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BEFORE THE ARIZONA CORPORATION COMMISSION

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2008 SEP 26 A 8:39

AZ CORP COMMISSION
DOCKET CONTROL

STANLEY A. GORODENSKI AND
STELLA GORODENSKI,
Complainants,

DOCKET NO. T-01051B-08-0248

VS

QWEST CORPORATION,
Respondent.

PROCEDURAL ORDER

BY THE COMMISSION:

On May 15, 2008, Stanley A. Gorodenski filed with the Arizona Corporation Commission ("Commission") a Formal Complaint against Qwest Corporation ("Qwest") in which he listed himself and his mother, Stella Gorodenski, under "Responsible Party." In the Complaint, Mr. Gorodenski asserted that Qwest needs to refund Ms. Gorodenski the amount of \$498.17 assessed in long distance charges. Mr. Gorodenski asserted that the amount in dispute constitutes charges for unauthorized services under Arizona Revised Statutes ("A.R.S.") § 44-1572(A)(5) because Ms. Gorodenski never authorized Qwest to assign her long distance service.

On June 11, 2008, Qwest filed an Answer and Statement of Defenses, in which it stated that Ms. Gorodenski has subscribed to local telephone service, using the same telephone number ("TN"), from Qwest and its predecessors (first Mountain Bell and then U.S. West) since 1976. Qwest stated that its records show the TN has been enabled for intrastate intraLATA long distance since service was first initiated and that the service has not been changed. Because Ms. Gorodenski has never selected an intrastate intraLATA long distance plan, Qwest stated, the TN is covered by Qwest Corporation Price Cap Tariff No. 2, § 6.2.1.E.2.¹ Qwest requested the Commission to sustain Qwest's charges and to dismiss the Complaint with prejudice.

¹ This appears to be a typo and should probably be § 6.2.1.F.2, as there is no § 6.2.1.E.2 in the tariff pages provided by Qwest.

1 On June 16, 2008, Mr. Gorodenski filed Complainants' Response to Respondent's "Answer
2 and Statement of Defenses" and Motion for Summary Judgment. Mr. Gorodenski requested the
3 Commission to find the charges unlawful and unjust and to deny Qwest's request for dismissal with
4 prejudice. In addition, Mr. Gorodenski requested summary judgment and opined that a hearing
5 would not be valuable in this matter.

6 On July 17, 2008, Qwest filed a Response to Motion for Summary Judgment, stating that
7 summary judgment should be denied because there are genuine issues of material fact.

8 On July 18, 2008, a Procedural Order was issued denying Qwest's motion to dismiss, granting
9 Mr. Gorodenski's request to modify the Complaint to include Ms. Gorodenski as a Complainant, and
10 denying Complainants' motion for summary judgment. The Procedural Order also scheduled a
11 procedural conference for August 19, 2008; required Qwest and the Complainants to earnestly engage
12 in settlement discussions between the issue date of the Procedural Order and August 18, 2008, and to
13 report on their progress at the procedural conference; and required Commission Staff to make a
14 specified filing by August 12, 2008, and to attend and participate in the procedural conference.

15 On July 25, 2008, Complainants filed Complainants' Response to "Qwest Corporation's
16 Response to Motion for Summary Judgment" and Motion to Reconsider Motion for Summary
17 Judgment. In this document, Complainants again asserted that there is no genuine issue of material
18 fact and requested that a summary judgment in their favor be reconsidered.

19 On July 29, 2008, Complainants filed a document entitled Amending Complainants' Response
20 to Qwest's Response to Motion for Summary Judgment. In this document, Complainants again
21 asserted that there is no genuine issue of material fact to prevent a summary judgment in their favor.

22 On July 29, 2008, Qwest filed Qwest Corporation's Request to Change the Date for
23 Procedural Conference. Qwest requested therein that the procedural conference scheduled for August
24 19 be rescheduled to August 20, 21, or 22 or such other time as may be established, due to a
25 scheduling conflict that Qwest's counsel has on August 19. Qwest stated that Staff and Mr.
26 Gorodenski have stated that they do not object to the requested rescheduling.

