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DL

1 BEFORE THE ARIZONA CORPORATION COMMISSION

2 WILLIAM A. MUNDELL Arizona Corporation Commission
3 CHAIRMAN
4 JIM IRVIN
5 COMMISSIONER
6 MARC SPITZER
7 COMMISSIONER

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ARIZONA CORP. COMM.
TUCSON, AZ

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY [signature]

Case No.: Docket No. T-01051B-02-0001

8 John T Wheatley,
9 complainant,

JOHN T. WHEATLEY'S RESPONSE TO QWEST CORPORATION'S MOTION TO DISMISS AND MOTION TO DISMISS PAST DUE CHARGES AND COMPEL RESTORATION OF CUSTOMCHOICE FOR BUSINESS SERVICE AND COMPEL INVESTIGATION

10 vs.

11 QWEST CORPORATION,
12 Respondent

13 I believe that I have met my obligations to Qwest, as set forth in the Procedural Conference
14 of 6 March 2002. At the Procedural Conference Qwest Indicated that the 4 March 2002 bill was
15 in progress and would not reflect the changes to my account. John Duffy Indicated That he
16 would provided me with a bill and or paper work that did reflect these changes. To the best of
17 my Knowledge the first bill that I received that reflected these changes, was my April 4 2002 bill
18 (please see Attachment labeled B5.) The current Charges as indicated by the 4 April 2002 bill
19 are \$33.82. And wail I know that this dose not reflect the total amount due. I do believe that at
20 the Procedural Conference of 6 March 2002 Qwest said that they didn't know what the exact
21 charges where at that time and would provide me with this information. I was waiting for Qwest
22 to provide me with this information.

23 Qwest did not provided me with the total amount due until there motion to dismiss dated 4-29-
24 2002. Upon my examination of the 171.01 that Qwest says that I owe them for the march and
25 April 2002 bills. I found that \$26.78 are charges for those past due charges(please see
attachments B4 and B5), that Qwest agreed to put aside at the Procedural Conference of 6
March 2002.

1 The following is a portion of the transcript from the Procedural Conference of 6 March 2002.

2 It starts on page 32 line 1:

3 1 desire to apply them. I don't want moneys I'm paying

4 2 being applied to this past bill.

5 3 ALJ RODDA: Right, that won't happen, will

6 4 it, going forward? Can your accounting handle that?

7 5 MS. RENFRO: The outstanding charges are the

8 6 outstanding charges.

9 7 ALJ RODDA: Right. I just don't want current

10 8 payments to be applied to that, you know. I just

11 9 wanted him to start paying for the service going

12 10 forward.

13
14 The charges of \$26.78 are late charges on unpaid balances that are composed of regulated,
15 unregulated, and cell phone services. these charges of \$26.78 are billed on the regulated
16 portion of my bill. There for I believe that are applied to the regulated portion of the bill. That
17 means that wail Qwest can not turn off my basic phone service if I refuse to pay charges that
18 are unregulated or billed for another company But Qwest can turn off my basic phone service if I
19 do not pay the interest on past due, unregulated charges or charges billed for another company.
20 Is that legal?

21 At the Procedural Conference of 6 March 2002. I was concerned that by making an
22 agreement of any kind I might be forfeiting my legal right to proceed in my complaint. There for
23 At the Procedural Conference of 6 March 2002 it was agreed that by making this agreement in
24 an effort to move forward I was not and would not be giving up any legal rights to proceed.
25 Qwest by filing a motion to dismiss has in actuality not adhered to the agreement it self.

