

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

BG ENTERPRISES, INC.,

Respondent.

DOCKET NO. UT-020473

COMMISSION ORDER ACCEPTING
SETTLEMENT

SUMMARY

- 1 **PROCEEDINGS:** The Washington Utilities and Transportation Commission, proceeding on its own motion, filed a Complaint on October 23, 2002. The Commission alleged in its Complaint that the operating practices of BG Enterprises, Inc., violated WAC 480-120-106, WAC 480-120-081, and RCW 80.36.130.
- 2 **PARTIES:** Lisa Watson, Assistant Attorney General, Olympia, Washington, represents Commission Staff (Staff). Thomas C. Orr, Attorney, Missoula, Montana, represents BG Enterprises, Inc. (BG Enterprises).
- 3 **SETTLEMENT AGREEMENT:** On October 23, 2002, Staff and BG Enterprises (the Parties) filed a Settlement Agreement to resolve all issues raised in the Complaint.
- 4 **COMMISSION:** The Commission accepts the Parties' settlement as filed.

MEMORANDUM

- 5 On October 23, 2002, the Commission issued a Complaint alleging violations of WAC 480-120-106, WAC 480-120-081, and RCW 80.36.130. The Parties have reached agreement to resolve the issues raised by the Complaint and have voluntarily entered into the attached Settlement Agreement. The Settlement Agreement reflects the Parties' proposal to the Commission for resolution of all outstanding issues and constitutes a Settlement Agreement within the meaning of WAC 480-09-466.
- 6 The Settlement Agreement provides for the following actions to be taken by BG Enterprises to resolve the outstanding Complaint:

- BG Enterprises agrees to operate in full compliance with the Commission's billing, disconnection, and rates and charges rules; and,
- BG Enterprises agrees to pay \$5,000 in penalties for the rule violations alleged in the complaint.

7 The Commission finds that the Settlement Agreement fairly and equitably resolves all of the issues raised by the Complaint and is in the public interest.

FINDINGS OF FACT

8 The Washington Utilities and Transportation Commission is an agency of the State of Washington, vested by statute with authority to regulate rates, practices, accounts, and other matters pertinent to the operation of public service companies, including telecommunications companies.

9 BG Enterprises engages in the business of providing telecommunications services within Washington State.

10 On October 23, 2002, the Commission issued a Complaint in which it alleged that BG Enterprises had violated Commission rules.

11 The violations alleged in the Complaint occurred as alleged.

12 On October 23, 2002, Staff and BG Enterprises filed a Settlement Agreement to resolve all violations to date known to Staff of the rules cited in the Commission's Complaint.

13 The proposed settlement agreement benefits all parties by resolving questions of responsibility without the need for a hearing on contested issues, by holding the respondent responsible for violations that are consistent with the seriousness of the violations, and by securing the respondent's independently enforceable commitment of compliance with law in the future.

CONCLUSIONS OF LAW

14 The Washington Utilities and Transportation Commission has jurisdiction over the subject matter and the parties. Chapters 80.04 and 80.36 RCW.

15 BG Enterprises, Inc. violated provisions set forth in WAC 480-120-106, WAC 480-120-081, and RCW 80.36.130.

- 16 The Settlement Agreement, which is attached to this Order as Appendix A, is consistent with the public interest.
- 17 The Settlement Agreement fully and fairly resolves the issues pending in Docket No. UT-020473. The terms of the Settlement Agreement should be approved and adopted as though set out the body of this order.

ORDER

18 THE COMMISSION ORDERS:

- 19 (1) That the Settlement Agreement, attached to this order as Appendix A, is hereby approved and adopted by the Commission.
- 20 (2) That penalties are imposed on BG Enterprises in the amount of \$5,000 and that the penalties are due and payable no later than fifteen days from the date of this order.
- 21 (3) The Commission retains jurisdiction to effectuate the provisions of this order.

