

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

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET UT-091870
)	
Complainant,)	COMPLAINT
)	
v.)	NOTICE OF PREHEARING
)	CONFERENCE
QWEST CORPORATION,)	(Set for Tuesday, May 25, 2010,
)	at 10:00 a.m.)
Respondent.)	
)	
.....)	

1 The Washington Utilities and Transportation Commission (Commission), on its own motion, and through its Staff, alleges as follows:

I. BACKGROUND

2 Telecommunications carriers providing service in the state of Washington must comply with Commission rules designed to protect telecommunications consumers in Washington state. This Complaint arises from allegations of violations by Qwest Corporation (Qwest) of these rules.

3 In 2008, Staff of the Washington Utilities and Transportation Commission (“Commission Staff” or “Staff”) completed a preliminary investigation of Qwest’s compliance with laws and rules enforced by the Commission. The preliminary investigation revealed violations of ten different rules and one statute. Following this preliminary investigation, Staff met with Qwest representatives to discuss the violations identified in the investigation. From this meeting, Staff understood that Qwest planned to improve its compliance.

4 In 2009, Staff initiated a follow-up investigation to determine whether Qwest had improved its compliance with state laws and rules designed to protect telecommunications consumers. During the investigation, Staff reviewed 102 consumer complaints filed with the Commission between March 1 and June 30, 2009. Staff completed its follow-up investigation in March 2010.

5 Staff found in its follow-up investigation that Qwest continued to violate seven of the eleven laws and rules identified as problem areas in the 2008 investigation. While Staff found significantly increased compliance in nearly half of the 2008 problem areas, Staff also found violations of several Commission rules where there had been compliance in 2008.

6 Under RCW 80.04.380, Qwest is subject to penalties of up to \$1,000 for each violation of RCW Title 80 and Commission rules.

II. PARTIES

7 The Washington Utilities and Transportation Commission is an agency of the State of Washington, authorized by state law to regulate the rates, services, facilities, and practices of public service companies, including telecommunications companies, under RCW Title 80.

8 Qwest Corporation is a telecommunications company subject to regulation by the Commission under RCW Title 80.

III. JURISDICTION

9 The Commission has jurisdiction over this matter pursuant to RCW 80.01.040, RCW 80.04.110, RCW 80.04.380, RCW 80.36, and WAC 480-120.

IV. CLAIMS AND CAUSES OF ACTION

A. FIRST CAUSE OF ACTION

(Violation of WAC 480-120-161, billing)

10 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 9 above.

11 WAC 480-120-161 requires telecommunications companies subject to Commission regulation to provide accurate bills and fair bill payment requirements.

12 Qwest violated 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.

B. SECOND CAUSE OF ACTION**(Violation of WAC 480-120-172, discontinuing service)**

- 13 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 9 above.
- 14 WAC 480-120-172 allows telecommunications companies subject to Commission regulation to discontinue service in certain circumstances but requires compliance with customer notice provisions and other conditions.
- 15 Qwest violated WAC 480-120-172 at least five times by improperly discontinuing service, discontinuing service without proper notice, and for billing a customer during a period of discontinued service.

C. THIRD CAUSE OF ACTION**(Violation of WAC 480-120-173, restoring service after a disconnection)**

- 16 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 9 above.
- 17 WAC 480-120-173 requires telecommunications companies subject to Commission regulation to restore service within prescribed timeframes once the issue that resulted in the disconnection has been resolved.
- 18 Qwest violated WAC 480-120-173 at least 15 times by failing to restore service within the required timeframes to one customer who was disconnected without proper notice and to two customers even after they had corrected the causes of the disconnections.

D. FOURTH CAUSE OF ACTION**(Violation of WAC 480-120-174, payment arrangements)**

- 19 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 9 above.
- 20 WAC 480-120-174 requires telecommunications companies subject to Commission regulation to allow customers to pay prior obligations over time in installments.
- 21 Qwest violated WAC 480-120-174 at least twice by failing to offer customers a payment plan.

E. FIFTH CAUSE OF ACTION

(Violation of WAC 480-120-440, repair standards for service interruptions)

- 22 The Commission, through its Staff, realleges the allegations contained in paragraphs 2 through 9 above.
- 23 WAC 480-120-440 requires telecommunications companies subject to Commission regulation to repair all out-of-service interruptions within forty-eight hours.
- 24 Qwest violated WAC 480-120-440 at least 16 times by failing to timely restore service following a service interruption.

V. APPLICABLE LAW

- 25 Under RCW 80.04.380, the Commission may penalize a public service company that violates any provision of RCW Title 80 or any rule of the Commission up to \$1,000 for each and every offense. Under the statute, every violation is considered a separate and distinct offense, and, in the case of a continuing violation, every day's continued violation is deemed to be a separate and distinct offense.

VI. REQUEST FOR RELIEF

- 26 Staff requests that the Commission find that Qwest committed 69 violations of rules enforced by the Commission, as set forth in the allegations above and itemized below.

<u>Rule</u>	<u>Count</u>
WAC 480-120-161	31
WAC 480-120-172	5
WAC 480-120-173	15
WAC 480-120-174	2
WAC 480-120-440	16
<hr/>	
Total	69

- 27 Staff further requests that the Commission impose monetary penalties on Qwest under RCW 80.04.380 in the amount of \$69,000.
- 28 Staff further requests that the Commission order such other or further relief as is appropriate under the circumstances.

VII. PROBABLE CAUSE

- 29 Based on a review of Staff's report on its investigation of Qwest, and all supporting documents, and consistent with RCW 80.01.060 and WAC 480-07-307, the Commission finds probable cause exists to issue this complaint.

VIII. NOTICE OF PREHEARING CONFERENCE

- 30 **THE COMMISSION GIVES NOTICE That** it will hold a prehearing conference in this matter at **10:00 a.m., on Tuesday, May 25, 2010**, in Room 206, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The purpose of the prehearing conference is to consider requests for intervention, resolve scheduling matters including establishing a procedural schedule, to identify the issues in the proceeding and determine other matters to assist the Commission in resolving the matter, as listed in WAC 480-07-430.
- 31 The Commission will hear this matter under the Administrative Procedure Act (APA), particularly Part IV of RCW 34.05, relating to adjudications. The provisions of the APA that relate to this proceeding include, but are not limited to, RCW 34.05.413, RCW 34.05.431, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW 34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in this proceeding.
- 32 **THE COMMISSION GIVES FURTHER NOTICE THAT ANY PARTY WHO FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC 480-07-450.**
- 33 If any party or witness needs an interpreter or other assistance, please fill out the form attached to this notice and return it to the Commission.
- 34 The names and mailing addresses of all parties and their known representatives are as follows:

Complainant: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
PO Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jennifer Cameron-Rulkowski
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
PO Box 40128
Olympia, WA 98504-0128
(360) 664-1186
jcameron@utc.wa.gov

Respondent: Qwest Corporation
1600 7th Avenue, Suite 3206
Seattle, WA 98191
(206) 398-2500

Representative: Lisa Anderl
Qwest Corporation
1600 7th Avenue, Suite 3206
Seattle, WA 98191
(206) 345-1574
lisa.anderl@qwest.com

- 35 Patricia Clark is appointed as the Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, and will preside at the hearing.
- 36 Notice of any other procedural phase will be given in writing or on the record as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington, and effective April 30, 2010.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Administrative Law Judge

Inquiries may be addressed to:

Executive Director and Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE NOTE: The hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and, if limited English-speaking or hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be stated below and returned to Washington Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P.O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket: _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired: (Yes)_____ (No)_____

Do you need a certified sign language interpreter?:

Visual_____ Tactile_____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____)_____