

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,) DOCKET NO. UT-010161
)
Complainant,)
)
v.) COMPLAINT AND NOTICE OF
) ADJUDICATION
)
NEW ACCESS)
COMMUNICATIONS, LLC,)
)
Respondent.)
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1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

I. PARTIES

2 The Commission is an agency of the state of Washington, authorized by Title 80 RCW to regulate the rates, practices, accounts, and services of telecommunications companies, including local and long distance service providers.

3 Respondent New Access Communications LLC ("New Access" or "Respondent") is a telecommunications company registered to provide telecommunications services in the state of Washington subject to the provisions of Title 80 RCW and Chapter 480-120 WAC. In addition to other telecommunications services, New Access provides local exchange and long distance services.

II. JURISDICTION

4 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.04.110, RCW 80.04.380, RCW 80.36.130, RCW 80.36.320, WAC 480-120-081, WAC 480-120-101, and WAC 480-120-139.

III. FACTUAL ALLEGATIONS

- 5 On April 13, 2001, the Commission issued an Order Instituting Investigation into the operating and business practices of New Access Communications, LLC. Within the Order, the Commission stated that it appeared New Access switched consumers' local and long distance telecommunications service providers without authorization.
- 6 Commission Staff, in accordance with the Order, began a formal investigation into the operating and business practices of New Access. Staff completed its investigation on August 1, 2001.
- 7 New Access failed to obtain the consumer's clear and conspicuous confirmation that the consumer authorized the change when changing a consumer's local and long distance telecommunications service provider.
- 8 New Access failed to obtain separate authorization and verification for each type of telecommunications services sold when obtaining third party verification that the consumer authorized New Access to switch the consumer's telecommunications services.
- 9 New Access failed to respond within two business days to Staff's request for information regarding informal complaints filed at the Commission by New Access customers.
- 10 New Access failed to provide documentation of a consumer's authorization to change telecommunications providers to staff and consumers who requested such documentation.
- 11 New Access disconnected telecommunications services to customers who filed informal complaints with the Commission.
- 12 New Access failed to bill its customers rates and charges as published in its price list in effect and on file with the Commission at the time the rates and charges were billed.

IV. FIRST CLAIM FOR RELIEF

- 13 The Commission, through its Staff, realleges paragraphs 2 - 12.
- 14 WAC 480-120-139(1)(c) provides for verification of a consumer's authorization to change telecommunication services by an independent third party. The verification must include a clear and conspicuous confirmation that the consumer has authorized a preferred carrier change.

New Access violated WAC 480-120-139(1)(c) by failing to obtain a clear and conspicuous confirmation that the consumer authorized changing his or her telecommunications service provider .

V. SECOND CLAIM FOR RELIEF

- 15 The Commission, through its Staff, realleges paragraphs 2 – 12.
- 16 WAC 480-120-139(2) requires separate authorization and separate verification for each service a telecommunications company sells.
- 17 New Access violated WAC 480-120-139(2) by failing to obtain separate authorization and verification from the consumer for each type of telecommunications service sold .

VI. THIRD CLAIM FOR RELIEF

- 18 The Commission, through its Staff, realleges paragraphs 2 – 12.
- 19 WAC 480-120-139(3) requires a telecommunications company to make available documentation of a customer's authorization to the customer or the Commission upon request. Documentation of a customer's authorization includes third party verification conversations.
- 20 New Access violated WAC 480-120-139(3) by failing to provide documentation of the consumers' authorization to change telecommunications service providers on request.

VII. FOURTH CLAIM FOR RELIEF

- 21 The Commission, through its Staff, realleges paragraphs 2 – 12.
- 22 WAC 480-120-101(5) requires a telecommunications company to report to the Commission within 2 working days the results of any investigation made regarding a complaint or dispute.
- 23 New Access violated WAC 480-120-101(5) by failing to respond to informal complaints filed by New Access customers at the Commission within two business days .

VIII. FIFTH CLAIM FOR RELIEF

- 24 The Commission, through its Staff, realleges paragraphs 2 – 12.
- 25 WAC 480-120-081(5)(g) prohibits telecommunications companies from disconnecting service while a customer is pursuing any dispute, provided that all amounts not in dispute are paid when due.
- 26 New Access violated WAC 480-120-081(5)(g) by disconnecting service to customers who filed informal complaints with the Commission during the investigation of those complaints.

IX. SIXTH CLAIM FOR RELIEF

- 27 The Commission, through its Staff, realleges paragraphs 2 – 12.
- 28 RCW 80.36.130 prohibits a telecommunications company from charging rates different from the rates in its schedule on file and in effect at the time.
- 29 New Access violated RCW 80.36.130 by billing its customers rates and charges that were not in its price list on file with the Commission at the time the charges were billed.
- 30 THEREFORE, the Commission commences an adjudicative proceeding pursuant to chapter 34.05 RCW and chapter 480-09 WAC for the following purposes:
- 31 (1) To determine whether the Respondent has failed to comply with applicable laws, and the rules and orders of the Commission as set forth in the allegations above.
- 32 (2) To determine whether the Commission should assess monetary penalties against the Respondent based on alleged violations of state law or Commission rules or orders identified by Staff during its investigation of company practices.
- 33 (3) To make such other determinations and enter such orders as may be just and reasonable.

DATED at Olympia, Washington, and effective this day of 2001.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner