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Arizona Corporation Commission
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1 **WILLIAM A. MUNDELL**
Chairman
2 **JIM IRVIN**
Commissioner
3 **MARC SPITZER**
Commissioner
4

AUG 26 2002

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AZ CORP COMMISSION
DOCUMENT CONTROL

5 **BEFORE THE ARIZONA CORPORATION COMMISSION**

6 TROY AND TRACY DENTON, et al.,

Docket No. T-01051B-02-0535 (Consolidated)

7 vs.

**QWEST CORPORATION'S
CONSOLIDATED ANSWER TO FORMAL
COMPLAINTS AND MOTION TO
DISMISS**

8 QWEST CORPORATION.
9

10 Pursuant to Arizona Administrative Code ("A.A.C.") R14-3-101 et seq., Qwest
11 Corporation, ("Qwest") answers the above-captioned complaint filed by Troy and Tracy Denton,
12 April and Bryant Peters, John and Patricia Martin, Susan Bernstein, Tommy White, Sandra Rodr,
13 Kirk and Bobbi Limburg, Arnold and Tamara Fatheree, and Ernie and Sherry Thompson (the
14 "Complainants") as follows:
15

16 1. Qwest is a public service corporation qualified to do and is doing business in
17 Arizona.

18 2. Qwest provides telecommunications services within its exchange boundaries in the
19 State of Arizona.

20 3. The Complainants live in an area that is outside of the exchange boundaries in
21 which Qwest provides services ("open territory") and for that reason, Qwest is not obligated to
22 provide service to them.
23

24 4. At present, Qwest does not intend to extend facilities into open territory and has no
25 obligation to do so.
26

1 5. The Complainants are not subject to Qwest's Service Quality Tariff and cellular
2 subsidies, which do not apply to open territory.

3 6. Qwest denies each and every allegation affirmatively alleged in Complainants'
4 complaints that is not expressly admitted.

5 7. Complainants fail to state a claim for which relief can be granted. Under A.R.S.
6 § 40-246, a person may make a complaint alleging any act or omission by any public service
7 corporation in violation of "any provision of law or any order or rule of the commission"
8 A.R.S. § 40-246(A). Complainants' complaints fail to allege any of the aforementioned
9 violations. Thus, Complainant has no basis to state a claim under Arizona law.
10

11 8. Qwest provides service in accordance with Title 40 of the Arizona Revised
12 Statutes and Qwest's tariffs currently on file with the Commission. Qwest is not obligated to
13 provide service contrary to or in excess of the requirements and obligations set for in Qwest's
14 tariffs and applicable Arizona statutes.
15

16 9. The Commission has recognized in other decisions that Qwest has no duty to provide
17 service in open territory. *See, e.g., Bruce Walker v. U S WEST Communications, Inc.*, Docket No.
18 E-1051B—96-543, Decision No. 60175; *Don B. Miller and Moira L. Miller v. U S WEST*
19 *Communications, Inc.*, Docket No. E-1051B-97-130, *Bryan & Pam Dellinger v. Qwest Corporation*,
20 Docket No. T-01051B-01-0354, Decision No. 64828.
21

22 10. As to the complaints lodged by Arnold and Tamara Fatheree outside of the issue
23 regarding Qwest's duty and ability to serve outside of its serving territory addressed above, Qwest
24 admits that there was a system error with respect to Account No. 928-759-7267, which resulted in
25 the issuance of a bill to the Fatherees where no service had been installed. As a result, Qwest has not
26

1 and will not pursue payment, and the Fatherees owe no payments to Qwest on Account No. 928-
2 759-7267 at 7175 E. Stardust Lane, Prescott Valley, 86314.

3 11. As to the complaints lodged by Ernie and Sherry Thompson and Troy and Tracy
4 Denton, Qwest affirmatively alleges that in March 2001, Qwest field engineers discovered that
5 telephone lines had been re-routed by an unknown third-party from an address within Qwest's
6 serving territory, 9990 North Poquito Road, to the Thompson and Denton properties, which are
7 outside of Qwest's serving territory, without authorization from Qwest and in violation of A.R.S.
8 § 40-492. As a result, Qwest terminated service to the Thompson and Denton properties with notice
9 pursuant to A.A.C. R14-2-509(B). (See April 12, 2001 letters to Thompson and Denton attached as
10 Exhibit A).

11
12 12. As to the Raymond and Cassandra Hernandez property alleged by Complainants to
13 be outside of Qwest's service territory, service has been established to the Hernandez property at
14 7070 E. Moonlit Drive. The 7070 E. Moonlit Drive address is within Qwest's serving territory.

15
16 13. Qwest sent copies of its July 31, 2002 Joinder to Staff's Motion to Consolidate and
17 its August 1, 2002 Stipulation to Extend the Time for Filing its Answer until August 26, 2002 to all
18 Complainants at the addresses provided by Complainants in each Complaint filed with the
19 Commission. Qwest received back, as not deliverable, these documents from the following parties:
20 Susan Bernstein at 7835 East Memory Lane, Prescott Valley 86312; Kirk and Bobbi Limburg at
21 7125 East Stardust Lane, Prescott Valley 86314; and Arnold and Tamara Fatheree at 7175 East
22 Stardust Lane, Prescott Valley 86314. Attached as Exhibit B are copies of the envelopes returned to
23 Qwest. Currently, Qwest has no other addresses for these parties.

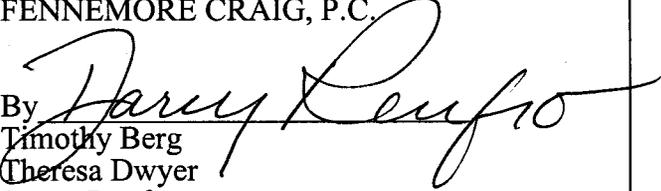
24
25 14. Qwest reserves the right to amend this Answer to allege additional affirmative
26

1 defenses that may become known through discovery.

2 WHEREFORE, Qwest Corporation, having moved to dismiss, requests that the Complaint
3 be dismissed with prejudice.

4 DATED this 26th day of August, 2002.

5 FENNEMORE CRAIG, P.C.

6
7 By 
8 Timothy Berg
9 Theresa Dwyer

10 Darcy Renfro
11 3003 N. Central Avenue
12 Suite 2600
13 Phoenix, AZ 85012
14 Telephone: (602) 916-5000

15 *Attorneys for Qwest Corporation*

16 Original and 10 copies
17 of the foregoing delivered this 26th
18 day of August, 2002, to:

19 Docket Control
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 COPY delivered this 26th day
24 of August, 2002, to:

25 Christopher Kempley
26 Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Philip J. Dion
Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

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Ernest Johnson
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

COPY mailed this 26th day
of August, 2002 to:

Ernie and Sherry Thompson
PO Box 27016
Prescott Valley, AZ 86312

Susan Bernstein
7835 East Memory Lane
Prescott Valley, AZ 86312

Troy and Tracy Denton
PO Box 26343
Prescott Valley, AZ 86312

Arnold and Tamara Fatheree
7175 E. Stardust Lane
Prescott Valley, AZ 86314

Kirk and Bobbi Limburg
7125 E. Stardust Lane
Prescott Valley, AZ 86314

John and Patricia Martin
PO Box 25428
Prescott Valley, AZ 86312

Bryant and April Peters
PO Box 27302
Prescott Valley, AZ 86312

Sandra Rodr
PO Box 26995
Prescott Valley, AZ 86312

Tommy L. White
PO Box 27951
Prescott Valley, AZ 86312



EXHIBIT

A

LAW OFFICES
FENNEMORE CRAIG
A PROFESSIONAL CORPORATION

THERESA DWYER

Direct Phone: (602) 916-5396
Direct Fax: (602) 916-5596
tdwyer@fclaw.com

OFFICES IN:
PHOENIX, TUCSON AND NOGALES
3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, ARIZONA 85012-2913
PHONE: (602) 916-5000
FAX: (602) 916-5999

April 12, 2001

**CERTIFIED MAIL/
RETURN RECEIPT REQUESTED**

Mr. Ernie Thompson
P.O. Box 27016
Prescott Valley, AZ 86312

Re: Telephone Service at 9990 North Poquito Valley Road

Dear Mr. Thompson:

I am writing to you regarding Qwest Corporation ("Qwest") telephone service to 9990 North Poquito Valley Road in Prescott Valley, Arizona. It has come to our attention that tampering with Qwest property occurred at the aforementioned address resulting in a redirection of telephone service outside of Qwest's mandated service territory in violation of the law. This letter serves as notice of these violations and termination of telephone service pursuant to Arizona Administrative Code ("A.A.C.") R14-2-509(B).