1 Finely the motion to dismiss dated 29 April 2002 filed by Qwest may have been the result of a
2 complaint I received from one of my customers. My customer told me that she had tried to reach
3 me several times and could not. My customer stated that some times there was no answer and
4 other times the line was busy. In my investigation of my customers complaint I found that Qwest
5 had not restored my custom choice package as agreed at the Procedural Conference of 6
6 March 2002. I first called Qwest's customer service and talked with Chari. I asked Chari if call
7 waiting was activated and she said no but she would add it. I then called John Duffy (one of
8 Qwest representatives present at the Procedural Conference of 6 March 2002) to find out why
9 my Custom choice service had not been restored to what it was prior to being changed to the
10 Everywhere Line Service. John Duffy was not in so I left a brief message and asked John Duffy
11 to return my call. Some time after 2:00 PM John Duffy and I spoke concerning my customers
12 complaint. In this conversation John Duffy seemed very concerned that I might be charged for
13 call waiting being added. He asked if he could call me back after he made sure that this would
14 not happen. John Duffy and Darcy Renfro (Qwest attorney) called me back around 5 pm and we
15 had a conference call. John Duffy asked that I provided a list of features that I would like to have
16 with my Customchoice service. It was also indicated in the conference call that if there where
17 any charges for adding the features that I now wanted. The charges would be deferred until
18 after the hearing set for 12 June 2002. The reasons I thing there may have been Correlation
19 between my customer's complaint and Qwest's motion to dismiss are

20 1. Qwest is asking for dismissal for none payment. How ever Qwest did not provide me an
21 amount due as they said they would At the Procedural Conference of 6 March 2002.

22 2. On the date that Qwest filed there motion to dismiss (4-29-2002) I had called Qwest to see
23 why Qwest had not restored my Customchoice service as required buy law in accordance with
24 the agreements made at the Procedural Conference of 6 March 2002.

1 3. In filing the motion to dismiss dated 4-29-2002 Qwest failed to adhere to the agreement
2 that my rights to the disputed funds would not be affected by the agreement. As set forth at the
3 *Procedural Conference of 6 March 2002.*

4 4. Qwest motion to dismiss of 4-29-2002 was originally dated 4-26-2002. The 26th was x out
5 and 29th hand written in, indicating that there might not have been enough time to proof
6 reed and reprint the document with the correct date.

7
8 I respectfully move the Arizona Corporation Commission for an order setting forth the
9 following:

10 1. That the past due charges of \$824.01 and any late fees pertaining to the past due charges
11 of \$824.01 be dismissed for Qwest failure to adhere to the flowing agreements made at the
12 *Procedural Conference of 6 March 2002:*

13 A. Qwest failed to keep the past due charges in the past by adding late charges for the past
14 due charges to my current bill.(see attachments B4, B5, and Qwest's motion to dismiss dated 4-
15 29-2002)

16 B. Qwest failed to restore my Custom choice service to what it was prior to the installation of
17 The Everywhere Line service.(see paragraph labeled 1. of Qwest's motion to dismiss dated 4-
18 29-2002 "Qwest also agreed to return Complainant to his CustomChoice service")

19 C. Qwest failed to remove the \$200.00 fee for early deactivation of my cell phone service.(
20 attachment B5 page 3)

21 D. Qwest failed to provide me with and accurate accounting of the current charges due until
22 they filed there motion to dismiss in witch Qwest indicated 171.01 was due.

23 E. Qwest failed to keep the agreement of the Procedural Conference of 6 March 2002 from
24 interfering with my right to dispute the past due charges of \$824.01.

25

1 2. That Qwest restore my Customchoice service to what it was, including all the features as
2 they where just prior to the installation of the Everywhere Line service, on 6-21-01, as indicated
3 by exhibit B1 of my formal complaint dated 12-28-2001. That my Customchoice service be
4 restored by 24 May 2002, to allow for time for me to ask Question that may arise after my
5 Customchoice service is restored. In conversations with Qwest there seem to be some problem
6 with exactly what features where in stalled on my customchoice service. I believe that the
7 following services were installed before the unauthorized change to the Everywhere Line
8 service: 1. Call Waiting 2. Call Waiting ID 3. Caller ID 4. Custom ringing 5. Continuous Redial 6.
9 Three Way Conferencing. 7. Call Transfer 8. Call Forwarding Variable. . If Qwest records
10 indicate some thing other then the above list. I would like Qwest to contact me either by
11 conference call with the hearings officer or in writing with a copy being sent to the hearings
12 officer. I would like the Custom ringing phone number set to 520-888-2077.

13 3. I believe that Qwest may have shone contempt and or perjured them selves in Qwest
14 motion to dismiss dated 4-29-2002. I would like the proper authorities to investigate this and let
15 me know of there findings before this complaint proceeds to hearing.

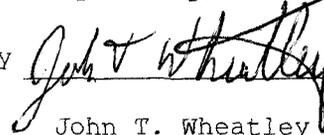
16 Since Qwest motion to dismiss I have pain Qwest \$144.23. Which is the 171.01 that
17 Qwest say I agreed to pay them minus \$26.78 for past due charges that I say I did not agree to
18 pay Qwest.

19 It required more then 40 hours of my time to respond to Qwest's motion to dismiss. I
20 have suffered a loss of business in order to respond with in a 10 day time limit.

21 WHEREFORE I respectfully ask the commission to grant me my requests
22

23 Dated this 9th day of May, 2002

24 By



John T. Wheatley

1 ORIGINAL and 13 copies of the
2 Foregoing hand-delivered this
3 9 day of May, 2002 to:

3 Corporation Commission
4 400 W Congress
5 Tucson AZ. 85701

6 For distribution to:

7 Docket Control
8 Arizona Corporation Commission
9 1200 West Washington
10 Phoenix, AZ. 85007

11 Christopher Kempley, Chief Counsel
12 Legal Division
13 Arizona Corporation Commission
14 1200 West Washington
15 Phoenix, AZ. 85007

16 Lynn Farmer, Chief Hearing Officer
17 Legal Division
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, AZ. 85007

21 Jane L. Rodda, Administrative Law Judge
22 Hearing Division
23 Arizona Corporation Commission
24 400 W Congress
25 Tucson AZ. 85701

COPY of the foregoing mailed this
9 day of may, 2002 to:

Darcy R. Renfro
3003 North Central Ave. Suite 2600
Phoenix, AZ. 85012-2913

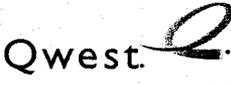
COPY of the foregoing mailed this
9 day of may, 2002 to:

John M. Duffy
3033 N 3rd ST. Room 1010
Phoenix, AZ. 85012

JOHN WHEATLEY

2030206109403030

B 4



Qwest Wireless

JOHN WHEATLEY
Account No. [REDACTED]
For questions, call 1-877-879-0611

Qwest Wireless

JOHN WHEATLEY
Account No. [REDACTED]
For questions, call 1-877-879-0611

Page 3

Page 4

• ONEST WIRELESS ACCOUNT SUMMARY

Description
ONEST WIRELESS CHARGES FOR MARCH
TOTAL ONEST WIRELESS ACCOUNT SUMMARY

Page
Amount
39.08
\$39.08

• ONEST WIRELESS CHARGES SUMMARY FOR MARCH

DESCRIPTION
MONTHLY SERVICE AND FEATURE CHARGES
AIRTIME CHARGES

Amount
35.25

1 TAXES AND SURCHARGES
2 STATE TAX
3 911 TAX
4 FEDERAL UNIVERSAL SERVICE FUND

Amount
1.07
2.00
.37
.39

TOTAL ONEST WIRELESS CHARGES FOR MARCH

\$39.08

• ONEST WIRELESS NEWS

YOU CURRENTLY SUBSCRIBE TO A SERVICE PLAN WITH A ONE-YEAR SERVICE AGREEMENT AND A FEE OF \$200 FOR EARLY DEACTIVATION

CHARGES FOR 520-861-3022

• MONTHLY SERVICE AND FEATURE CHARGES

DESCRIPTION
5 PARBUS500W/KQW/AG PLAN
EXPANDED COVERAGE FOOTPRINT
LONG DIST BY OME
CALLER ID NUMBER ONLY
AND THREE WAY CALLING
ADD TOWEL FEELERS
ONE TOWEL FEELER
VOICE MESSAGING LINK
CALL WAITING

Amount
35.25

SUBTOTAL \$35.25

• AIRTIME CHARGES

FOR YOUR PRICE PLAN, BOTH PEAK/WEEKDAY AND OFF-PEAK/WEEKEND RATES APPLY.
PERIOD 1 = PEAK/WEEKDAY
MON 12:01AM - SAT 12:00AM
PERIOD 2 = OFF-PEAK/WEEKEND
SAT 12:01AM - MON 12:00AM

Day	Time	Area Number	LDST Part	Min	Amount
6	FEB 03 12:53P REDWOOD CY CA	650 386-7348	OME 2	41:00	.00
7	FEB 04 11:05A REDWOOD CY CA	650 386-7348	OME 1	26:00	.00
8	FEB 04 4:20P REDWOOD CY CA	650 386-7348	OME 1	74:00	.00
9	FEB 05 3:01P INCOMING	520 867-8507	OME 1	1:00	.00

• CURRENT MONTH CALLS

Date	Time	TO/F	Place	Area Number	LDST Part	Min	Amount
1	FEB 05 6:39P	GREEN BAY WI	WI	920 435-1830	OME 1	22:00	.00
2	FEB 08 6:23P	GREEN BAY WI	WI	920 435-1830	OME 1	15:00	.00
3	FEB 08 7:18P	GREEN BAY WI	WI	920 435-1830	OME 1	5:00	.00
4	FEB 10 9:29A	DE PERE WI	WI	920 403-6480	OME 2	8:00	.00
5	FEB 10 10:47A	DE PERE WI	WI	920 403-6480	OME 2	15:00	.00
6	FEB 12 11:17A	DE PERE WI	WI	920 403-6480	OME 1	1:00	.00
7	FEB 12 11:23A	REWOOD CY CA	CA	650 403-6480	OME 1	23:00	.00
8	FEB 12 12:04P	DE PERE WI	WI	920 403-6480	OME 1	3:00	.00
9	FEB 16 11:50A	REWOOD CY CA	CA	650 386-7348	OME 2	1:00	.00
10	FEB 16 11:51A	DE PERE WI	WI	920 403-6480	OME 2	90:00	.00
11	FEB 16 8:29A	LIVINSTON NJ	NJ	973 728-0880	OME 1	2:00	.00
12	FEB 19 9:25A	LIVINSTON NJ	NJ	973 728-0880	OME 1	2:00	.00
13	FEB 19 9:25A	NEWORLEANS LA	LA	504 679-5173	OME 1	1:00	.00
14	FEB 20 10:25A	NEWORLEANS LA	LA	504 679-5173	OME 1	15:00	.00
15	FEB 20 11:45A	SAV MONICA CA	CA	310 823-9338	OME 1	5:00	.00
16	FEB 20 11:50A	SAV MONICA CA	CA	310 823-9338	OME 1	2:00	.00
17	FEB 20 11:50A	SAV MONICA CA	CA	310 823-9338	OME 1	2:00	.00
18	FEB 20 11:51A	SAV MONICA CA	CA	310 823-9338	OME 1	2:00	.00
19	FEB 22 1:07A	SAV MONICA CA	CA	310 823-9338	OME 1	3:00	.00
20	FEB 22 1:07A	REWOOD CY CA	CA	650 386-7348	OME 2	14:00	.00
21	FEB 22 2:51P	REWOOD CY CA	CA	650 386-7283	OME 2	2:00	.00
22	FEB 23 2:53P	GREEN BAY WI	WI	920 435-1830	OME 1	1:00	.00
23	FEB 24 10:29P	REWOOD CY CA	CA	650 386-7348	OME 2	5:00	.00
24	FEB 24 4:19P	REWOOD CY CA	CA	650 386-7348	OME 1	34:00	.00
25	FEB 25 3:13P	REWOOD CY CA	CA	650 386-7348	OME 1	56:00	.00
26	FEB 27 8:06P	REWOOD CY CA	CA	650 386-7348	OME 1	8:00	.00
27	FEB 28						

