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BEFORE THE ARIZONA CORPORATION

IN THE MATTER OF:

RICK L. STOCKETT, CFT, INC., CPR)
LIFE MASK AND CAREFREE TRADING,
INC.,

DOCKET NO.
T-01051B-09-0425

COMPLAINANT,

vs.

QWEST CORPORATION,

RESPONDENT.

PROCEDURAL
CONFERENCE

At: Phoenix, Arizona

Date: 10/28/2009

Filed: **NOV 12 2009**

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Arizona Corporation Commission

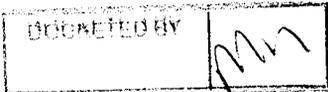
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Certified Reporter
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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, in Hearing Room 1 of
4 said Commission, 1200 West Washington Street, Phoenix,
5 Arizona, commencing at 11:07 a.m. on the 28th of
6 October, 2009.

7

8

BEFORE: MARC E. STERN, Administrative Law Judge

9

10 APPEARANCES:

11

For the Complainant:

12

In Propria Persona
By Mr. Rick Stockett, President
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Carefree, Arizona 85377

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16 For the Respondent:

17

QWEST CORPORATION
By Mr. Norman G. Curtright
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18

19

20 For the Arizona Corporation Commission Staff:

21

Ms. Ayesha Vohra
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24

COLETTE E. ROSS
Certified Reporter
Certificate No. 50658

25

1 ALJ STERN: We are on the record in the matter
2 of Rick Stockett, et al., versus Qwest Corporation in
3 Docket T-01051B-09-0425.

4 My name is Marc Stern. I will preside over this
5 procedural conference this morning. In just a minute we
6 will get going.

7 All right. Who is Mr. Stockett?

8 MR. STOCKETT: I am, Your Honor.

9 ALJ STERN: Okay. Like I say, remember the --

10 MR. STOCKETT: I am, Your Honor.

11 ALJ STERN: And you are representing yourself or
12 is the gentleman with you?

13 MR. STOCKETT: Well, I thought we weren't
14 supposed to have any attorneys here. So, luckily, I
15 asked this guy to just come in and, you know, listen.
16 But he wasn't my attorney until just a couple minutes
17 ago. I went ahead and just --

18 ALJ STERN: Just hired him?

19 MR. STOCKETT: -- retained him, yes, sir.

20 ALJ STERN: Okay. Sir, you are going to
21 represent Mr. Stockett, is that --

22 MR. McMAHON: Well, he is going to really
23 represent himself. I haven't been prepared to represent
24 him at this conference.

25 ALJ STERN: What is your name, sir?

1 MR. McMAHON: My name is James McMahon. I have
2 given the officer my name and address.

3 ALJ STERN: The court reporter?

4 MR. McMAHON: Yes.

5 ALJ STERN: Okay. And on behalf of Qwest
6 Corporation.

7 MR. CURTRIGHT: Good morning, Judge Stern.
8 Norman Curtright for Qwest Corporation.

9 ALJ STERN: And on behalf of the Commission
10 Utilities Division.

11 MS. VOHRA: Good morning, Your Honor. Ayesha
12 Vohra on behalf of Staff, with Mr. Brad Morton.

13 ALJ STERN: All right. Thank you.

14 MR. STOCKETT: Your Honor, may I make a
15 correction to your statement? My name is Rick Stockett.
16 I am the president of Carefree Trading, Incorporated
17 doing business as CFT Inc., Life Mask.

18 ALJ STERN: Is that like Halloween mask?

19 MR. STOCKETT: No. I own the patent for CPR,
20 for mouth-to-mouth resuscitation. And I call it CFT,
21 Incorporated. CPR Life Mask is the trademark, is what
22 we are known as. And I am just the president of this
23 corporation.

24 ALJ STERN: Okay. So Carefree Trading, Inc. is
25 CFT, Inc.?

1 MR. STOCKETT: Which stands for Carefree
2 Trading, Inc. And then our trademark is CPR Life Mask.

3 ALJ STERN: Okay. And you are the president?

4 MR. STOCKETT: Yes, sir, and also the chairman
5 of the board.

6 ALJ STERN: Okay. And how long have you had
7 this?

8 MR. STOCKETT: I have had an Arizona corporation
9 since March of 1989.

10 ALJ STERN: Okay. So that's when you started
11 this?

12 MR. STOCKETT: Yes, sir.

13 ALJ STERN: This, what did you call it? CPR
14 mask?

15 MR. STOCKETT: I own the patent on the one-way
16 valve for mouth-to-mouth resuscitation.

17 ALJ STERN: Okay. Anyhow, here we are.
18 Mr. Stockett filed a complaint against Qwest.
19 Mr. Curtright, and I know you filed an answer in this
20 proceeding. And you filed a motion for a procedural
21 conference also, of which makes it sort of helpful for
22 me. I would have probably done it anyhow. So I
23 appreciate it.

