



Public Service Commission  
State of North Dakota

COMMISSIONERS

Julie Fedorchak  
Randy Christmann  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
Web: www.psc.nd.gov  
E-mail: ndpsc@nd.gov  
Phone: 701-328-2400  
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TDD: 800-366-6888 or 711

8 April 2016

Timothy Dawson, Director  
Office of Administrative Hearings  
2911 North 14<sup>th</sup> Street – Suite 303  
Bismarck, ND 58503

Re: Public Service Commission  
v. Qwest Corporation  
Complaint

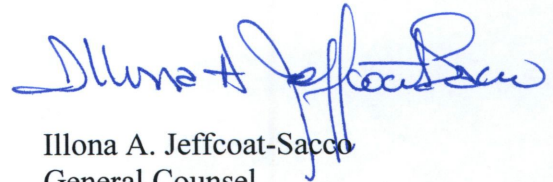
Case No. PU-15-677

Dear Mr. Dawson:

Enclosed is a request for an Administrative Law Judge for the captioned case. The case is in its early stages, the Complaint has not yet been served, and a Notice of Hearing has not yet been issued. When the Complaint is served we will forward it to your office and likewise when a Notice is issued.

The Administrative Law Judge will serve as a procedural law judge. If you have any questions, please contact me. Thank you.

Best regards,



Illona A. Jeffcoat-Sacco  
General Counsel

enclosures  
c: w/encl. Kent Blickensderfer



**REQUEST FOR ADMINISTRATIVE LAW JUDGE--COMPLAINT**  
 NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS  
 SFN 17818 (Rev. 06-2007)

Name of Agency, Board, or Commission North Dakota Public Service Commission		
Name of Respondent(s) Qwest Corporation	Address 220 n. 5th St., Bismarck, ND 58501	Telephone Number (701) 222-7051

The above named agency, board, or commission has taken administrative action pursuant to its authority found in North Dakota Century Code Section 49-21-10.2 (North Dakota Century Code and/or North Dakota Administrative Code).

The administrative action is more fully described as follows: The North Dakota Public Service Commission advocacy staff filed a Formal Complaint alleging that Qwest failed to provide adequate quality of service and failed to promptly correct inadequate service issues in 28 instances.
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Has the respondent been provided a copy of the complaint?  Yes  No

Attached is a copy of the complaint, related documents and correspondence, and certificate, affidavit or admission of service. If the respondent has otherwise been notified about this administrative action, please explain in the comments section below.

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue **recommended** findings of fact, conclusions of law, and order.
- To serve as a **procedural** administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 28-32-31(5). See NDCC 54-57-04.
- To conduct the hearing, issue findings of fact, conclusions of law, and a **final** order.

**PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.**

Agency Contact Person(s) See attached	Telephone Number
--	------------------

Representation [attorney (or other)] if known:

Agency See attached	Telephone Number
Party	Telephone Number
Party	Telephone Number

Additional Comments When the Complaint is served we will forward it to your office and likewise when a Notice is issued.

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

Typed or Printed Name and Title of Requesting Person Illona A. Jeffcoat-Sacco, General Counsel	Date 4/8/2016
Signature of Requesting Person X	Telephone Number (701) 328-2407

Attachment  
Request for ALJ  
8 April 2016

Re: Public Service Commission  
v. Qwest Corporation  
Complaint

Case No. PU-15-677

<b>AGENCY</b>	<b>Address</b>	<b>Telephone Number</b>
North Dakota Public Service Commission	600 E. Blvd. Ave. Dept. 408 Bismarck, ND 58505-0480	701-328-2400
<b>Representation</b> Mitchell Armstrong and Brian Schmidt Advocacy Counsel	<b>Address</b> Smith Bakke Porsborg Schweigert & Armstrong 122 E. Broadway Ave. Bismarck, ND 58501	<b>Telephone Number</b> 701-258-0630
Illona Jeffcoat-Sacco Advisory Counsel	600 E. Blvd. Ave. Dept. 408 Bismarck, ND 58505-0480	701-328-2407
<b>PARTY</b> Qwest Corporation	<b>Address</b> 220 N. 5 <sup>th</sup> St. Bismarck, ND 58501	<b>Telephone Number</b> 701-222-7051
<b>Representation</b> Kent Blickensderfer Vice President – Public Policy Qwest	<b>Address</b> 220 N. 5 <sup>th</sup> St. Bismarck, ND 58501	<b>Telephone Number</b> 701-222-7051

**APPROVED**

DATE: 11-18-15  
[Signature]

**MOTION**

**November 18, 2015**

**Public Service Commission  
v. Qwest Corporation  
Complaint**

**Case No. PU-15-677**

I move the Commission retain Mitchell D. Armstrong and Brian Schmidt, effective October 15, 2015, to provide legal services to assist the Commission as advocacy staff counsel in Public Service Commission v. Qwest Corporation, Complaint, Case No. PU-15-677.

APPROVED

DATE: 12-2-15

*[Signature]*

**MOTION**

**December 2, 2015**

**Public Service Commission  
v. Qwest Corporation  
Complaint**

**Case No. PU-15-677**

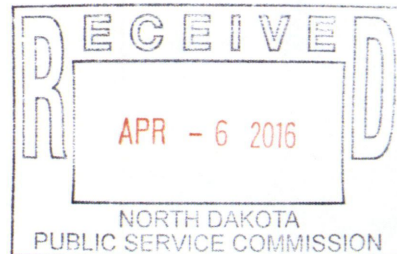
I move the Commission appoint Stacy Eberl and Patrick Fahn as advocacy staff effective November 18, 2015 in Public Service Commission, v. Qwest Corporation, Complaint, Case No. PU-15-677.

PJF

122 E. Broadway Avenue  
Bismarck, ND 58501

P.O. Box 460  
Bismarck, ND 58502-0460  
Phone (701) 258-0630  
Fax (701) 258-6498  
smithbakke.com

April 5, 2016



Darrell Nitschke, Executive Director  
North Dakota Public Service Commission  
State Capitol Building, Dept. 408  
600 East Boulevard  
Bismarck, ND 59505-0480

In re: Public Service Commission v. Qwest Corp.  
Case No. PU-15-677

Dear Mr. Nitschke:

Enclosed for filing in the above-referenced matter please find the original and seven copies of the *Complaint*.

Thank you for your attention to this matter.

Respectfully,



MITCHELL D. ARMSTRONG  
Special Assistant Attorney General for  
Public Service Commission Advocacy Staff

Sheldon A. Smith\*  
Randall J. Bakke\*\*\*\*  
Scott K. Porsborg\*\*\*\*  
Suzanne M. Schweigert\*  
Mitchell D. Armstrong\*\*  
Stacy M. Moldenhauer\*\*  
David J. Smith\*\*  
Shawn A. Grinolds\*\*  
Bradley N. Wiederholt\*\*  
Brian D. Schmidt\*  
Tyler J. Malm\*  
Preston J. Wise\*  
Leah R. Carlson\*

tmk  
enclosures  
cc: Pat Fahn (via e-mail only) (w/ enc.)  
Stacy Eberl (via e-mail only) (w/ enc.)

Nitschke.1

\* Licensed in North Dakota

\*\* Licensed in Minnesota

\*\* Licensed in South Dakota

\* Board Certified Civil Trial  
Specialist by National Board  
of Trial Advocacy

**BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA**

**Public Service Commission  
v. Qwest Corporation**

**Case No. PU-15-677**

<b>Public Service Commission,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	<b>COMPLAINT</b>
<b>vs.</b>	)	
	)	
<b>Qwest Corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

The Public Service Commission (“PSC” or “Commission”) of North Dakota, by and through Advocacy Staff (Staff), for its complaint against Qwest Corporation (Qwest), alleges and states the following:

**I.**

Qwest is a foreign business corporation authorized to do business in North Dakota. Its registered agent with the North Dakota Secretary of State is CT Corporation System, 314 East Thayer Ave., Bismarck, ND 58501-4018.

**II.**

Qwest is a telecommunications company engaged in the furnishing of telecommunications services within this state.

**III.**

Qwest has been granted Certificates of Public Convenience and Necessity Nos. 5666-5694 to provide telecommunications services inside the Belfield, Bismarck, Casselton, Comstock,

Dickinson, Emerado, Fairview, Fargo, Gardner, Grafton, Grand Forks, Hatton, Hillsboro, Jamestown, Kindred, Larimore, Leonard, Mandan, Manvel, Mayville, McIntosh, Minto, Morristown, Northwood, Reynolds, Sidney, Thompson, Valley City, and Wahpeton local exchange areas.

IV.

Pursuant to N.D.C.C. § 49-21-10.2, any customer, and the Public Service Commission, may complain concerning the quality of service provided by a telecommunications company providing telecommunications services in this state.

V.

If the Commission finds that a service of a telecommunications company is inadequate or a company is in violation of a law, rule, or order, the Commission may direct the telecommunications company to take reasonable and necessary remedial action to provide adequate service or to bring the company into compliance with the applicable law, rule, or order. The Commission also has remedies pursuant to N.D.C.C. ch. 49-07.

VI.

Pursuant to N.D. Admin. Code § 69-09-05-07, when a customer's service is found to be out of order or a customer reports trouble, the local exchange telecommunications company shall test its facilities to determine if the problem is with the company's facilities. If it is, the company shall correct the trouble promptly.

VII.

Throughout 2015, the Commission received numerous complaints from customers regarding quality of service issues relating to Qwest.

VIII.

On November 18 and December 2, 2015, Staff was appointed.

IX.

Staff has further investigated the customer complaints from 2015, and asserts each of the following instances constitute separate violations of N.D. Admin. Code § 69-09-05-07 for failure to test and/or correct trouble promptly and/or violations of N.D.C.C. § 49-21-10.2:

1. Steve and Barb Snyder of Arvilla reported ongoing issues with their phone service, which included a constant humming noise and intermittent crackling. Qwest investigated several times but was unable to resolve the issue. The PSC received the subscriber complaint on August 28, 2015. After being informed the subscriber had made a complaint to the PSC, Qwest was able to resolve the problem that day.
2. Georgia Fisher of Dickinson reported ongoing issues with service since a lightning strike in 2014. The problems were a noisy phone line resulting in an inability to hear people on the other end of the line. She contacted Qwest several times about the issue, and also contacted the PSC on April 16, 2015. Repairs were finally made on May 12, 2015, which lasted for a while. The problems arose again on July 1 and were ongoing. Fisher was out of service again on October 1, 2015. Fisher reported the problems to Qwest, including on October 5, 2015. The problem was not cleared by Qwest until October 21, 2015.
3. Paul Sandstrom of Emerado experienced trouble with his phone service beginning September 3, 2015. The trouble was reported to Qwest immediately and several dates were set and confirmed for a technician to investigate the problem, but the technician did not keep the appointments. On September 25, Qwest addressed the

issue by running a temporary drop until the cable could be dug up and respliced for a permanent fix.

4. JL Johnson Bridal of Dickinson reported trouble with its service because it was unable to receive any calls. The issue was ongoing for approximately one year and would recur about every other week. A repair ticket was finally assigned for August 18, 2015, (the day the PSC contacted Qwest) and the repairs were completed on or about September 14, 2015.
5. Sandy Ficek of Dickinson experienced on and off outages beginning in July 2015. Washout issues resulted in phone outages from July 8-20, October 2-20, and October 23-28, which were not promptly corrected. A temporary line was laid aboveground on or about October 28, 2015, but service was scratchy. The temporary cable was buried the week of November 13, but trouble was discovered in the line. An excavation was scheduled around the week of December 7, 2015.
6. Barb Glick of Dickinson was without phone service beginning July 23, 2015. Service was not promptly restored until after the PSC informed Qwest it had received a complaint. Service was restored on July 31, 2015.
7. Dale Johnson of Cummings experienced trouble with his service, including a loud hum on the line and the phone only ringing once with a delay hearing the other person on the line. The PSC representative who took Mr. Johnson's complaint called Mr. Johnson and experienced the delay and humming noise. These issues had been ongoing since approximately June 17. The service was repaired on July 20, 2015.

8. Dale Hardy of Center reported quality of service issues lasting for years. When he called the PSC to report the issues on October 6, 2015, there was static and clicking noises on the line. He reported not even having a dial tone most of the time. He called Qwest many times but was never able to get the issue fixed. The PSC relayed Hardy's complaint to Qwest on October 6, 2015, and the service was repaired on October 14, 2015.
9. Laurie Roedeske of Cartwright reported ongoing issues with quality of service, dating back to August 2015. A repair was attempted on September 28, 2015, but there remained so much static in the line that it couldn't be used. In addition, the phone would ring even when nobody was calling. After numerous contacts back and forth with Qwest, the repair was completed on November 6, 2015.
10. Margaret Denowh of Cartwright reported trouble with her phone service beginning August 13, 2015. A repair was scheduled to occur on September 18, 2015. The PSC informed Qwest of the complaint on August 17, 2015, and the repair was then completed on August 22, 2015.
11. James Gullickson of Cartwright experienced trouble when his phone service stopped working on July 29, 2015. Several calls were made to Qwest, and assurances were made that a technician would be coming to address the issue. When no technician arrived, the trouble was reported to the PSC on August 14, 2015. Repairs were not made until September 4, 2015.
12. Jason Rau of Cartwright experienced trouble when his phone service was out for over a month from August to September 2015. Service was not restored until September 2, 2015.

13. Georgianne Zastoupil of Belfield experienced an outage for about six weeks as of May 27, 2015. A repair was not completed until June 1, 2015.
14. Curt Miller of Belfield experienced trouble when his phone did not work for approximately one month as of August 6, 2015. Service was not restored until August 18, 2015.
15. Jerry Anheluk of Belfield experienced trouble when his service was not working for approximately one month as of August 4, 2015. After the PSC reported the issue to Qwest on August 4, repairs were made that day.
16. Bonnie Reisenauer of Belfield was out of service for approximately one month as of July 7, 2015. Previously, her service would be in and out and she had reported the trouble to Qwest. When the PSC informed Qwest it had received a complaint on July 9, 2015, repairs were made on July 10.
17. Dan and Susan Hutzenbiler of Belfield experienced trouble when their phone service stopped working on June 19, 2015. The service was not restored until July 10, 2015.
18. JoAnn Bang of Belfield experienced continuing problems with her telephone service in June 2015. She notified Qwest of an outage on or about June 9, 2015. On June 18, a temporary aboveground wire was placed, restoring service. On August 12, 2015, her telephone service was out again. The problem was related to gophers chewing on the wire. After the PSC relayed the complaint to Qwest, the service was restored by fixing the temporary line on August 14. Qwest indicated the buried line could not be fixed until it has technicians available.

19. Scott and Patty Hutzenbiler of Belfield reported ongoing issues with their telephone service with the most recent issues beginning in April 2015, and worsening since that time. Despite making requests to Qwest and work orders being issued, the troubles were not corrected. In July 2015, they experienced an outage. Following the repairs, the phone lines seemed to be crossed with their neighbors. Several calls were made for a repair without a technician addressing the problem. On October 1, 2015, the PSC relayed the Hutzenbilers' complaint to Qwest and a repair ticket was then issued for October 2, 2015. On October 7, 2015, there was another outage reported to the PSC, which was addressed that day.
20. Dwight and Teresa Hecker of Fairfield experienced an outage in June 2015. After being reconnected, they experienced interference and intermittent dropping of calls beginning June 27. They were assured several times by Qwest that somebody would fix it, but nobody showed up. The issue was then reported to the PSC, which transmitted the information to Qwest on July 7, 2015. On July 8, 2015, the service was restored after it was determined there was a power issue. Following the repair, the phone service was noisy, and calls would disconnect. A repair ticket was issued on July 27, but a technician did not show up. After the PSC reported the problem to Qwest, Qwest reported the service was restored on July 28. As of July 30, 2015, the Heckers reported the problems were not resolved. Service was not restored until August 4. On August 22, they experienced another outage. Service was restored on August 25 after PSC involvement.
21. Jim Lowman of Fairfield experienced an outage beginning on or about June 24, 2015. He reported the problem to Qwest, but repairs were not made. After the PSC

relayed his complaint to Qwest, his service was restored on July 8, 2015. After the repair, when a call was made, the service would work for about a minute and then disconnect. Service was restored on August 4, 2015. Another outage was experienced on or about August 22 and was restored again on August 25, 2015.

