

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UT 125

In the Matter of

QWEST CORPORATION, fka
U S WEST COMMUNICATIONS, INC.,

Application for Increase in Revenues.

ORDER

DISPOSITION: AUTHORITY CONFIRMED; STAY OF PROCEEDINGS LIFTED

We find that Mr. Patrick and Mr. Pilk are authorized to appear on behalf of Northwest Public Communications Counsel (NPCC) and lift the stay of proceedings.

I. BACKGROUND

In Order No. 24-340, we granted a motion, filed by Qwest Corporation, for an order to require Frank Patrick and James Pilk to prove that they are authorized to represent NPCC in this matter. We granted the motion based on our finding that a potential conflict of interest might exist from Mr. Patrick's possible ownership of the rights in this litigation of one of NPCC's payphone service provider (PSP) members.

Based on that finding, we stayed the proceedings and directed Mr. Patrick and Mr. Pilk to submit, in a confidential filing, evidence to clarify: (1) their authority to represent NPCC; (2) any PSP interest obtained or held by Mr. Patrick; and (3) the current status of any such interest, including the transfer of such interest.

II. APPLICABLE LAW

This Commission has broad authority under ORS 756.060 to adopt rules to govern its proceedings and to supervise parties appearing before us. We have adopted rules governing attorney representation and conduct in OAR 860-001-0310(1), as well as appearance of attorneys not licensed to practice in Oregon in OAR 860-001-0320.

Under that authority, we may examine whether an attorney is authorized to appear, consistent with the provisions of ORS 9.350 that provides:

The court or judge thereof may, on motion of either party and on showing reasonable grounds therefor, require the attorney for an adverse party to

prove the authority under which the attorney appears, and until the attorney does so, may stay all proceedings by the attorney on behalf of the party for whom the attorney assumes to appear.

Our examination is not for purposes of attorney discipline. Rather, our review is limited to purposes for managing agency proceedings and to supervise the attorneys appearing before us. Under this authority we may decline to allow an attorney to appear in Commission proceedings should they not abide by the “standards of ethical conduct required of attorneys appearing before the courts of Oregon.”¹ Only the Oregon Supreme Court and its disciplinary board may sanction attorneys for violations of the Oregon Rules of Professional Conduct.²

III. DISCUSSION

The question presented is whether Mr. Patrick owns the rights in this litigation of one or more of NPCC’s PSP members. If so, his representation in this proceeding, which is to determine if PSPs are owed for overcharges paid under Qwest’s tariffs, would present at least a potential conflict of interest. Oregon Rules of Professional Conduct 1.7(a)(2) states a conflict of interest exists if:

there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

In our prior order granting Qwest’s motion for an order, we found that Mr. Patrick, at some point, owned a PSP’s litigation rights:

Qwest’s evidence shows that NPCC’s counsel (Mr. Patrick) was directed by a federal judge to withdraw from representing an individual PSP in a federal action after the judge concluded Mr. Patrick “created, at the least, a potential conflict of interest between himself” and an individual PSP by representing the PSP while foreclosing a lien for attorneys’ fees, obtaining a judgment against that same PSP, and purchasing that PSP’s claims at auction. The Oregon State Bar and Mr. Patrick also stipulated to a 60-day suspension of Mr. Patrick’s law license based on the same underlying conduct.³

In the confidential filing, Mr. Patrick acknowledges that he once held certain financial interests in this litigation. Without disclosing the details of that confidential filing,

¹ OAR 860-001-0310(1).

² *Kidney Ass’n of Ore. v. Ferguson*, 315 Or 135, 141 (1992).

³ Order No. 24-340 at 3 (Oct 3, 2024).

Mr. Patrick further explains, under a sworn affidavit, that he has transferred such interests and now holds no financial interest in this proceeding other than a statutory attorney's fee lien. Mr. Pilk similarly declared, under a sworn affidavit, that he owns no litigation rights in this proceeding other than a statutory attorney's fee lien.

Based on these sworn statements, which are subject to the penalty of perjury and other action, we conclude that Mr. Patrick and Mr. Pilk have confirmed their authority to represent NPCC in this litigation. Accordingly, we lift the stay of proceedings.


Finally, we note that Qwest Corporation filed a motion on October 10, 2024, seeking a copy of Mr. Patrick's and Mr. Pilk's confidential filing made in response to our Order No. 24-340. We clarify that, given the limited nature of our review in this matter, we intended the filing be made for purposes of an *in camera* review only and deny Qwest's motion.

IV. ORDER

IT IS ORDERED that:

1. Mr. Patrick and Mr. Pilk are authorized to appear on behalf of Northwest Public Communications Counsel (NPCC) in this proceeding; and
2. The stay of proceedings is lifted.

Made, entered, and effective Nov 5, 2024.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Les Perkins
Commissioner