24 So if I understand things correctly, at least
25 your general allegations, we are not going to get into

1 the issues today, Mr. Stockett, what your allegations
2 are is your business that you operate was out in the
3 Carefree, in the Cave Creek area?

4 MR. STOCKETT: Sir, for 20 years I operated out
5 of 14602 North Cave Creek Road where I then, in late
6 '08, built a new facility at 500 Easy Street in
7 Carefree, Arizona.

8 So for 20 years I was at 14620 North Cave Creek
9 Road. Qwest was my phone provider for most of that
10 time. You can check my records, I paid them every month
11 like right on time for 20 years, never late. And then
12 when we moved to 500 Easy Street in Carefree late '08, I
13 went with, I think they call it, an IP --

14 MR. McMAHON: IP, VoIP.

15 MR. STOCKETT: -- a VoIP thing, which didn't
16 work for me.

17 ALJ STERN: Voice over internet provider.

18 MR. STOCKETT: I am not real good on computers.

19 ALJ STERN: I am not either.

20 MR. McMAHON: Voice over internet protocol.

21 ALJ STERN: There we go. See?

22 MR. STOCKETT: At that point, I still had a few
23 lines with Qwest. I believe it was two or three lines.

24 I called up. The girl basically told me they
25 had a win back program, which she then put in writing to

1 me with pricing, everything. I then didn't realize I
2 had to go -- I was in a contract with these IP people,
3 but because I committed to Qwest and I also committed to
4 the other company, I went and bought myself out of the
5 IP contract. And then I was pretty much at that point,
6 my opinion, defrauded by Qwest.

7 ALJ STERN: All right. So the person from
8 Qwest, whoever you talked to, said they could give you
9 service for lesser amount of money?

10 MR. STOCKETT: I wasn't happy with the IP thing.
11 And so I just wanted to go back to Qwest, which I tried
12 to get Qwest to move my phones from Phoenix to Carefree
13 in the beginning. And they wouldn't do it. They wanted
14 an outrageous price. And then when this girl told me
15 she could give me this win back thing, I had her put it
16 all in writing.

17 ALJ STERN: But you switched from Qwest to the
18 voice over interpret protocol when you moved to --

19 MR. STOCKETT: From Phoenix to Carefree. I only
20 had it for about two or three months and then I went
21 back to Qwest, got everything in writing --

22 ALJ STERN: From the representative of Qwest you
23 are talking to?

24 MR. STOCKETT: -- prior to switching back, paid
25 thousands of dollars to get out of the other contract

1 and then thought we had a deal.

2 ALJ STERN: How long after you went back to
3 Qwest did you find out that the price was a little bit
4 more than you thought it was?

5 MR. STOCKETT: Well, it was about a month and a
6 half I started getting huge bills. Then I called the
7 lady's supervisor. And then he said, oh, well, she was
8 just off \$8. I said, well, I am not going to quibble
9 over \$8, so I agreed to pay an extra \$8. And then his
10 supervisor called me and he wanted about 458 more a
11 month and that's when I cut it off. And that's why we
12 are here today. And I have all this in writing, even
13 have some of it on tape.

14 ALJ STERN: What do you think about that,
15 Mr. Curtright? How does your company deal with that?
16 Somebody didn't know what the price was, is that what
17 happened?

18 MR. CURTRIGHT: Judge, as we stated in our
19 answer, the initial quote for the eight lines did have,
20 it was an erroneous quote. However, the change of
21 locations and the fact that the same numbers were
22 desired by the customer caused the principal problem.

23 The change of locations meant that those numbers
24 could not be assigned out of that wire center. So the
25 solution that resolved that, it was a service call

1 market expansion line. And that accounts, as my
2 understanding, for the majority of the increased bill
3 that --

4 ALJ STERN: So --

5 MR. CURTRIGHT: -- Mr. Stockett discussed.

6 ALJ STERN: I guess in order for Mr. Stockett's
7 company to have the same numbers, which I guess he did
8 with your changeover, but it is due to some special
9 jazzed up --

10 MR. CURTRIGHT: It was because of a numbering
11 problem, Your Honor, that we needed to have, provide in
12 conjunction with the service, this --

13 ALJ STERN: Okay.

14 MR. CURTRIGHT: -- we call it, a market
15 expansion line, which makes it serve, you know, in
16 layman's terms, more like an 800 number.

