

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

QWEST COMMUNICATIONS CORPORATION	)	
_____	)	
ALLEGED VIOLATION(S) OF KRS 278.535	)	CASE NO. 99-326
SWITCHING OF TELECOMMUNICATIONS	)	
PROVIDER	)	

O R D E R

Qwest Communications Corporation ("Qwest") is a communications provider as defined in KRS 278.535(1)(a), is authorized to do business in Kentucky, and is subject to the Commission's jurisdiction. By Commission Order dated December 28, 1994, Qwest, formerly known as Southern Pacific Communications Company, was issued a certificate of convenience and necessity to provide telecommunication services in Kentucky. Qwest's schedule of rates and services (tariff) became effective on January 18, 1995. Records of the Office of Secretary of State of the Commonwealth of Kentucky reflect that Qwest, identification number 0334831, has been authorized to do business in the state of Kentucky since on or about August 23, 1994, and thereafter followed by the above-named Order. Said records state that the registered agent for Qwest is CT Corporation Systems, 239 South Fifth Street, Kentucky Home Life Building, Louisville, Kentucky 40202, and that Joseph P. Nacchio is president and Drake S. Tempiest is secretary, with principal offices at 555 17<sup>th</sup> Street, Suite 1000, Denver, Colorado 80202. Commission Staff has records reflecting that the principal place of business listed above is correct, but that Bernie Bianchino is executive vice president

and that Qwest maintains other offices at 4250 North Fairfax Drive, Arlington, Virginia 22203.

KRS 278.535(7) prescribes specific statutory procedures for the proper changing of the primary telecommunications carrier of a customer.

1. On or about February 7, 1999, Ruth Troxtell reported by telephone to Commission Staff that the long-distance carrier for the business of Lookout Marine Sales was switched from AT&T to Qwest. The phone number for Lookout Marine Sales is 606/561-5904. This change was made without authority or permission.

2. By letter dated February 11, 1999, Qwest was notified of the complaint received by Commission Staff from Ms. Troxtell on behalf of Lookout Marine Sales. A carrier change was made in the business service by or on behalf of Qwest that was unauthorized. The letter requested that Qwest provide to Commission Staff appropriate evidence that the carrier change was authorized. KRS 278.535(2) places the burden of proof on Qwest to show that the business phone at Lookout Marine Sales (606/561-5904) was switched with the appropriate authority. Qwest was unable to provide the requisite statutory proof that the carrier change was properly authorized. A copy of said letter is attached hereto and marked Appendix 1.

3. On or about March 3, 1999, Qwest was given a second notification by Commission Staff. Qwest was unable to provide the requisite statutory proof that the change in service at the business aforementioned was properly authorized. A copy of said letter is attached hereto and marked Appendix 2.

4. Commission Staff, after investigation, has been unable to secure or obtain any written authorization or electronically recorded authorization of the owners and operators of the business that properly authorized the carrier change.

The Commission, based upon the foregoing facts, finds sufficient evidence to believe that Qwest has violated KRS 278.535.

The Commission, on its own motion, HEREBY ORDERS that:

1. Qwest shall submit to the Commission within 20 days of the date of receipt of this Order a response to the allegations contained herein.

2. Qwest shall appear on November 9, 1999 at 9:00 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky for the purpose of presenting evidence regarding the alleged violation of KRS 278.535, and showing cause, if any, why it should not be subject to the penalties prescribed in KRS 278.535(6).

3. The letters attached hereto and marked Appendix 1 and Appendix 2 are made a part of the record herein.

4. Any request for informal conference with Commission Staff to consider any matter which would expedite the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of receipt of this Order.

Done at Frankfort, Kentucky, this 12<sup>th</sup> day of August, 1999.

By the Commission

ATTEST:

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Executive Director