

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Complaint of Union Telephone)
Company, a Wyoming Corporation, Against Qwest)
Corporation, fka US West Communications Inc., a)
Colorado Corporation)

DOCKET NO. 05-054-01
ORDER GRANTING MOTION FOR A
MORE DEFINITE STATEMENT

ISSUED: May 4, 2005

By The Commission:

On March 4, 2005, Union Telephone (“Union”) filed a Complaint against Qwest Corporation (“Qwest”) for failure to pay originating access charges and terminating access charges to Union’s wireless network.

On March 11, 2005, Qwest filed its Motion to Dismiss, or in the Alternative, for a More Definite Statement, seeking dismissal of the Complaint for failure to state a cause of action and to promote administrative efficiency, or, alternatively, seeking to require Union to provide a more definite statement regarding the payment obligations Qwest is alleged to have breached, the time periods and amounts at issue, whether Qwest was the originating or transiting carrier for the traffic on which Union’s claims are based, whether the traffic was wireless or wireline, whether Union claims a right to these charges as the incumbent local exchange carrier or as a wireless carrier, and whether the traffic is local or toll traffic.

On April 13, 2005, Qwest filed Supplemental Authority in Connection with its Motion, in which Qwest provided a copy of an Order Granting Qwest’s Motion for a More Definite Statement entered by an Administrative Law Judge of the Colorado Public Utilities Commission in a similar docket pending before that commission.

On April 22, 2005, Union filed its Opposition to Qwest Corporation’s Motion to Dismiss or in the Alternative for a More Definite Statement, arguing that Union’s Complaint merely asks the Commission to recognize “a time-honored tenet of utility regulation; that a utility should be compensated for the services it provides.” Union noted that it expected the parties to soon have an interconnection agreement in place that would govern compensation going forward and that it simply seeks compensation for the traffic exchanged between the parties prior to the effective date of

the agreement.

On April 25, 2005, Qwest filed a Reply Memorandum in support of its motions, renewing its claim that Union's Complaint does not provide necessary information to permit an answer, nor even the information necessary to permit the Commission to determine whether it has jurisdiction.

On April 28, 2005, the Division of Public Utilities ("Division") filed a memorandum recommending the Commission grant Qwest's motion for a more definite statement, stating that Union's Complaint lacks sufficient detail to permit a thorough analysis of the issues involved. The Division believes that the Complaint should be supplemented with the following information:

- The tariff(s), price list or interconnection agreement(s) Union relies upon as the basis for its complaint
- The time periods and amount Union contends it has not been paid
- Whether the charges in question are for originating or terminating access
- Whether the traffic is wire-line or wireless
- Whether Qwest is the originating carrier for the traffic at issue or merely a transiting carrier
- Whether the traffic is local traffic or toll traffic
- Whether the entity that claims it was not compensated is Union the ILEC, or Union the wireless provider

This is the same information Qwest previously cited in its Motion as lacking in the Union Complaint. The Division indicates the information it has received from Union in response to Division data requests has been inconclusive and raises new questions.

We agree with the Division. Union's Complaint alleges Qwest has failed to pay access charges owed to Union, but the Complaint is utterly lacking in the specific allegations that would permit Qwest to determine the type, number, and amount of charges claimed, nor even whether to agree with Union that the Commission has jurisdiction to hear this matter.

Therefore, based on the foregoing information and for good cause appearing, the Administrative Law

Judge enters the following proposed

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. Qwest's Motion for a More Definite Statement is granted.
2. Union shall have 15 days from the date of this Order to file an amended complaint providing the information indicated *supra* on which its Complaint is based.
3. Qwest shall have 20 days from the filing date of Union's amended complaint to file an answer.

DATED at Salt Lake City, Utah, this 4th day of May , 2005.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 4th day of May, 2005, as the Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Ted Boyer, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

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