17 ALJ STERN: All right. But weren't your sales
18 reps familiar with this problem, or no?

19 MR. CURTRIGHT: Well, Judge, there are two
20 issues there. One is the initial quote for the eight
21 lines. And it was understood that the issue of the
22 market expansion lines also needed to be addressed. And
23 that quote was not provided at the time the other
24 correspondence was going on.

25 But it wasn't, it wasn't a hidden item. It was

1 simply, I think, something that wasn't discussed. All
2 these are facts that I think need to be developed
3 further.

4 ALJ STERN: It is all that stuff they teach you
5 in law school about detrimental reliance and stuff.

6 MR. STOCKETT: Your Honor, can I comment? It
7 was discussed. And it is not eight lines, it is ten
8 lines.

9 ALJ STERN: Well, whatever, I don't want to get
10 into too many issues.

11 Ms. Vohra, did Staff ever mediate in this matter
12 at all?

13 MS. VOHRA: Your Honor, if I might have
14 Mr. Morton speak to that.

15 ALJ STERN: Mr. Morton.

16 MR. MORTON: We did take from Mr. Stockett an
17 informal complaint on August 3rd. Qwest responded to
18 this complaint August 10th and did advise us that the
19 customer had been working with a representative at Qwest
20 for several months. And then an offer had been made,
21 but the customer had refused the offer and had told the
22 contact at Qwest that he wanted to litigate. Qwest was
23 asked whether they wanted to do a mediation. And they
24 declined.

25 ALJ STERN: Okay. Here is the way I -- you

1 know, I sort of suspected this is where this, somehow,
2 some way this came about, but I don't know all the
3 facts, that's for sure. I guess if we have a hearing, I
4 will. And I know there is this legal doctrine in the
5 background that you cited, Mr. Curtright, this filed
6 rate doctrine. But I don't think too many people out in
7 the field necessarily are coming to the Commission to
8 read your tariff, that probably know where you could
9 even find your tariff.

10 In any event, I am going to suggest that, and
11 for your benefit, too, Mr. Stockett, that you mediate
12 this matter with the Commission. The Utilities Division
13 consumer affairs division in this matter has been
14 involved in these types of things before and they are
15 fully familiar with what is going on.

16 Nobody is ever happy in a complaint proceeding,
17 whether it is you, the complainant, or the respondent,
18 in this case, Qwest. You just don't always get
19 everything you want. But on the other hand, there is
20 usually somewhere where you can meet in between, and
21 that's where you end up with mediation, which I think,
22 under the circumstances of what I have read so far in
23 the complaint, and the response, this case could be
24 better served by mediation.

25 MR. STOCKETT: I agree 100 percent, Your Honor.

1 And if Qwest would be just halfway fair -- I understand
2 their employees made a mistake. But their mistake is
3 going to cost me \$114,720 over a 20-year period, which I
4 plan in being in business for. And if they would just
5 be halfway fair, I would be fair. But they offered me
6 \$4800. And I paid more than that to get out of the
7 other phone agreement.

8 ALJ STERN: I understand. Well, look, here is
9 what I am going to do. I am going to direct that this
10 matter go to our Utilities Division, Mr. Curtright.

11 I know that in the past your client doesn't
12 necessarily like to do that, but under the
13 circumstances, I think rather than rely upon a legal
14 doctrine, which Mr. Stockett no doubt has ever heard of
15 before he got into this situation, and, you know, he is
16 a typical consumer, whether he is a president of a
17 company or whatever, when someone deals with you, you
18 sort of think they know what you are offering you, so I
19 am going direct you go to mediation. And I will let
20 Mr. Morton set this up with you.

21 If it is unsuccessful, it will be unsuccessful.
22 If it is successful, Mr. Morton can tell Mr. Stockett
23 how to dismiss his complaint or withdraw his complaint,
24 whatever you want to call it.

25 So can we agree that this is the way this is

1 going to go?

2 Mr. Stockett is indicating his willingness to
3 try it.

4 Mr. Curtright, can you prevail upon the parties
5 that be at Qwest to go along with this?

6 MR. CURTRIGHT: Oh, absolutely Qwest is willing
7 to go to mediation. There are, I think, some matters
8 that could facilitate that, Your Honor, such as allowing
9 discovery to proceed.

10 ALJ STERN: Well, you work it out. I don't have
11 a problem with discovery. But in the meantime, you work
12 it out. I think discovery should partly be on hold
13 unless it is within the realm of the mediation format as
14 our Utilities Division people and the consumer affairs
15 section set out. I prefer that. I don't want discovery
16 to the extent that it might be in a normal complaint
17 proceeding, because it just may interfere.

