



BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
WILLIAM A. MUNDELL
Commissioner
JIM IRVIN
Commissioner
MIKE GLEASON
Commissioner
JEFF HATCH-MILLER
Commissioner

Arizona Corporation Commission
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CLOSING BRIEF - In the matter of Denton, ET AL., vs. Qwest Corporation

Docket No. T-01051B-02-0535

First your honor we would like to thank the court and everyone involved for their patience and understanding in this matter.

The case we brought before the court is a matter of Qwest not being in compliance with regards to the complainants to Arizona Statute 40-334 which states discrimination between person, localities or classes of service as to rates, charges, service or facilities is prohibited.

Discriminate:

- 1: Distinguish, Differentiate
- 2: To make a distinction in favor of or against one person or thing as compared with others.

Each of the complainants in this case has testified or submitted proof (exhibit C-2) to the fact that Qwest did in some way or form agree that service was available to the complainants when they first arranged for service. Then in the future denied them service (exhibit C3).

Testimony was also given about the conversation that Mrs. Thompson and Mrs. Denton had with Jason with Qwest. This conversation was about getting permission to run lines to there homes out of territory from the Moxley residence. They were

instructed by Jason to trench the lines to the Qwest pedestal and lay in the lines, Call in an order in their own names with the Moxley address. Qwest would have you believe that they searched high and low for Jason 2 years after the fact and talked personally to every Jason that worked for Qwest. And all stated they have never had this conversation. Qwest has not gone back in their files and looked for anyone named Jason that no longer works for Qwest. We also know that Qwest doesn't keep very good records considering they only had one file and that was on Mr. Thompson.

Testimony was also heard from Mr. Thompson on how he hooked up the service for the Thompson's and Denton's in March of 2000. Being a retired telephone employee he did not think at the time that he was doing anything inappropriate having gotten permission from a Qwest employee. We now understand this was an illegal hook-up with or without permission. This was not done to illegally obtain service or to receive non metered service. There was a billing for this service.

Qwest Corporation will have you believe that the Thompson's had a conversation with a Qwest employee prior to the (exhibit C-2) letter, informing Qwest that The Thompson's were out of the territory but Qwest would still try to find a way to give them service (hence the letter stating they had to find facilities). This from Mr. Duffy's testimony was out of the kindness of their hearts because Mr. Thompson was an employee and they would go over and above for an employee. If this were the case the Thompson family would have service now just like the other out of territory families that Qwest had gone over and above for.

Witness for Qwest Mr. John Duffy testified on how in a perfect world placing an order for service is supposed to work. As we all know if this were the case we would not be here today.

Mr. Duffy also testified that if the commission decided for the complainants and ordered Qwest to supply service they would be setting Qwest up to fail. For that matter have they not already set themselves up to fail by providing service to the 4 families who currently have service and are out of territory. There was a lot of talk about construction cost if the commission ordered Qwest to supply the complainants service. Would this cost be evenly distributed among all out of territory customers (including the 4 with current service) or would it be just the three complainants. This in it's self is

discrimination on their part by giving the the 4 families service with no charges and charging the complainants. Surely Qwest can find a way to provide service to the complainants without putting themselves in jeopardy.

Both Qwest witnesses Mr. John Duffy and Mr. John Dugan testified to the fact that Qwest was aware of the boundry lines before the first party (Mr. Lehman) received his service in May of 1999. Qwest chose to supply the service to Mr. Lehman anyway and again in October of 1999 to the Skippers and the Dunn/Chavez families. Mr. Duffy testified to the fact that these properties were flagged as to not make any more mistakes in the future. If this were the case the complainants would have been told when placing their orders that service was not available to them. Mr. Dugan also testified that in the matter of the Hernandez family service, as one of the engineers at the time he would **not** have allowed or agreed to their service being installed in the manner in which it was done. Also that future service would continue if the hernandez family sold their property in territory. Qwest would not know and would most likely just charge the Hernandez family a fee to move the line if it was necessary.

If Qwest truly installed the four families by mistake why would they not have informed these homeowners that service would be discontinued if they sold or moved. This would have given Qwest a way out of the situation. The Dunn Family and the Skipper family have both sold there homes in the last year with service transferred to the new owners and the Lehman family home is currently for sale.

Mr. Duffy testified that Qwest had not contacted the Arizona Corporation Commission immediatly upon finding out about their mistake or in the manditory 10 days from the January of 2000 informal complaint but taking more than a year to investgate the matter. And then they still have not filed for the Dunn/Chavez or the Hernanadez families. In their April 2001 letter to the commission they only gave the Lehman and Skipper families as having service out of territory.

The complainants feel that the Commission can only make one decision in this matter and that is for the complaintants.

Thank you for your time and consideration in this matter.

Respectfully submitted this 12 day of September 2003.

By:

Shuyi O. Ogun
Tracy Denton