

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Complaint of	)	
ZELL L. MILLS,	)	<u>DOCKET NO. 01-049-55</u>
Complainant,	)	
vs.	)	<u>REPORT AND ORDER</u>
Qwest Corporation,	)	
Respondent	)	

ISSUED: August 30, 2001

SYNOPSIS

Complainant having failed to allege any violation of Respondent's published tariffs, or of the applicable statutes and Commission rules, we dismiss.

Appearances:

Jill M. Pohlman for QWEST CORPORATION

By The Commission:

PROCEDURAL HISTORY

Complainant, above-named, filed his complaint June 28, 2001, and Respondent filed its answer, together with a motion to dismiss, July 30, 2001. Customer complaints being designated informal proceedings under Commission rules, and there appearing to be no disputed factual issue necessary to the resolution of this matter, we deem it ripe for disposition without hearing or submission of further evidence. The Administrative Law Judge, having been fully advised in the premises, now enters the following Report, containing proposed findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT

- Complainant is a residential customer of Respondent, a telephone corporation certificated by this Commission.
- Complainant alleges that Respondent is illegally attempting to collect final bills of \$1,037.68 and \$558.28 dating back respectively to 1996 and 1999.
- In its answer, Respondent sets out that the 1996 final bill has been reduced to judgment and that the 1999 bill has been referred to a collection agency (although Respondent has the right to pursue collection itself and that disregarding these items, Complainant is delinquent in the amount of \$341.80.

CONCLUSIONS OF LAW

The Commission has party jurisdiction; subject-matter jurisdiction is lacking. Complainant has failed to allege facts which would entitle him to relief under Section 54-7-20, U.C.A. 1953, as amended. That statute entitles a customer to reparations only upon a showing of charges beyond Respondent's published tariff, or a discriminatory application of the tariff. The facts alleged by Complainant do not indicate such overcharge or discrimination. Complainant does not dispute the accuracy of the billings - only his obligation to pay them. Unfortunately for him, the law is not as he fancies it.

Respondent is, under the law, not only allowed but required to charge in accordance with its tariff in order to prevent invidious discrimination among customers. Accordingly, the charges imposed on Complainant are lawful, and Respondent is entitled to collect the same. The complaint must be dismissed.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

- The complaint of ZELL L. MILLS against QWEST CORPORATION, be, and the same hereby is, dismissed.
- If ZELL L. MILLS wishes to proceed further, ZELL L. MILLS may file a written petition for review within 20 days of the date of this Order. Failure so to do will forfeit the right to appeal to the Utah Supreme Court.

DATED at Salt Lake City, Utah, this 30th day of August, 2001.

/s/ A. Robert Thurman  
Administrative Law Judge

Approved and Confirmed this 30th day of August, 2001, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary