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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UCB 4

TERRY L. CALVERT, dba CALVERT )  
 COMPUTER SYSTEMS, INC. )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 QWEST CORPORATION, )  
 )  
 Defendant. )

ORDER

DISPOSITION: MOTION GRANTED; COMPLAINT DISMISSED

**Background**

On July 11, 2002, Terry Calvert filed a complaint against Qwest Corporation. On July 26, 2002, Qwest filed a Motion to Dismiss the complaint. Mr. Calvert did not file a response to the motion.

Complainant received several telecommunications services from defendant. One of the services was called "Network Access Channel, 2-wire interface, Rate Group 3." Prior to January 1, 2002, the monthly rate for that service was \$9.80. On January 1, 2002, the rate was increased to \$65.00 per month. The increase in rates was approved by the Commission in Docket No. UT 125. That proceeding was a substantial general rate case that included rate structure issues. Rate changes were authorized for service rendered on and after January 1, 2002. Numerous services were re-priced in that proceeding, and the price decreases were greater than the price increases. However, the prices of some services were increased, including the price of Network Access Channel, 2-wire interface, Rate Group 3. For a more complete explanation of the decisions made in Docket No. UT 125, see the orders issued in that proceeding, including orders numbered 01-810, 01-1098, and 02-258.

The Commission provided appropriate notice of that proceeding.

Qwest could not implement all of the rate changes authorized in Docket No. UT 125 by January 1, 2002, the date the revised rates became effective. Qwest requested permission to implement the revised rates in phases, but with the effective date of the new rates to remain January 1, 2002. Retroactive billing would be a necessary part of the phasing process. The Commission approved the request in Order No. 02-258. The Commission pointed out that the rates it approved for Qwest were calculated on the basis of an effective date of January 1, 2002. Docket No. UT 125 was a long and complicated proceeding and the final prices were calculated on the basis of a definite effective date for the new rates. The Commission explained the need for a definite effective date in Order No. 02-258.

In January 2002 Qwest sent a notice to its customers stating that the rate changes that took effect on January 1, 2002, would be implemented in phases, retroactive to January 1, 2002. Complainant received that notice. The notice said the rate changes would be retroactive to January 1, but did not include a calculation of each rate change and how it affected each customer. Complainant did not contact Qwest or the Commission to find out what the increase would be for him, and did not know the amount of the increase until he received his bill dated April 8, 2002. Complainant calculates the increased amount to be \$178.48, plus taxes and fees for a total of \$199.01. The price increase and retroactive billing for it caused complainant to switch service to another company. Mr. Calvert has not paid Qwest for the increase in his network access rate. Qwest turned the account over to a collection agency, which has contacted complainant for payment.

### **Mr. Calvert's Complaint**

Mr. Calvert complains that the notice of the increase in his network access service was too general and did not specify the amount his bill would increase. He asks that: (1) Qwest be prevented from collecting the amount in dispute; (2) the collection agency be instructed to cease collection efforts; (3) the Commission declare that Qwest's failure to provide specific details of its rate increases nullifies its ability to retroactively bill for those rate increases; and (4) other Oregon Qwest customers who have been retroactively billed be given the same relief as complainant.

### **Qwest's Motion to Dismiss**

In its motion to dismiss, Qwest points out that the rate increase Mr. Calvert complains about was part of the tariff filings made as a result of decisions made in Docket No. UT 125. The tariff schedules became effective as of January 1, 2002. Qwest sent notice to its customers stating that the rate changes would be implemented in phases and would be retroactive to January 1, 2002. The notice to complainant stated that rates for services provided to him would be changed as of January 1, 2002. Qwest refers to ORS 759.190, which requires utility companies to give the Commission 30 days' notice of changes in rates, and ORS 759.205, which requires utility companies to charge what their approved tariffs specify. Qwest argues that it went

beyond the legal requirements in giving complainant and other customers notice of the rate changes.

**Resolution**

In general rate change proceedings, such as Docket No. UT 125, the utility company and the Commission publish and distribute notices to the utility's customers and the public about the proposed rate changes. The notices provide information about the requested changes and offer the opportunity for interested persons to participate in the proceeding. Changes approved in the proceeding are then embodied in tariff schedules filed with the Commission. Commission orders issued in the proceeding provide details about any changes adopted. Copies of Commission orders are available to those who want to read them. In addition, the Commission usually provides information to the news media about the proceeding and any rate changes approved. Any person who is interested in the rate changes may contact the utility company or the Commission and determine what rates have been changed, the effective date of the changes, and any other information about the proceeding or rates. This is true whether the person participated in the proceeding or chose not to participate.

In this case, Qwest also sent notice to its customers about the rate changes and the phase-in of the changes with retroactive effect. We understand complainant's concern when he received a bill for a rate that was much higher than anticipated. However, complainant had several avenues open to him to determine what rate changes applied to him and how much the rates changed. Utility companies with large customer bases cannot be expected to estimate the impact of each rate change on each service provided to each its of its customers.

The Commission addressed appropriate rates for Qwest in Docket No. UT 125, including the need to make rate changes effective as of January 1, 2002, even though Qwest did not have the rate schedules on file with the Commission on that date. *See specifically* Order No. 02-258.

The rates applicable to a majority of Qwest customers were reduced in Docket No. UT 125. Those customers were happy with the effective date of January 1, 2002. Unfortunately, the rates applicable to one of complainant's services increased substantially and he was unhappy with the effective date of January 1, 2002. We sympathize with Mr. Calvert, but the rates adopted in Docket No. UT 125 are based on sound financial and regulatory concepts. The process used in that proceeding was fair, reasonable, and open to the public.

Qwest complied with requirements relating to tariff filings and notice to the Commission and its customers. The rates it charged complainant were approved in Docket No. UT 125. Its motion to dismiss should be granted.

**ORDER**

IT IS ORDERED that the complaint filed by Terry L. Calvert against Qwest Corporation is dismissed.

Made, entered, and effective \_\_\_\_\_.

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**Roy Hemmingway**  
Chairman

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**Lee Beyer**  
Commissioner

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**Joan H. Smith**  
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.