

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Formal Complaint of Bonnie L. Reynolds)	
)	
Complainant,)	Docket No. 05-087-10
)	
v.)	
)	MOTION TO DISMISS
AT&T Communications of the Mountain States, Inc. and Qwest Corporation)	OR IN THE ALTERNATIVE
)	ANSWER
)	
)	
Respondents.)	

AT&T Communications of the Mountain States, Inc. (“AT&T”) hereby submits its Motion to Dismiss or in the alternative Answer denying the allegations contained in the Formal Complaint of Ms. Reynolds.

Motion to Dismiss

1. On or about November 18, 2004, Complainant submitted her first complaint to the Utah Public Service Commission alleging that AT&T had slammed her and further alleging that she did not owe AT&T \$ 67.07 dollars for her use of AT&T’s long distance and intrastate toll service (hereinafter “toll service”). *See Exhibit A*, Commission’s Complaint Form, attached hereto.

2. Prior to submitting her complaint, Complainant engaged in correspondence with the Commission’s Staff seeking assistance in resolving her allegations against AT&T.

3. Complainant also engaged in conversations with AT&T’s service representatives in the slamming department seeking resolution to her allegations.

4. AT&T dutifully investigated the Complainant's claims and discovered that her allegations were unfounded and that she, in fact, owed AT&T \$ 67.07 for her use of AT&T's toll services. AT&T reported the results of its investigation back to Complainant and the Commission's Staff. *See e.g.*, the Results Section containing AT&T's response in Exhibit A.

5. Based upon its investigation and AT&T's responses, Staff—through Mr. Hudson—sent the following response to Complainant regarding her complaint:

I have done a thorough investigation of your complaint and find no fault or slam with either Qwest or AT&T telephone companies. Records show that you have had AT&T as your long distance carrier since August 2001, when you lived at 1710 W. 360 N., St. George, UT. Then you moved to Washington, UT where your services were transferred by Qwest at your request. You then moved to your current location in Hurricane, UT where again your services were transferred at your request.

Qwest does not have any information that you transferred your long distance carrier to Telecom USA and from your information you said you dial 10-10-987 to reach them to do your long distance dialing. This is a dial-a-round number which does not transfer any information to Qwest or AT&T about any change in your long distance carrier choice. ...¹

6. Exhibit A shows that the "status" of the complaint is "closed," and that it was resolved on "12/02/04." By offering no new evidence, but rather by simply continuing to defame AT&T with false assertions of "black mail" and "deceit,"² Complainant continues her unwarranted crusade to avoid paying her debt to AT&T by filing yet another complaint containing the same false allegations of slamming.³

7. Because the Complainant is not entitled to relief under the facts as stated in her complaints, AT&T hereby requests that the Commission dismiss her complaints

¹ **Exhibit B**, Mr. Hudson's December 3, 2004, letter responding Complainant.

² **Exhibit C**, Ms. Reynolds' February 8, 2005, letter to Mr. Hudson, allegedly responding to Exhibit B.

³ **Exhibit D**, Commission Formal Complaint form dated February 28, 2005.

with prejudice. Simply put, the Complainant has failed to state a claim upon which relief may be granted.

Answer

8. AT&T denies all allegations that it has slammed Ms. Reynolds at any time.

9. AT&T denies all allegations that Ms. Reynolds is due any refund from AT&T and it further denies any allegations that Ms. Reynolds does not owe AT&T money for services rendered.

10. Any other allegations contained in Ms. Reynolds complaints are conclusory statements without supporting facts sufficient to allow or require response, and therefore, AT&T denies them.

Affirmative Defenses

12. Complainant has failed to state a claim upon which relief may be granted.

Counterclaims

13. On and before November 12, 2004, AT&T's records show that Ms. Reynolds, telephone number 435-627-2999, was a long distance customer of AT&T and that Ms. Reynolds used, at various times, AT&T's service by dialing 1+ calls from her telephone. See **Exhibit E** (Contains **Confidential** Customer Proprietary Information), AT&T's February 12 to November 12, 2004 statement to Ms. Reynolds. From her previous use of AT&T's toll service, Ms. Reynolds owes AT&T \$67.07.

14. Ms. Reynolds admits that she demanded Qwest, her local exchange carrier, transfer her existing service from previous locations to her current address.

Qwest, apparently following those instructions, transferred her account, including her PIC of AT&T as her long distance carrier.

15. As of October 21, 2004, Ms. Reynolds apparently chose Qwest as her preferred long distance carrier and AT&T received a disconnection notice from Qwest to discontinue its toll service to Ms. Reynolds effective October 21, 2004.

16. In addition to employing both AT&T and Qwest at various times for toll service, Ms. Reynolds also employed the dial-a-round service of Telecom USA for toll service. Through her own actions and the use of this dial-a-round service, Ms. Reynolds made numerous toll calls and she has acquired bills from three toll providers; bills she should pay.

17. To allow Ms. Reynolds to employ AT&T's toll service without paying for such service unjustly enriches her and violates AT&T's tariffs and price lists.

18. WHEREFORE, AT&T requests that the Commission order Ms. Reynolds to pay AT&T the amount due and owing plus interest at the rate set out in its tariffs or alternatively allow AT&T to proceed in its collection action, finding that Ms. Reynolds has failed pay her debt to AT&T and that she has failed to prove her claim for slamming and any other allegation contained in her complaints.

Respectfully submitted this 4th day of April, 2005.

**AT&T COMMUNICATIONS OF THE
MOUNTAIN STATES, INC.**

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