SUMMARY FOR PRICE PLAN PARBUS500W/KQW/AG

INCLUDED PRICE PLAN MINUTES 544:00
TOTAL MINUTES \$1.00

SUBTOTAL OF CHARGES FOR 520-861-3022 \$35.25

JOHN WHEATLEY
DBA DESERT AUTO DOCTOR
5201 N DAVIS AV
TUCSON AZ 85705-1133

2070998109403030

B 5



Qwest

Qwest Wireless

JOHN WHEATLEY
Account No: [REDACTED]
For questions call 1-877-879-0611

Qwest Wireless

JOHN WHEATLEY
Account No: [REDACTED]
For questions, call 1-877-879-0611

Page 3

• ONEST WIRELESS ACCOUNT SUMMARY

Description	Page	Amount
ONEST WIRELESS CHARGES FOR MARCH		37.32CR
TOTAL ONEST WIRELESS ACCOUNT SUMMARY		\$37.32CR

• ONEST WIRELESS CHARGES SUMMARY FOR MARCH

Description	Amount
EQUIPMENT	34.00
AIRTIME CHARGES	
TAXES AND SURCHARGES	
FEDERAL EXCISE TAX	1.03CR
STATE TAX	1.92CR
TOTAL ONEST WIRELESS CHARGES FOR MARCH	\$37.32CR

• ONEST WIRELESS NEWS
YOU CURRENTLY SUBSCRIBE TO A SERVICE PLAN WITH A ONE-YEAR SERVICE AGREEMENT AND A FEE OF \$200 FOR EARLY DEACTIVATION

CHARGES FOR 520-861-3022

• EQUIPMENT, ONE-TIME CHARGES, AND CREDITS

Description	Amount
3 REMOVED PANGUS500W/WKW/WAG PLAN	29.37CR
4 ADJUST TO SATISFY APPLIED ON 03-06-02	5.00CR
SUBTOTAL	\$34.37CR

• AIRTIME CHARGES

FOR YOUR PRICE PLAN, BOTH PEAK/WEEKDAY AND OFF-PEAK/WEEKEND RATES APPLY.
PERIOD 1 = PEAK/WEEKDAY
MON 12:01AM - SAT 12:00AM
PERIOD 2 = OFF-PEAK/WEEKEND
SAT 12:01AM - MON 12:00AM

CURRENT MONTH CALLS

Date	T	To/F	Place	Area Number	LDST	Part	Min	Amount
MAR 03	1	44P	WI	920 403-6480	OME	2	2:00	.00
MAR 03	3	14P	AZ	520 887-0021		2	5:00	.00
MAR 05	10	53A		952 746-8279		1	1:00	.00
MAR 05	12	19P		920 790-5781		1	1:00	.00
MAR 06	12	35P		520 928-1090		1	1:00	.00
MAR 06	2	03P	UNWA	UNWA 1148E		1	1:00	.00

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• SUMMARY FOR PRICE PLAN PANGUS500W/WKW/WAG

INCLUDED PRICE PLAN MINUTES	MINUTES
TOTAL MINUTES	13:00
SUBTOTAL	\$.00

SUBTOTAL OF CHARGES FOR 520-861-3022

\$34.37CR

Qwest

JOHN WHEATLEY
DBA DESERT AUTO DOCTOR
Bill Date: Apr 4, 2002
Account No: ~~825 800 8000 0000~~
www.qwest.com

Balance Forward	New Charges	Total Amount Due	Due Date for New Charges
\$961.20	\$33.82	\$995.02	Apr 24, 2002

Account Summary

▼ Previous Balance Charges Balance Forward 961.20 \$961.20

▼ New Charges Qwest 71.14 Qwest Wireless 37.32^R Total New Charges \$33.82

TOTAL AMOUNT DUE \$995.02

Any amount left unpaid 30 days after bill date is subject to a 1.5% late payment charge.