18 I don't know how Mr. Morton will conduct the
19 mediation, or Ms. Vohra if she is involved with it also.
20 So I will withdraw from my end of this at this time.

21 I am going to recess this proceeding. I will
22 not schedule another proceeding unless I receive
23 something in writing or notification from consumer
24 affairs and Mr. Stockett that the matter can't be
25 resolved, we are going to have a formal hearing.

1 Mr. Stockett, yes, sir.

2 MR. STOCKETT: Yes. Can I make one more
3 comment, Your Honor? I am not here to hurt Qwest and I
4 am not here to take a lot of the Corporation
5 Commission's time, because my time is very valuable. If
6 Mr. Curtright and I could maybe speak for about five
7 minutes privately, I can make him an offer.

8 I believe after all this that it is just
9 employees from Qwest that were improperly trained. I
10 have now looked over this tariff thing and I understand
11 what has happened here. And I just think he had a
12 couple employees who were in training.

13 If he and me can talk five minutes, we can save
14 Qwest a bunch of money with lawyer bills and we can
15 probably work this thing out real quick.

16 ALJ STERN: Do you want a few minutes to talk to
17 him? Do you want to take a few minutes?

18 MR. CURTRIGHT: Always happy to speak with
19 whomever.

20 ALJ STERN: Okay. It is about 11:30. We will
21 recess this matter -- 11:25. We will recess this
22 matter. You all can talk. Maybe it is resolvable
23 without mediation, you know. I will just leave the
24 room. And the court reporter can come and get me as
25 soon as you all have resolved your five minutes of

1 happiness, I guess, whatever. Maybe it will go away.

2 All right. We will take a recess.

3 (A recess ensued from 11:23 a.m. to 11:38 a.m.)

4 ALJ STERN: Okay. So where are we at on this,
5 Mr. Curtright or Mr. Stockett?

6 MR. CURTRIGHT: I will go, Judge. We had a
7 discussion about some of the issues and have agreed that
8 Mr. Stockett is going to get together some data that I
9 have asked for and make an offer that would form the
10 basis of us going into mediation if necessary.

11 We would like to attempt to negotiate a bit
12 before we invoke the mediators, if that would be
13 acceptable.

14 ALJ STERN: That's okay with me. What I would
15 suggest is, since now Mr. Stockett and you are talking,
16 I will leave it up to Mr. Stockett to communicate with
17 Mr. Morton or Ms. Vohra, however you choose to do it, if
18 he wants to go forward with mediation and/or in the
19 alternative, if the mediation is, if you need to go to
20 mediation. If you don't, you can communicate with them.
21 They can tell him how to withdraw his complaint.

22 So would you make sure, Ms. Vohra, Mr. Morton,
23 that Mr. Stockett is fully able to reach you and/or --

24 And if you are going to represent him in some
25 way, Mr. McMahon, file a notice of appearance in the

1 docket. The Commission requires you file and original
2 and 13 copies so everybody gets copies.

3 MR. McMAHON: Okay.

4 ALJ STERN: And serve a copy of course on
5 Mr. Curtright at Qwest.

6 All right. With that, if there is nothing
7 further, I am going to recess this matter. And I won't
8 schedule it for any further proceedings unless I receive
9 something in writing from you, Mr. Stockett, either, A,
10 you are happy and want to withdraw your complaint, or,
11 B, you would like us to set it for a hearing or a
12 procedural conference because you haven't been able
13 revolve it through mediation.

14 MR. STOCKETT: Thank you for your courtesy, Your
15 Honor.

16 MR. CURTRIGHT: Judge, I assume you would
17 entertain requests from Qwest also to get things going.

18 ALJ STERN: That would be fine, too. We won't
19 stop you from doing that.

20 Thank you. That will conclude this matter.

21 However, Mr. Curtright, I want you to go to
22 mediation if you can't all resolve it first.

23 So with that, I will see you later. I hope not,
24 though. Thank you.

25 (The proceedings concluded at 11:40 a.m.)

1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF MARICOPA)

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I, COLETTE E. ROSS, Certified Reporter No. 50658 for the State of Arizona, do hereby certify that the foregoing printed pages constitute a full, true and accurate transcript of the proceedings had in the foregoing matter, all done to the best of my skill and ability.

WITNESS my hand this 7th day of November, 2009.

Colette E. Ross

 COLETTE E. ROSS
 Certified Reporter
 Certificate No. 50658