On November 3, 1999, installation of a telephone line, 520-775-6203, was ordered at the aforementioned address. Installation of a second line, 520-772-2827, at the same address occurred on December 23, 1999. On January 24, 2000 a request was made to change the 772-2827 number to 759-9497. A third line, 520-772-9513, was installed the Poquito address under the name of Ernie Thompson on March 17, 2001. On March 23, 2001 a change of responsibility was issued on the second line from Ted Moxley to Troy Denton. That same day Troy Denton ordered a fourth telephone line to be installed at the Poquito address.

During installation of the fourth telephone on March 27, 2001, Qwest field engineers discovered that one telephone line had been re-routed to an address outside of Qwest's service territory. Re-routing of this telephone line was not authorized by Qwest. A second site inspection on April 3, 2001 revealed that in fact two of the three lines operating from the 9990 North Poquito Valley Road had been re-routed from Qwest's network pedestals to two addresses outside of the area designated by law for Qwest telephone service. Again, this re-routing was not authorized by Qwest.

FENNEMORE CRAIG

Mr. Ernie Thompson

April 12, 2001

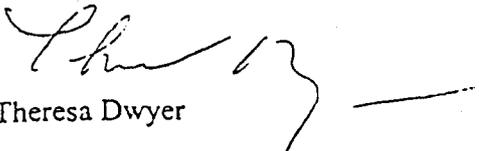
Page 2

The tampering is a violation of law under Arizona Revised Statutes Section 40-492 and may be enjoined by Qwest. Additionally, such tampering grants Qwest the authority to terminate telephone service without notice under A.A.C. R14-2-509(B). Please be advised that if these activities persist, Qwest will seek an injunction to cease any further illegal activity and has the option of pursuing monetary damages including but not limited to attorney fees, costs and other expenses as mandated by Arizona Revised Statutes Sections 40-492 and 40-493.

If you have any questions regarding the above, please contact me directly or John Duffy from Qwest at 602-630-1183.

Sincerely,

FENNEMORE CRAIG



Theresa Dwyer

LAW OFFICES
FENNEMORE CRAIG
A PROFESSIONAL CORPORATION

THERESA DWYER

Direct Phone: (602) 916-5396
Direct Fax: (602) 916-5596
tdwyer@fclaw.com

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3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, ARIZONA 85012-2913
PHONE: (602) 916-5000
FAX: (602) 916-5999

April 12, 2001

**CERTIFIED MAIL/
RETURN RECEIPT REQUESTED**

Mr. Troy Denton
P.O. Box 343
Prescott Valley, AZ 86314

Re: Telephone Service at 9990 North Poquito Valley Road

Dear Mr. Denton:

I am writing to you regarding Qwest Corporation ("Qwest") telephone service to 9990 North Poquito Valley Road in Prescott Valley, Arizona. It has come to our attention that tampering with Qwest property occurred at the aforementioned address resulting in a redirection of telephone service outside of Qwest's mandated service territory in violation of the law. This letter serves as notice of these violations and termination of telephone service pursuant to Arizona Administrative Code ("A.A.C.") R14-2-509(B).

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FENNEMORE CRAIG

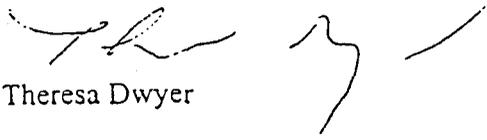
Mr. Troy Denton
April 12, 2001
Page 2

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Theresa Dwyer

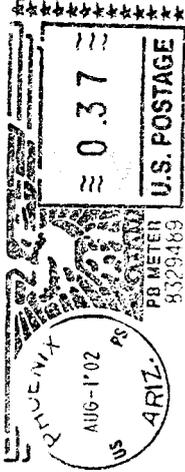
EXHIBIT

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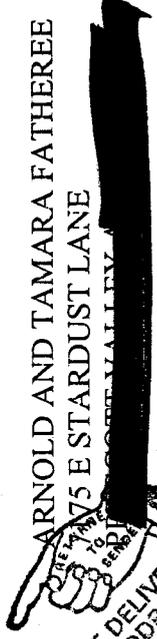
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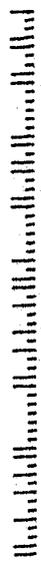
3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, ARIZONA 85012-2913



