

Qwest

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July 20, 2004

*Via E-Mail and
Overnight Mail*

Ms. Carole J. Washburn, Executive Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket No. UT-991358 (SQPP)
Response to Letters of Commission Staff

Dear Ms. Washburn:

This letter responds to the letters filed by Commission Staff on July 12 and 13, 2004 regarding the above-referenced docket. In those letters, Staff noted for the record its concern that, during the parties' June 25, 2004 oral argument, counsel for Qwest made inaccurate statements regarding the previous version of the Commission's service quality rules. Specifically, Staff pointed to Qwest's statement that the Commission's prior rules did not contain a requirement to reinstate out-of-service conditions within two days, as such a requirement currently exists under WAC 480-120-440(1) ("Current Rule"). Staff believes that Qwest's statement was mistaken.

As an initial matter, Qwest notes that it is unaware, procedurally, of how Staff's July 12 and 13 letters (or, admittedly, this response) fit within the framework of the Commission's procedural rules. The Commission entered a final order on June 30 and the deadline for motions for reconsideration passed without a motion being filed on July 12. Hence, the matter is closed. While Qwest finds this exchange of letters to be procedurally awkward,¹ it nevertheless will respond to Staff so that the Commission has the perspective of both sides.

¹ Qwest notes that it was for this reason – the lack of an appropriate mechanism under the Commission's procedural rules – that the undersigned contacted Staff on July 7 to indicate that Qwest did not intend to raise this matter affirmatively. Qwest did so to provide Staff and Public Counsel the opportunity to raise the issue themselves in a motion for reconsideration (and, in fact, invited them to do so). So that the Commission has a full and accurate perspective on the parties' discussion about whether and how to clarify the record (if necessary), Qwest would be willing to provide copies of the several emails exchanged by the parties.

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With regard to Staff's specific concern, Qwest acknowledges that there is room for confusion and debate as to whether the Commission's prior service quality rules contained a standard parallel to that today found in the Current Rule.

Careful examination of prior WAC 480-120-520 ("Prior Rule") reveals that the prior rules did not contain an exact parallel to the Current Rule. Whereas the Prior Rule spoke of restoring "all reported interruptions," the Current Rule distinguishes between "out-of-service interruptions" and "all other regulated service interruptions." The Prior Rule also lacked a reporting requirement as is now mandated under WAC 480-120-439(9)(a). Thus, the Prior Rule and Current Rule are not identical. That fact notwithstanding, having reviewed the transcript, Qwest believes it could have been clearer in its position given that the two rules appear to cover similar territory.

Qwest appreciates Staff raising the issue, and appreciates the opportunity to respond. To the extent Qwest's representations at oral argument caused confusion, Qwest apologizes. Should the Commission have any further questions, Qwest would be pleased to respond.

Sincerely,

Adam L. Sherr

ALS/llw

cc: Service List (via e-mail and U.S. Mail)
ALJ Bob Wallis