For questions, call:
1-800-803-6000
1-877-879-0611

You may see changes to your Federal Access and PICC charges. Please visit our web site for more details.

Qwest, PO Box 29060, Phoenix, AZ 85038-9060
Visit us 24 hours a day at www.qwest.com.

Qwest

For questions, call 1-800-803-6000

QWEST LOCAL SERVICES

▼ ITEMIZED MONTHLY SERVICE

BASIC SERVICES
These services are necessary for you to use your telephone.
1 FEDERAL CHARGE - SERVICE PROVIDER NUMBER PORTABILITY .43

OPTIONAL SERVICES
These services are provided at your request and are not required as part of your basic telephone service.
1 DIRECTORY LISTING 3.00
1 CUSTOMER CHOICE (TM) 54.95
TOTAL 58.38

▼ ACCOUNT DETAIL

MONTHLY SERVICE CHARGES
SERVICE ADDITIONS AND CHANGES
TAXES
TOTAL 79.34
\$84.62

▼ MONTHLY SERVICE

MONTHLY SERVICE - APR 04 THRU MAY 03
FEDERAL ACCESS CHARGE 58.38
FEDERAL UNIVERSAL SERVICE FUND @ \$01 PER LINE 5.00
ARIZONA UNIVERSAL SERVICE FUND 66
TELECOM SERVICES EXCISE TAX .01
LATE CHARGE ON UNPAID BALANCE OF 961.20 80
SUBTOTAL 14.32
TOTAL \$73.54

▼ TAX SUMMARY

FEDERAL EXCISE TAX 1.92
STATE TAX 3.36
SUBTOTAL \$5.28

* QWEST UNREGULATED SERVICES

▼ ACCOUNT DETAIL

SERVICE ADDITIONS AND CHANGES
TAXES
TOTAL 12.74^S
\$13.48^S

▼ SERVICE ADDITIONS AND CHANGES

1 MONTHLY SERVICE REMOVED AT 1.70 FROM 03/01/02 TO 04-04-02 9.35^S
1 SCHEDULED GREETINGS 4.65^S
TOTAL 14.70^S

▼ TAX SUMMARY

STATE TAX 7.45^S
SUBTOTAL \$12.74^S

QWEST UNREGULATED SERVICES

SUBTOTAL \$13.48^S

FOR YOUR INFORMATION

You are responsible for the payment of all charges on your bill. Failure to pay your bill may result in suspension of service as well as termination of the unpaid service. Your basic telephone service will not be disconnected for non-payment of charges for:

(1) Qwest Unregulated Services (or other itemized services) identified by an * above, (2) services of other Qwest companies, or (3) services of other companies included in your bill. Certain packages of features and the amounts in the Account Summary may include both basic and charges that are not basic.

This bill is protected by one or more of the following U.S. Patents:
089,256; 5,380,595; 5,345,942; and 5,351,052.

continued on back

Please fold on the perforation above, detach and return with your payment payable to Qwest.

Return With Payment

Amount Enclosed \$ _____

JOHN WHEATLEY
Bill Date: Apr 4, 2002
Account Number: ~~825 800 8000 0000~~
Bill Due Date: Apr 24, 2002
Balance Forward: \$961.20
New Charges: \$33.82
TOTAL AMOUNT DUE: \$995.02

QWEST
PO BOX 29060
PHOENIX, AZ 85038-9060



Thank you for your business.

81 01520888300E 1238042402 000007612003 000009950205