ARNOLD AND TAMARA FATHEREE
7175 E STARDUST LANE
SCOTTSDALE, ARIZONA 85250



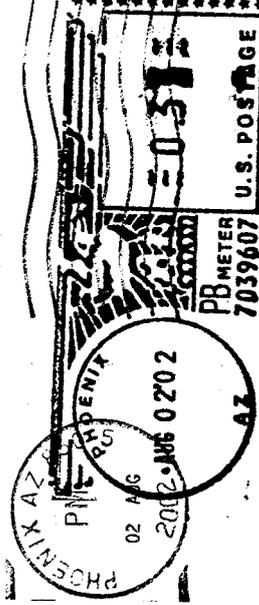
NOT DELIVERABLE
AS ADDRESSED -
UNABLE TO FORWARD



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3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, ARIZONA 85012-2913



ARNOLD AND TAMARA FATHEREE
7175 E STARDUST LANE
SCOTTSDALE, ARIZONA 85250



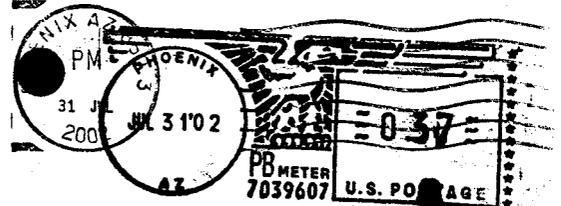
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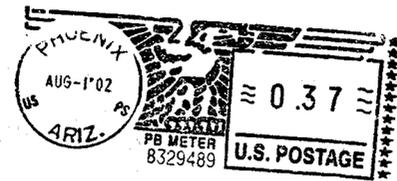
KIRK AND BOBBI LIMBURG
7125 E STARDUST LANE
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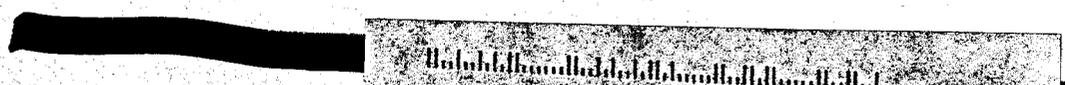
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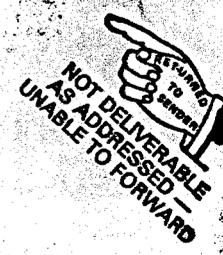
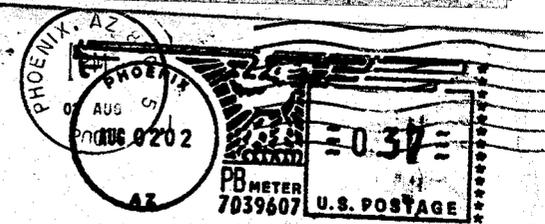
KIRK AND BOBBI LIMBURG
7125 E STARDUST LANE
[REDACTED]



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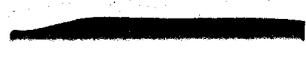
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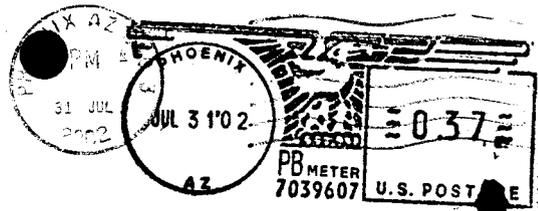
KIRK AND BOBBI LIMBURG
7125 E STARDUST LANE
[REDACTED]



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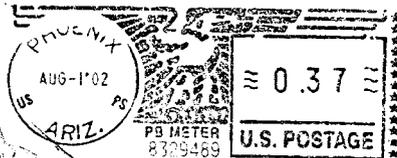
SUSAN BERNSTEIN
7835 EAST MEMORY LANE
[REDACTED]



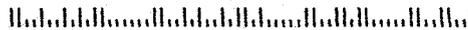
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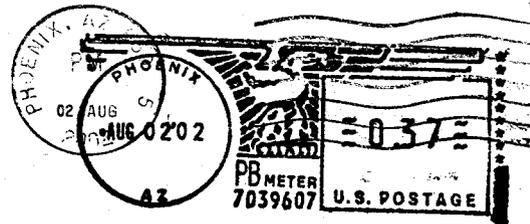
SUSAN BERNSTEIN
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