



0000087801

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

MIKE GLEASON, Chairman

WILLIAM MUNDELL, Commissioner 2008 AUG 18 A 11: 45

JEFF HATCH-MILLER, Commissioner

ARIZONA CORP COMMISSION DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

KRISTIN MAYES, Commissioner

AUG 18 2008

GARY PIERCE, Commissioner

DOCKETED BY [Signature]

IN THE MATTER OF THE FORMAL)	DOCKET NO. T-01051B-08-0248
)	
COMPLAINT AGAINST QWEST FILED BY)	COMPLAINANTS' RESPONSE TO
)	"STAFF'S STATEMENT OF PROCESS
STANLEY A. AND STELLA GORODENSKI)	AND APPLICABLE LAWS"
)	And
)	MOTION TO STRIKE
)	
)	

Pursuant to Rule 12.g of the Arizona Rules of Civil Procedure (ARCP) and Arizona Corporation Commission Rule A.A.C. R14-3-101.B, Complainants respond to the A.C.C. Legal Division's "STAFF'S STATEMENT OF PROCESS AND APPLICABLE LAWS", specifically Brad Morton's false statements of fact, and submits this Motion to Strike part of the document because if it stands it could bias judgment against Complainants by the Commissioners.

1. On page 2, lines 1-6 the Legal Division states "Mr. Morton called Mr. Gorodenski on January 29, 2008 and left a voicemail to advise of Qwest's resolution confirming the \$100 credit and further advising that Qwest was standing on the balance of the charges. Mr. Morton left his name, number, and work hours for Mr. Gorodenski to contact him. Mr. Gorodenski never called Mr. Morton back, and thus, the opportunity to take the complaint further, i.e., mediation/arbitration, formal complaint, etc. was not discussed at this point." Mr. Morton's memory is failing him or he is attempting to protect himself from

1 his failure to initiate an Informal hearing (as well as advising on other administrative remedies) as
2 required by A.A.C. R14-2-510.C.2 after learning from Mr. Gorodenski that the \$100 Courtesy Credit
3 from QWEST was inadequate. Exhibit 1 are notes Complainant Stanley A. Gorodenski made of his
4 discussions with Mr. Morton. Note that Complainant had to call Mr. Morton on January 23, 2008 because
5 two weeks had passed and Complainant had heard nothing from QWEST or Mr. Morton. Note also that
6 Complainant had to initiate this call. Second, note in Exhibit 2 that Complainant did call Mr. Morton on
7 January 29th, contrary to his claim that he had not returned a call on that day. Complainant had called Mr.
8 Morton on that day to get the name and address of the Statutory Agent to pursue the issue in Small
9 Claims Court. Complainant informed Mr. Morton that the \$100 Courtesy Credit offered by QWEST did
10 not resolve the issue. Mr. Morton never informed Complainant during this conversation that there was an
11 informal Hearing he was required by regulation to initiate. Also note in Exhibit 2 that Complainant called
12 Mr. Morton again on February 7, 2008 because he felt he needed a specific name of a person to file in
13 Small Claims Court. Mr. Morton gave the name and address of Daniel Foley. Again, Mr. Morton had
14 another opportunity to inform Complainant of the informal Hearing he was supposed to have initiated, as
15 well as other administrative remedies such as arbitration, mediation, and the formal complaint, but he
16 never mentioned any of this. Consequently, Complainants believed their only recourse was Small Claims
17 Court and wasted about \$80 and a lot of time in the process because of Mr. Morton's dereliction of duties
18 as an employee of the Arizona Corporation Commission.

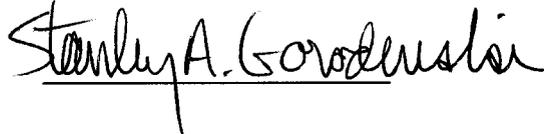
19
20 2. The Legal Division of the A.C.C. cites the statute that Complainants say QWEST violated, i.e.,
21 ASRS 44-1572.A.5. The Legal Division then says "Arizona Administrative Rules R14-2-1910
22 implements this statute by establishing the general process for handling unauthorized charges in violation
23 of the statute. It is unclear whether the statute or its implementing rules apply here because it does not
24 appear that there was another provider involved or any change in Mrs. Gorodenski's service." It is this
25 part of the document that Complainants want stricken. The rule cited could bias the Commissioners'
decision against Complainants for any or all of the following reasons: a) This rule applies to Informal

