any other applicable statute, rule, or common law doctrine.
- 32 Ziplly Fiber requests any and all other relief the Commission deems lawful and appropriate under the circumstances.

Respectfully submitted,



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