

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of)
Geoff Boston vs. Qwest) DOCKET NO. 05-049-108
) REPORT AND ORDER
)

ISSUED: April 25, 2006

By The Commission:

PROCEDURAL HISTORY

On December 7, 2005, Complainant Geoff Boston filed a formal complaint claiming numerous overcharges to his account by Respondent Qwest Corporation (“Qwest” or “Company”). Complainant also claimed Qwest presented him false bills relating to his 1-800 service, failed to provide written bills for his account prior to November 2005, and provided incomplete service from April to November 2005. Complainant seeks reversal of a \$320 charge to his American Express account, refund of overcharges related to his DSL service from April to November 2005, and removal of charges associated with his 1-800 service.

On January 4, 2006, the Commission, in response to a Qwest Motion filed on December 29, 2005, issued an Order Granting Extension of Time to File Answer or Other Response, extending Qwest’s deadline to respond to the complaint to January 13, 2006. On January 13, 2006, Qwest filed its Answer and Motion to Dismiss (“First Motion”) seeking dismissal based upon a lack of Commission jurisdiction and noting that Qwest has corrected any errors posted to Complainant’s account.

On January 19, 2006, the Division of Public Utilities (“Division”) filed a memorandum recommending the Commission dismiss the complaint, stating Qwest may have

inadvertently made a mistake in Complainant's billing but that Qwest has corrected these errors and offered to settle the matter by paying all amounts in dispute.

Sometime thereafter, the Committee of Consumer Services ("Committee") notified the Commission of its interest in investigating Mr. Boston's complaint and in potentially assisting him with its prosecution. The Committee therefore requested the Commission take no action with respect to the complaint until the Committee had investigated the matter to its satisfaction. However, on March 14, 2006, the Committee forwarded to the Commission an email from Complainant indicating Complainant's intent to continue prosecuting his complaint, but without further Committee assistance.

On March 29, 2006, Qwest filed a Second Motion to Dismiss Complaint ("Second Motion"), reserving the positions argued in its First Motion while also seeking dismissal on the grounds that Qwest has offered Complainant a complete remedy rendering the complaint moot. According to the terms of the Settlement Agreement offered to Complainant and attached to the Second Motion, Qwest agrees to refund all charges to Complainant's account for DSL and 1-800 services through December 2005. To date, Complainant has failed to respond to Qwest's Second Motion or proposed settlement.

BACKGROUND, DISCUSSION, AND FINDINGS

Although not clearly stated in Mr. Boston's complaint, it appears he signed up for Qwest DSL service at the end of April 2005 and also subscribes to a Qwest 1-800 service. Excluding local service charges, Qwest billed a total of \$550.95 to Mr. Boston's account from May 11 to December 31, 2005. In accordance with the terms of its proposed Settlement

Agreement, Qwest has offered to refund Mr. Boston \$550.95 in exchange for Mr. Boston's agreement to dismiss this complaint with prejudice.

Having reviewed all matters submitted in this docket, we find and conclude the terms of the Settlement Agreement are just and reasonable and provide all relief otherwise available to Complainant as a result of his formal complaint. We therefore conclude a reasonable resolution of this matter requires adoption of the Settlement Agreement, payment by Qwest to Complainant of the amounts specified in the Settlement Agreement, and dismissal of the complaint.

However, mindful of Complainant's silence regarding the proposed settlement, we determine to give Complainant thirty days from the date of this Order to show cause to the Commission why we should not adopt said Settlement Agreement and dismiss this matter upon payment by Qwest of the proffered amount. If Complainant provides additional information or argument within the thirty-day time frame, we will consider said information and determine what further proceedings, if any, are appropriate. If Complainant fails to do so, this complaint shall be dismissed without further action by the Commission upon proof filed by Qwest of payment made to Complainant in accordance with the Settlement Agreement.

Wherefore, based upon 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. Complainant Geoff Boston shall have thirty days from the date of this Order to show cause to the Commission why the Commission should not adopt the Settlement Agreement offered by Qwest Corporation and dismiss the subject complaint.

2. If Complainant fails to provide additional information by said deadline, the Settlement Agreement shall, without further action by the Commission, be adopted and, upon presentation to the Commission of proof of payment by Qwest in accordance with the terms of the Settlement Agreement, the subject complaint shall be dismissed.

Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of *Utah Code Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 25th day of April, 2006.

/s/ Steven F. Goodwill
Administrative Law Judge

DOCKET NO. 05-049-108

-5-

Approved and Confirmed this 25th day of April, 2006, as the Report and
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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