

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of)
Alma Jeppson vs. McLeodUSA) DOCKET NO. 07-2249-01
Telecommunications Services, Inc.) REPORT AND ORDER

ISSUED: May 22, 2007

SYNOPSIS

Having determined McLeodUSA Telecommunications Services, Inc. (“McLeod”) improperly levied a Trouble Isolation Charge on the account of Complainant Alma Jeppson, the Commission ordered McLeod to refund to Complainant any monies previously collected, and not already refunded or credited to Complainant’s account, with respect to the Trouble Isolation Charge, including associated fees, charges, and penalties, if any.

By The Commission:

PROCEDURAL HISTORY

On March 22, 2007, Complainant Alma Jeppson filed a formal complaint against Respondent McLeodUSA Telecommunications Services, Inc. (“McLeod” or “Company”) seeking refund of a \$95.00 Trouble Isolation Charge (“TIC”) and associated charges and fees that Complainant alleged McLeod had improperly billed to his account in responding to a service trouble call placed by Complainant.

On April 20, 2007, McLeod filed its response claiming the TIC was properly charged since the technician who responded to the service call found no problem with the service being provided by McLeod.

On April 24, 2007, the Division of Public Utilities filed a memorandum recommending the Commission schedule a hearing in this matter.

This matter came on for hearing before the Administrative Law Judge on May 15, 2007. Complainant represented himself and provided sworn testimony. McLeod failed to appear. The Administrative Law Judge therefore provided Complainant the opportunity to state the nature of, and facts relevant to, his complaint, questioned Complainant, and adjourned the proceedings.

Following the hearing, the Commission received a letter from McLeod dated May 14, 2007, stating that McLeod has issued a \$95 credit to Complainant's account and requesting that the hearing be cancelled.

BACKGROUND

According to the information provided by Complainant and now in evidence, Complainant first contacted McLeod on January 3, 2007, to report a "humming" on his residential telephone line that had persisted for a week or more. A telephone technician responded to Complainant's residence on January 5, 2007, but did not inspect or check service to the network interface device ("NID") which connects the telephone network to Complainant's internal telephone wiring. Complainant's NID is located inside the residence so Complainant would have known whether the technician inspected network service to the NID. The technician departed Complainant's residence without having conducted any service tests. Complainant then contacted McLeod and was informed by the McLeod representative that the technician had moved down the street to conduct further testing. Approximately 30-45 minutes after the technician left his residence, the humming stopped on Complainant's telephone line.

Sometime thereafter, Complainant received a bill from McLeod for the \$95.00 TIC. Upon contacting McLeod, Complainant was informed that the technician had found no network problem during his visit to Complainant such that the TIC was justified. Since that time, Complainant has paid a portion of the billed TIC under protest and has also been billed various fees and charges for non-payment.

DISCUSSION, FINDINGS, AND CONCLUSIONS

Given McLeod's failure to appear and provide evidence on its behalf, we view the evidence presented as unrefuted. Based on said evidence, it appears the telephone technician did not test Complainant's service at the NID. We therefore cannot conclude that the humming on Complainant's line was not the result of some network problem for which McLeod would have been responsible. Therefore, we must conclude McLeod has failed to prove its billing of the TIC was proper and in accordance with its price list.

McLeod states in its letter of May 14, 2007, that it has now credited Complainant's account the amount of the TIC previously charged. We remain concerned, however, that McLeod may have previously billed Complainant other fees and charges associated with Complainant's failure to pay the TIC in full pending resolution of his complaint. Given our findings noted above, we determine that any such fees or charges, if any, must also be refunded in full, and we so order.

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:

McLeodUSA Telecommunications Services, Inc., shall refund to Alma Jeppson any monies previously collected, and not already refunded or credited, as a result of the Trouble Isolation Charge improperly levied on Alma Jeppson's account. Said refund shall include any associated fees, charges, and penalties imposed as a consequence of Alma Jeppson's failure to pay the Trouble Isolation Charge in full pending resolution of this complaint.

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 22nd day of May, 2007.

/s/ Steven F. Goodwill
Administrative Law Judge

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Approved and Confirmed this 22nd day of May, 2007, as the Report and
Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#53401