

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of)	
Wayne Crawford Against Qwest)	<u>DOCKET NO. 08-049-19</u>
Corporation)	<u>REPORT AND ORDER DISMISSING</u>
)	<u>COMPLAINT</u>
)	

ISSUED: June 4, 2008

By The Commission:

On April 23, 2008, Complainant Wayne Crawford filed a formal complaint against Respondent Qwest Corporation (“Qwest”) stating ten causes of action related to third-party charges totaling \$15.98 applied to his Qwest account in December 2007 and January 2008. Seven of these causes of action cited violations of 15 U.S.C. § 1692 as their basis; the remaining three are based upon UCA § 54-4-37. Complainant variously seeks statutory and punitive damages, attorney’s fees, a permanent injunction prohibiting Qwest from billing for a “Basic Access” charge, and a permanent injunction prohibiting Qwest from providing billing services for Basic Access Communications.

On May 21, 2008, the Division of Public Utilities (“Division”) filed a memorandum detailing its investigation of this matter and recommending dismissal of the same since Qwest has violated no applicable statutory, regulatory, or tariff provision.

On May 28, 2008, Qwest filed a Motion to Dismiss arguing that Complainant seeks relief, in the form of damages, attorney’s fees, and injunction, the Commission cannot lawfully grant; that Complainant inappropriately asks the Commission to apply federal statutes that are not within the jurisdiction or expertise of the Commission; and that Complainant inappropriately seeks relief under Utah’s anti-cramming statute.

Since there appears to be no factual dispute requiring an evidentiary hearing, the Administrative Law Judge (“ALJ”) proposes to dispose of this matter without further proceedings. Having reviewed all filings in this matter, the ALJ concludes Complainant has failed to state a claim upon which relief can be granted and therefore recommends this matter be dismissed.

The Division and Commission rightly note the Commission is without authority to adjudicate Complainant’s claims brought under 15 U.S.C. § 1692. Nor is the Commission empowered to order payment of damages or attorney’s fees in a case such as this. Furthermore, while UCA 54-4-37 appears to prohibit unauthorized account billings of the type complained of in this docket, the statute authorizes the Division, not the Commission, to seek injunctive relief for repeated violations. In any event, the information provided by Complainant shows only two possible violations and Qwest has already removed the offending charges from Complainant’s account. As no unauthorized charges have been billed to Complainant’s account since January 2008, there appears no reason for the Commission to investigate this matter further.

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:

The complaint filed herein is dismissed.

Pursuant to Utah Code §§ 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

DOCKET NO. 08-049-19

- 3 -

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 §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 4th day of June, 2008.

/s/ Steven F. Goodwill
Administrative Law Judge

Approved and Confirmed this 4th day of June, 2008, 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#57629