27 On July 30, 2008, a Procedural Order was issued rescheduling the procedural conference for
28 August 21, 2008, and establishing that any motions filed that are not ruled upon within 20 calendar

1 days after filing shall be deemed denied.

2 On August 13, 2008, Staff filed Staff's Statement of Process and Applicable Laws.

3 On August 18, 2008, the Complainants filed a response to Staff's filing, which included a
4 motion to strike a portion of Staff's filing.

5 On August 21, 2008, a procedural conference was held at the Commission's offices in
6 Phoenix, Arizona. Mr. Gorodenski appeared on his own behalf, Ms. Gorodenski did not appear,² and
7 Qwest and Staff each appeared through counsel. At the procedural conference, a recess was called to
8 allow the parties an opportunity to engage, off the record, in settlement discussions. Staff also
9 participated in these settlement discussions. After the recess, the parties reported that they had
10 reached an agreement to settle the matter, which would be reduced to writing by counsel for Qwest.
11 The parties also agreed that a request to withdraw the complaint with prejudice would be filed after
12 the settlement agreement is executed. It was determined that a procedural conference would be
13 scheduled for September 25, 2008, which would be vacated upon the filing of a request to withdraw
14 the complaint with prejudice filed either by the Gorodenskis or jointly by the Gorodenskis and Qwest.
15 It was also agreed that the docket could be administratively closed upon such a filing. The parties
16 were instructed that, in the absence of such a filing, the procedural conference will proceed for the
17 purpose of establishing the process and schedule for this matter to go to hearing.

18 On August 22, 2008, a Procedural Order was issued scheduling the procedural conference and
19 stating that it would be vacated if a request to withdraw the complaint due to the execution of a
20 settlement agreement were filed before September 25, 2008.

21 On September 23, 2008, Qwest filed an Uncontested Motion for Continuance of Procedural
22 Conference, stating that Qwest and the Gorodenskis have reached settlement and are exchanging
23 documents to memorialize their settlement agreement and a motion for withdrawal of the complaint,
24 that the exchange of documents is taking longer than anticipated, that the motion for withdrawal is
25 expected to be filed this week, and that Qwest and the Gorodenskis desire for the procedural
26 conference to be vacated and rescheduled to a later date if the complaint is not withdrawn by

27 ² Mr. Gorodenski explained that Ms. Gorodenski is recovering from an illness and that he was unaware that she should
28 be present. It was explained that all parties are expected to appear at any proceeding and that telephonic appearance or
rescheduling could occur upon request.

1 September 30, 2008.

2 On September 24, 2008, a Procedural Order was issued vacating the procedural conference
3 scheduled for September 25, 2008, and stating that it would be rescheduled if no request to withdraw
4 the Complaint with prejudice was filed by September 30, 2008.

5 On September 25, 2008, Qwest and the Gorodenskis jointly filed a Stipulation for Dismissal
6 with Prejudice, stating that a Confidential Settlement Agreement and Release of Claims has been
7 entered and that the parties stipulate to a dismissal of the Complaint with prejudice and move that an
8 order of dismissal with prejudice be entered.

9 The parties' joint request for dismissal with prejudice is reasonable and should be granted.
10 Furthermore, as the matter has been resolved to the parties' mutual satisfaction, this docket should be
11 administratively closed.

12 IT IS THEREFORE ORDERED that the **Complaint is hereby dismissed with prejudice.**

13 IT IS FURTHER ORDERED that **this docket is administratively closed.**

14 DATED this 26th day of September, 2008.

15
16
17 
18 SARAH N. HARPRING
19 ADMINISTRATIVE LAW JUDGE

20 Copies of the foregoing mailed/delivered
21 this 26th day of September, 2008, to:

22 Norman G. Curtright, Corporate Counsel
23 QWEST CORPORATION
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By: 
Debra Broyles
Secretary to Sarah N. Harpring

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