DATED at Olympia, Washington, and effective this 23rd day of October, 2002.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

ATTACHMENT

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DOCKET NO. UT-020473

SETTLEMENT AGREEMENT

1 This Settlement Agreement is entered into by all parties to this proceeding for the purpose of resolving all issues raised in the above docket.

I. PARTIES

2 The parties to this Agreement are BG Enterprises, Inc. and the Staff of the Washington Utilities and Transportation Commission (Staff) (collectively, “the Parties”).

II. BACKGROUND

3 Staff initiated an investigation into the billing, disconnection, and rates and charges practices of BG Enterprises, Inc. Staff issued a report with its findings on June 10, 2002.

III. AGREEMENT

4 The Parties have reached agreement on the issues raised in the above docket and wish to present their agreement for the Commission’s consideration and approval. The Parties therefore adopt the following Settlement Agreement, which the Parties entered into voluntarily to resolve the matters in dispute between them and to expedite the orderly disposition of this proceeding.

5 The Parties agree that BG Enterprises has violated several Commission rules and will pay the Commission monetary penalties totaling \$5,000. This amount represents

penalties of \$1,000 for 1 violation of WAC 480-120-106(1); \$1,000 for 1 violation of WAC 480-120-081(2)(a); \$1,000 for 1 violation of WAC 480-120-081(5)(a); \$1,000 for 1 violation of WAC 480-120-081(5)(b); and \$1,000 for 1 violation of RCW 80.36.130(1). The total amount shall be ordered due and payable 15 days after the Commission issues an order adopting this Agreement.

- 6 The Parties agree that BG Enterprises will comply with all applicable Commission rules. Under the Settlement Agreement, BG Enterprises commits to full compliance with Washington's form of billing rules set forth in WAC 480-120-106(1); disconnection rules set forth in WAC 480-120-081(2)(a), WAC 480-120-081(5)(a), and WAC 480-120-081(5)(b); and rates and charges rules set forth in RCW 80.36.130(1).
- 7 The Parties agree that this Agreement does not preclude the Commission from pursuing penalties for violations of Commission rules not related to the subject matter of this Agreement, or for subsequent violations of WAC 480-120-106(1); WAC 480-120-081(2)(a); WAC 480-120-081(5)(a); WAC 480-120-081(5)(b); and RCW 80.36.130(1).

IV. GENERAL PROVISIONS

- 8 The Parties agree that this Settlement Agreement is a settlement of all contested issues between them in this proceeding. The Parties understand that this Settlement Agreement is not binding on the Commission unless and until the Commission adopts the Agreement.
- 9 The Parties agree to cooperate in submitting this Agreement promptly to the Commission for acceptance. The Parties agree to support adoption of this Agreement in proceedings before the Commission through testimony or briefing. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.
- 10 The Parties have entered into this Agreement to avoid further expense, inconvenience, uncertainty, and delay. The Parties recognize that this Agreement represents a compromise of the Parties' positions. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement or any Commission Order fully adopting those terms. This Agreement shall not be construed against either party because it was a drafter of this Agreement.
- 11 The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on

issues addressed herein. Accordingly, the Parties recommend that the Commission adopt this Agreement in its entirety.

- 12 The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. Copies sent by facsimile are as effective as original documents.
- 13 The Parties shall take all actions necessary as appropriate to carry out this Agreement.
- 14 In the event that the Commission rejects all or any portion of this Agreement, each party reserves the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 days. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and either party shall be entitled to seek reconsideration of the Order rejecting all or part of the Agreement. Additionally, the Parties will jointly request a prehearing conference be reconvened for purposes of establishing a procedural schedule to complete the case.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION STAFF

CHRISTINE O. GREGOIRE
Attorney General

BG ENTERPRISES, INC.

LISA WATSON
Assistant Attorney General
Counsel for Commission Staff
Consultant

THOMAS C. ORR
Attorney and Counselor at Law
Regulatory Compliance

Dated: _____, 2002.

Dated: _____, 2002.