

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Curt Simonsen, Big Springs, Nebraska,)	Formal Complaint No. FC-1305
Complainant,)	
)	
v.)	COMPLAINT DENIED
)	
Qwest Communications, Omaha, Nebraska,)	
Defendant.)	Entered: January 22, 2003

BY THE COMMISSION:

By complaint filed September 27, 2002, Curt Simonsen, Big Springs, Complainant, alleges fraudulent business practices against Qwest Communications (Qwest), Omaha, Defendant. Qwest timely filed an answer to the complaint on October 15, 2002. A hearing on this matter was held by videoconference on November 18, 2002, at 10:00 a.m. in the Commission Library, 300 The Atrium, 1200 N Street, Lincoln, Nebraska and at the McKinley Education Center, 301 West F Street, North Platte, Nebraska.

E V I D E N C E

Mr. Simonsen, Complainant, testified that in 2001, he moved from Chappell to Big Springs, Nebraska, where Qwest provides local telephone service. Mr. Simonsen was dissatisfied with his experience in trying to hook up his telephone. He stated that upon contacting Qwest, he was treated very rudely. He testified that Qwest would not offer him basic service because it was not offered anymore and that he would be required to take options that he did not want. Mr. Simonsen was further dissatisfied with Qwest's request for him to fax a copy of his social security number and driver's license as he was concerned about identity fraud. Mr. Simonsen offered Qwest his previous phone number as proof of good credit. He was asked to fax this information to Qwest, and he testified that he did so on four separate occasions.

Mr. Simonsen further testified that he was primarily concerned with cramming. He stated that Qwest representatives told him that he had to take services that he did not want as they did not offer basic service. Mr. Simonsen feels that he was being cheated. Mr. Simonsen then disconnected his service and used a cell phone exclusively.

Upon learning that Qwest had a new chief executive officer (CEO), Mr. Simonsen testified that he decided to subscribe for telephone service from Qwest again. Mr. Simonsen stated that it

took over a month to get service to his home connected. Mr. Simonsen testified that he believed that the only reason that he received service from Qwest was because he filed a complaint with the Commission.

Mr. Simonsen further testified that Qwest's motion to dismiss states that he agreed to accept \$47.00 as compensation. Mr. Simonsen denies that he accepted such compensation, and testified that he told Qwest representatives that he would not accept that amount because he wanted additional compensation. He stated that he received a check in the mail but did not cash it because he understood that it would be an acceptance of Qwest's offer.

On cross-examination by Qwest's counsel, Mr. Simonsen testified that he first ordered service from Qwest in September or October of 2001 and that service was operative on or about November 6, 2001. He further testified that he disconnected his local phone service on or about November 6, 2001, because Qwest would not connect his long distance. He testified that he found out later that his long distance had been connected the day he cancelled service.

Mr. Simonsen further testified that he received a bill for service at some point after November 19, 2001, and that he refused to pay it. Mr. Simonsen further testified that he attempted to get phone service from Qwest in September of 2002 and that he would not pay the previous balance as he believed that it was not a legitimate bill.

Mr. Simonsen further testified that Qwest offered to waive all of the charges that he incurred in November 2001, and that Qwest had sent him a check reimbursing him for this cost. Mr. Simonsen refused to cash the check because he did not want to accept an offer of settlement from Qwest.

Upon being asked what remedy he is seeking, Mr. Simonsen stated that he wished to have a full year of basic telephone service at no cost, \$300.00 for time, mileage, and fax expenses, and \$150,000.00 for the false statements that he believed were contained in Qwest's motion to dismiss. He further asked that Mary Brewer be terminated from her position at Qwest for her treatment toward him and requested to meet with the new CEO of Qwest to explain what happened to him.

Mr. Simonsen further testified that he had asked that his phone number be listed under the name Smith so he would know when telemarketers were calling him. He also stated that he did not have any records of the facsimile communications that he claimed he had sent to Qwest. This concluded Mr. Simonsen's testimony.

Scott McIntyre testified on behalf of the Defendant. Mr. McIntyre testified that he is the Director of Product and Market Issues for Qwest Corporation. He stated that in preparing his testimony for the hearing he reviewed the records of service orders dealing with Mr. Simonsen's account and spoke with Mary Brewer and Sharon Duran in the executive complaints department to attempt to ascertain the series of events leading up to the complaint.

Mr. McIntyre further testified that through his investigation, he concluded that on October 31, 2001, Mr. Simonsen placed an order with Qwest for service under the name of Smith. On November 6, 2001, Qwest installed service with toll restrictions meaning that no toll usage was allowed. In addition, the service included Select Choice, an optional package of services for an additional \$7.30 per month. Upon receiving a letter of credit from Sprint on November 19, 2001, Qwest added AT&T as the local long distance and interstate long distance carrier. He further testified that on the same day, Qwest received an order to disconnect the service. The disconnect order indicated that the customer was planning to exclusively use wireless service. He further stated that Qwest sent Mr. Simonsen a final bill of \$95.00 and heard nothing back from him, thus, the bill was sent to collections.

Mr. McIntyre further testified that in September of 2002, Mr. Simonsen placed an order for Qwest service. As a result of the complaint filed with the Commission, Qwest adjusted the initial bill removing the charges for Select Choice and toll restrictions, lowering the bill to \$47.35. Mr. McIntyre testified that at that point, Qwest still expected payment of the \$95.00 bill in addition to a \$100.00 deposit for long distance service. On September 19, 2002, Qwest received payment for the \$95.00 bill and the deposit. At that time Qwest activated service to Mr. Simonsen. Subsequently, Mr. Simonsen made a complaint to executive complaint department at Qwest. Qwest representative Sharon Duran decided to waive the \$100.00 deposit and changed the telephone number so it would be easier for Mr. Simonsen to remember. Qwest also offered to refund the initial \$47.35 bill and sent him a letter and a check to that effect.

On cross-examination, Mr. McIntyre testified that he could not account for documents that Mr. Simonsen claims to have faxed because Qwest did not receive them.

No additional witnesses testified.

O P I N I O N A N D F I N D I N G S

It appears that Qwest has taken all reasonable measures to correct Mr. Simonsen's billing problem. Qwest ultimately waived the \$100.00 deposit, and offered a refund of \$47.35 to address the month of service in which Qwest erroneously charged Mr. Simonsen. As Mr. Simonsen and Mr. McIntyre both testified, the Commission previously addressed the addition of Select Choice service in a prior informal complaint, and that Qwest removed such service from Mr. Simonsen's account. It also appears that Mr. Simonsen's use of a false name in obtaining telephone service may have contributed to Qwest requiring a deposit.

The Commission appreciates Mr. Simonsen's efforts to bring this situation to the attention of the Commission. Mr. Simonsen's complaint is the Commission's only open formal complaint on Qwest cramming. Thus far, complaints regarding cramming by Qwest in Nebraska have not risen to a level to necessitate a full-scale investigation by departmental complaint. The Commission, in the normal course of business, will continue to track complaints regarding cramming by Qwest, and will pursue further investigation as needed.

At hearing, Mr. Simonsen requested a full year of basic telephone service at no cost, \$300.00 for his time, car mileage and fax expenses, and \$150,000.00 for false statements that he believed were contained in Qwest's motion to dismiss. He further requested that Mary Brewer be terminated from her position at Qwest and requested to meet with Qwest's new CEO. The Commission finds that Mr. Simonsen's request for relief should be denied and that this complaint should be closed.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Mr. Simonsen's complaint should be, and it is hereby, denied.

MADE AND ENTERED at Lincoln, Nebraska, this 28th day of
January, 2003.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Executive Director