1 complaints, not this formal complaint, b) The requirements of the statute cited, ASRS 44-1572.A.5, is not
2 conditioned on there being another provider, c) The Legal Division improperly made a determination that
3 there was no change in Mrs. Gorodenski's service. It was improper because it is the Commissioner's
4 determination to make, not theirs, and because QWEST has not been able to supply any evidence to
5 support their assertion on this issue. As Complainants have already stated, Mrs. Gorodenski did not have
6 long distance service for many years (for over at least eight years, the duration of time for which records
7 exist, no long distance calls were made), but QWEST changed her service from no long distance service
8 to one they assigned, i.e., Casual User, in the year 2006 without her authorization. The Legal Division's
9 determination on this issue amounts to pure speculation and should not stand.

10
11 **BASED ON ALL THE FORGOING**, Complainants request, pursuant to Rule 12.g of the ARCP,
12 that the Administrative Law Judge strike lines 3-6 page 4 of the Legal Division's document.

13
14 Respectfully submitted this 18th day of August, 2008.

15 By Stanley A. Gorodenski

16 

17
18 9440 E. Newtown Ave.
19 Dewey, Arizona 86327
20 Phone: 928-632-8424
21 Email: stanlep@commspeed.net

22 Original and 13 copies of the foregoing
23 hand Delivered this 18th day of
24 August, 2008 to:

25
Arizona Corporation Commission
Docket Control
1200 W. Washington St.
Phoenix, Arizona 85007

Mailed this 18th day of August 2008 to:

Norman G. Curtright
20 E. Thomas Rd., 16th Floor
Phoenix, Arizona 85012

(2)

December 20, 2007

The woman at QWEST said all the charges were collect calls. Mom was talking to Sharon and so she could not get Mom's authorization to speak for her.

When I called back the man said after checking these were validly charged calls. He said Mom does not have a long distance carrier and so they do a 'Casual', i.e., they pick a carrier and it happened to be .35/min. However, when I did not have long distance at my house in Dewey I would be informed that I could not make a long distance call. When did this change? I should have been informed when I attempted to make calls that I cannot because QWEST is not a long distance carrier. What gives them the right to assign a long distance carrier when a person did not sign up for it. Mom cannot afford this bill and neither can I. I signed Mom up for QWEST's \$30/year .05/min in state and .03/min out of state. The man said he was forwarding this Escalation Group. I do not feel I or Mom am responsible for the bill, at most .05/min. Mom is 89 years old, has had the same phone number since over 30 years ago, and she cannot possibly remember she had no long distance plan.

CREDIT MANAGEMENT
1-800-423-8994

CORPORATION COMMISSION
- BRAD MORTON -

EXHIBIT 1

602 542-0836

1-4-90

ONCE I GET A CALL TO ASK IF I WAS MAKING ALL THE LONG DISTANCE CALLS.

COMPLAINT # JAN 9, 2008

65671

CALL BACK IN 2 WKS
IF DO NOT HEAR FROM THEM

Called MR. MORTON ON JAN 23, TOLD HIM QWEST JUST TOLD ME THEY HAVE NOT RECEIVED A THRU COMPLAINT. HE SAID THEY BILLING WOULD NOT KNOW BECAUSE IT WAS GOING TO SOME EXECUTIVE GROUP HE SAID HE JUST SENT A MESSAGE, WHILE ON THE PHONE, ASKING WHY THEY HAD NOT RECEIVED IT.

(8)

1-800-222-7000
0836

JAN 29 - from ERIC MOTEN

~~WWW.CAPADVERTISING.COM~~

STATUTORY AGENT - for small
clients

C. T. CORPORATION SYSTEM

2394 E. CAMELBACK RD

PHX 85011

DANIEL FOLEY

RM 132

45 E. PLUMB LANE

RENO, NEV 89502

775-333-4321

Feb 1, 2008 name given to ERIC
MOTEN

STELLA KOROWSKI, 5243 E. ALERUIA
ST. MESA, AZ 85205
STANLEY A. KOROWSKI, 4440 E.
NEWTONS AVE. SCOTT, AZ 85222

EXHIBIT 2