22. Connie Karst of Fairview experienced trouble when her telephone service was disconnected when construction work was being performed on her house. When the work was completed, she requested the service be restored. Several dates were provided by Qwest to restore service, but service was not restored. She was out of service for approximately two weeks as of August 3, 2015. Service was restored on August 23, 2015.
23. Darrell and Kerry Finsaas of Fairview moved into a temporary residence. They requested their phone number to be switched to the temporary residence. The transfer order was not completed until July 9, 2015, at which point they had gone over a month without service. When they moved into the new residence, the service was disconnected. Arrangements were attempted to be made to install the new service beginning in August 2015, but service was not restored until the last week of October 2015.
24. Ronnie Hurley of Fairview was without service beginning August 17, 2015. Phone service was not restored until September 28, 2015. He experienced another outage on November 1, which was repaired on November 4, 2015.
25. Phyllis Burns of Grafton experienced an outage on September 11. The outage was not corrected until September 23, 2015.

26. Gaylon Olson of Grand Forks experienced an outage for thirteen days as of June 22, 2015. Repairs were not made until June 27, 2015.
27. Yvette LaPierre of Grand Forks contacted the PSC on September 3, 2015. She experienced an outage for almost two weeks at that point and had been informed service could not be corrected until September 20. After she indicated she would be calling the PSC, a technician was dispatched the next day and service was restored.
28. On August 3, 2015, John Dixon of Mandan contacted the PSC about ongoing issues with his service for a couple years, including outages and interference. The interference was observed during the conversation by an employee of the PSC. On August 7, 2015, several repeaters were replaced to restore service. On September 14, 2015, he experienced an outage. Service was not restored until September 28.

X.

Based on its investigation, Staff concluded the delays and circumstances above exhibit a failure by Qwest to address trouble promptly as required by N.D. Admin. Code § 69-09-05-07. Despite reports to Qwest directly by the customers, the problems were not promptly addressed until and after the subscribers also made reports to the PSC.

XI.

Qwest violated N.D.C.C. § 49-21-10.2 by failing to provide adequate quality of service.

XII.

Qwest violated N.D. Admin. Code § 69-09-05-07 by failing to correct trouble with its facilities promptly in each of the above-described instances.

XIII.

North Dakota Century Code section 49-07-01.1 provides:

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapter 49-22, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

XIV.

The Respondent must serve an answer to this complaint upon the Complainant and the Commission within twenty days after service of the Complaint, or the Commission may deem the complaint to be admitted. Answers must be served in the manner allowed for service under the North Dakota Rules of Civil Procedure.

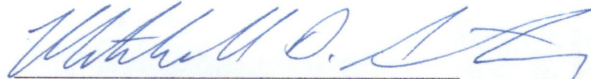
**Prayer for Relief**

Based on the foregoing, Staff seeks the following relief:

1. That the Commission find Qwest in violation of North Dakota Administrative Code section 69-09-05-07 for failing to promptly correct trouble in each of the 28 instances described herein.
2. That the Commission impose an appropriate civil penalty up to \$5,000.00 for each instance.
3. That the Commission order Qwest to take reasonable and necessary remedial action to provide adequate service.

3. Such other relief that the Commission finds just and proper.

Dated this 5<sup>th</sup> day of April, 2016



Mitchell D. Armstrong (ND Bar ID No. 05892)

Brian D. Schmidt (ND Bar ID No. 07498)

Special Assistant Attorneys General

122 East Broadway Avenue

P.O. Box 460

Bismarck, ND 58502-0460

(701) 258-0630

Attorneys for Advocacy Staff