

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

<i>In the matter of the complaint of:</i> F. JERRY)	
STAKER,)	
Complainant,)	<u>DOCKET NO. 03-049-40</u>
vs.)	
QWEST,)	<u>REPORT AND ORDER</u>
Respondent)	

ISSUED: November 3, 2003

SYNOPSIS

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

By The Commission:

F. Jerry Staker ("Complainant" or "Mr. Staker") claims that he was billed by Qwest for directory assistance calls that he says were not made. The total amount of the billing disputed by Mr. Staker is \$5.70. Mr. Staker makes numerous additional claims for relief including an investigation into all directory assistance charges by Qwest, an audit by Qwest of their records to certify that no customer was incorrectly charged for directory assistance, a refund of two years of directory assistance charges from Qwest to Mr. Staker, and free blocking of directory assistance on all customers' lines.

In response, Qwest filed an Answer and Motion to Dismiss arguing that all of Mr. Staker's complaint should be dismissed. Among other arguments, Qwest asserts that it has already credited the \$5.70 for the disputed directory assistance calls to Mr. Staker's account.

The Division of Public Utilities investigated and filed a memorandum containing the results of its investigation and the recommendation that the complaint be dismissed. The Division stated that it could not find any evidence to support the claims of fraud on the part of Qwest, and that in the last two years it had received no other complaints regarding directory assistance charges.

There are no disputed material facts in this matter. We will therefore address Respondent's request for dismissal based on the pleadings and memoranda on file.

DISCUSSION

Mr. Staker requests relief on an individual basis, and also requests relief for other customers. We will address the individual claims first.

The Disputed Charges: The original dispute in this matter was over \$5.70 of directory assistance calls billed to Mr. Staker's account. Mr. Staker claimed that the calls were not made from his telephone. To settle the dispute, Qwest credited Mr. Staker's account for the full \$5.70. There is nothing left to adjudicate regarding those charges.

Mr. Staker's complaint also requests:

That Qwest reverse off my directory assistance calls for the past two years and credit my account accordingly. The service has been used a few times by family members before that time, but Qwest has had the practice in existence for

as long as I remember and likely charged me excess fees over those prior periods. Two years seems to be a reasonable settlement period.

Mr. Staker has not alleged facts sufficient to support his requested relief. He does not claim that Qwest charged him a price in violation of its tariff. He has admitted use of the service, but makes the unsupported allegation that Qwest "likely" charged him excess fees. Without identification, or even an allegation of specific improper charges, the claim does not support relief and should be dismissed.

Charges for blocking directory assistance: Mr. Staker requested that Qwest be ordered to disconnect directory assistance from his telephone line immediately and at no charge. Qwest, quite properly, responded that it cannot charge Mr. Staker more or less than the rates contained in its tariff. Qwest's tariff contains two services that would block directory assistance on Mr. Staker's line. Those services have a monthly charge of either \$3.95 or \$2.88. Qwest must abide by its tariff in providing this service to Mr. Staker and all other customers, and this Commission cannot order Qwest to charge Mr. Staker more or less for any service than is set forth in Qwest's tariff. This claim must also be dismissed.

Relief requested for other customers: Mr. Staker made several requests for relief for other customers. He requested a refund of two years charges for directory assistance to all customers, that Qwest certify that it has not charged any customer unauthorized fees during the past five years, that Qwest audit its systems and records for the past two years to verify all charges, or, in the alternative, that Qwest "offer each customer the option to have the directory assistance feature disconnected at no charge immediately."

This is a customer complaint proceeding. Any claims beyond those between the customer, Mr. Staker, and the utility, Qwest, are therefore beyond the scope of this proceeding. Customer complaint matters are not the appropriate forum to make significant changes to a utilities tariff. In addition, Mr. Staker bases his requests on what he perceives as possible fraudulent activity on the part of Qwest. He has shown no facts to support that claim. To the contrary, the Division of Public Utilities, which takes a large volume of complaints about regulated utilities in Utah, has not received one complaint about Qwest directory assistance charges in the past two years, other than from Mr. Staker. This matter is not the place to address directory assistance charges to other customers, and even if it were facts have not been shown to warrant such an investigation. Mr. Staker's requests for relief on behalf of other customers must be dismissed.

FINDINGS OF FACT

1. Complainant is a residential customer of Respondent, a telephone corporation certificated by this Commission.
2. Qwest has credited to Complainant's account all disputed charges.
3. Complainant has shown no violation on the part of Qwest of any tariff, rule or statute.

CONCLUSIONS OF LAW

The Commission has party and subject-matter jurisdiction. Complainant has failed to allege facts which would entitle him to relief. The complaint must be dismissed.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The complaint of F. JERRY STAKER against QWEST is dismissed.
2. Any person aggrieved by this Order may petition the Commission for review/rehearing pursuant to the *Utah Administrative Procedures Act, Utah Code Ann. §63-46b-1 et seq.* Failure so to do will preclude judicial review of the grounds not identified for review. *Utah Code Ann. §54-7-15.*

DATED at Salt Lake City, Utah, this 3rd day of November, 2003.

/s/ Douglas C. Tingey
Administrative Law Judge

Approved and Confirmed this 3rd day of November, 2003, as the Report and Order of the Public Service Commission of Utah.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#35839