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May 30, 2001

Jessica Elliott
Florida Public Service Commission
Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED - FPSC
MAY 30 AM 9:57
REPORTING AND
REGISTRATION

Re: Docket No. 000778

Dear Ms. Elliott:

The purpose of this letter is to report Qwest Communications, Inc.'s ("Qwest") review of certain allegations underlying the Staff's request that Docket No. 000778 be opened for the purpose of considering the initiation of show cause proceedings against Qwest, and to offer to settle the pending matter.

As you are aware, Docket No. 000778 was opened in June of 2000 to consider allegations that Qwest violated Rule 25-4.118, F.A.C.

On November 12, 2000, after considering (1) information furnished by Qwest concerning stringent measures that Qwest had implemented as of September 1999 to reduce instances of complaints of unauthorized carrier changes and (2) the dramatic reduction in complaints that followed the implementation of those measures, Staff informed the Division of Records and Reporting that Docket 000778 had been opened prematurely. However, on February 5, 2001 Staff asked that the docket be reopened, and that a reference to Rule 25-4.043, F.A.C. be added to the style.

Following the reopening of Docket 000778, representatives of Qwest met with Staff to discuss Staff's concerns. Mr. Mark Pitchford, Senior Vice President with Qwest, shared with Staff updated information supporting Qwest's assertion that the stringent control measures alluded to earlier were continuing to have the desired effect. Staff acknowledged that its review of the number of complaints received after September 1999 led Staff to close Docket No. 000778. Staff explained that it reopened the docket based on an apparent sudden increase in the number of complaints; Staff processed five complaints as slams in December 2000 and five more in January of 2001.

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FPSC RECORDS/REPORTING

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When it reopened the matter in February, Staff included complaints relating back to April of 2000 in the scope of the renewed investigation. Staff provided to Qwest copies of certain allegations received from customers during the period April 2000 - March 2001. A detailed analysis of the complaints is attached. I will summarize the findings in this letter.

Staff provided to Qwest some twenty-four allegations of unauthorized carrier changes. Recently Staff informed Qwest that Staff removed two complaints from the original list of twenty-four after reviewing the TPV tapes furnished by Qwest. It is Qwest's position that four more complaints are completely groundless and should be eliminated from further consideration altogether. Two of the four involve customers who initiated requests for Qwest service through the LEC. A third customer erroneously lodged a complaint against Qwest instead of the reseller of Qwest services who had the relationship with the customer. Another allegation was received from a customer who never received service from Qwest under the telephone number alleged to have been switched. By definition, if Qwest never served the line in question, an unauthorized switch could not have occurred.

Of the remaining 18 allegations, fully 14 involve instances in which the customer's authorization was recorded on a TPV tape, but the complaint was closed as a "slam" because the information on the tape did not encompass all of the information delineated in Rule 24-4.118. One of these involved a customer from whom Qwest had received both a letter of agency *and* a TPV tape. Particularly with respect to instances in which the information obtained from the customer is sufficient to establish that the customer authorized Qwest to change the customer's carrier, Qwest respectfully submits that the Commission's consideration of the allegation of an unauthorized carrier change should distinguish between circumstances in which the carrier cannot demonstrate any authority to make the change, on the one hand, and technical omissions of data from authorized changes, on the other.

That being said, by no means does Qwest take the deficiencies in certain TPV tapes lightly. Qwest assures the Commission that it is taking measures designed to ensure that TPV tapes capture all of the information prescribed by the Commission's rule in the future.

Qwest determined one of the remaining complaints to be the result of an inadvertent keypunch error. With respect to the other three, Qwest was unable to locate a TPV.

Without intending in any way to trivialize the deficiencies in the information included in some of the TPV tapes made of the conversations with the customers, Qwest believes that the above information actually reinforces its assertion that the stringent measures it has taken in the past to minimize complaints of unauthorized carrier changes are having the desired good effect. For instance, while the docket was reopened at least in part because of the perception of an upward "spike" in the number of complaints in December 2000 and January 2001, of the five allegations processed as "slams" in the month of December 2000 three should be removed as unfounded.

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With respect to all of the allegations, Qwest denies that it engaged in any intentional or willful violation of Commission regulations that would warrant the imposition of a penalty or fine under governing statutes. However, for purposes of settlement, Qwest offers to contribute \$18,000 to the state's General Revenue Fund. This offer is made for purposes of settlement only, and is conditioned upon the Commission's acceptance of the offer as the resolution of all issues relating to Qwest's compliance with Rule 24-4.118, F.A.C. through the date of Staff's final recommendation in this docket. The offer is separate from, and independent of, the offer of settlement that Qwest is submitting this date in Docket Nos. 010198, 010204 and 000778, relating to allegations of violations of Rule 25-4.043, F.A.C.

Yours truly,



Joseph A. McGlothlin

JAM/mls
w/Enclosure

cc: Blanca Bayo
Rick Moses
Melinda Watts
Kristen Craig
Peter Kirchof
Mark Pitchford
Kathy Ford

FPSC DOCKET NO.: 000778

ANALYSIS OF THE FLORIDA ALLEGED
UNAUTHORIZED CARRIER CHANGES
MAY, 2001

I. Customer Requested and/or LEC Processed

1. Burns – Ms. Burns claims this is an unauthorized switch by Qwest. Qwest records indicate that this change was the result of a change initiated by the customer with the LEC and not Qwest. While Qwest was not involved in causing the switch to occur, Qwest issued a credit anyway.
2. Moore – Ms. Moore claims this is an unauthorized switch by Qwest. Qwest records indicate that this change was the result of a change initiated by the customer with the LEC and not Qwest. While Qwest was not involved in causing the switch to occur, Qwest issued a credit anyway.

Position: These complaints are without a valid basis, as to Qwest.

II. Change Initiated by Rebiller

1. Nugent – Mr. Nugent claims this was an unauthorized switch of his service from Sprint to Qwest. Qwest records indicate that this was actually a switch to a rebiller and the transaction was initiated by that rebiller. A credit was issued.

Position: Qwest is not responsible for carrier changes initiated by rebillers. The rebiller should be held accountable for this change. This complaint has no valid basis, as to Qwest.

III. Telephone Number Not Switched

1. Vega – Mr. Vega called in on behalf of Seacoast Transportation, Inc. regarding an unauthorized switch of telephone number 305 769-5019. Qwest has no record of that telephone number being billed by the company. This business does have 800 service through Qwest but not under this telephone number. A credit was issued to the customer to satisfy his concerns.

Position: Qwest does not believe that this should be classified as an unauthorized switch since the company has no record of this telephone number and the number was never switched to Qwest.

IV. TPV Produced - Accepted as Complete

1. Gonzalez - TPV reviewed by Staff, accepted as complete.
2. Walters - TPV reviewed by Staff, accepted as complete.

Position: Based on information from Staff, Qwest believes these complaints will be removed from consideration as being without basis.

V. TPV Produced - Information Incomplete

1. Skipper – Ms. Skipper claims this was an unauthorized switch from MCI to Qwest. Staff closed this complaint February 22, 2001 as a rule violation since a TPV had not been provided by the company. Staff notes indicate that a TPV was provided by the company on February 27, 2001 but there was no further action taken. This account should be re-evaluated by Staff. A credit was issued.
2. Casale – Mr. Casale claims this was an unauthorized switch from MCI to Qwest. A credit was issued. No other information is available.
3. Murdock-Hirth – Ms. Murdock-Hirth claims this was an unauthorized switch from AT&T to Qwest. In addition, the customer claims that she was misinformed about the capabilities of Qwest service as it relates to her AT&T calling card. The company provided a TPV to Staff. Their review indicates that the customer did agree to the switch but since the TPV did not contain some information on the tape it was classified as a violation. This account should be re-evaluated by Staff. A credit was issued.
4. Carranza - Ms. Carranza claims this was an unauthorized switch from AT&T to Qwest. A TPV was provided to Staff. Staff determined that the quality of the tape was poor and the information was insufficient. A credit was issued.
5. A-1 Air Conditioning – Mr. James Spiak claims this was an unauthorized switch. TPV was provided to Staff but was classified as a violation because it was an automated TPV. Qwest records show that Ms. Elaine Spiak authorized the change. This account should be re-evaluated by Staff. Credit was issued.
6. JMK Associates – Ms. Josephine Tanner claims this was an unauthorized switch. Qwest provided a TPV to Staff that indicated a "Joe" Tanner authorized switch. Customer claims does not go by "Joe". Staff expressed concern over mixture of live and automated TPV. Credit was issued.
7. Firecraft of Florida – Mr. Dan Weisse claims this was an unauthorized switch from AT&T to Qwest. Staff closed this complaint February 22, 2001 as a rule violation since a TPV had not been provided by the company. Staff notes indicate that a TPV was provided by the company on February 23, 2001 but there was no further action taken. This account should be re-evaluated by Staff. A credit was issued.
8. Wood – Mr. Wood claims this was an unauthorized switch. TPV was provided to Staff who reviewed it with customer. TPV was mixture of automated and live information. Customer claims spoke with live rep but not automated. Customer did provide information (i.e., DOB) for TPV but claims was pressured by rep. Staff questions the quality of the TPV. Credit was issued.
9. E&E Equipment Sales – Ms. Theresa Dreyer claims this was an unauthorized switch. A TPV was provided to Staff and reviewed with the customer. Ms. Dreyer advised Staff that the party on the tape, Renee Bockler, is not an employee of her business. Staff is concerned with the information on the automated TPV. A credit was issued.
10. Silva - Mr. Silva claims this was an unauthorized switch from AT&T to Qwest. Staff classified as a violation because a TPV was not provided. Subsequently, a TPV was located and will be provided with this response. This account should be re-evaluated by Staff. A credit was issued.

11. Cornejo – Ms. Crovetto claims this is an unauthorized switch from AT&T to Qwest. An LOA was provided to Staff and customer. Customer disputes the use of her maiden name and signature on LOA even though other information is correct. TPV was subsequently found and is being provided with this response. This account should be re-evaluated by Staff. A credit was issued by Qwest and LEC.
12. Fiaga – Mr. Dieguez (son) called on behalf of customer who claims this was an unauthorized switch. TPV was provided to Staff and reviewed with son who claims the DOB for his mother is wrong. Staff classifies as violation. A credit was issued.
13. Association Management Resources – Ms. Catherine Gelston claims this was an unauthorized switch from MCI to Qwest. Staff classified as violation because TPV was not provided. TPV has been located and is provided with this response. This account should be re-evaluated by Staff. Credit was issued.
14. Marquis Mortgage – Mr. Issacs claims this was an unauthorized switch. Qwest records indicate that customer called in to disconnect account but did not claim unauthorized switch. Staff classified as a violation because no TPV was provided. TPV has been located and is provided with this response. This account should be re-evaluated by Staff. Credit was issued.

Position: Qwest believes that the production of the TPVs for these accounts supports its position that these switches were authorized by the customer. When gauging compliance, Qwest believes the Commission’s consideration should distinguish between unauthorized changes , on the one hand, and technical deficiencies in tapes that on the whole support an assertion of authority, on the other. Qwest recognizes that in the above instances some portions of information specified the rule were inadvertently omitted when the TPV tape was recorded. Qwest is addressing this situation and intends to comply fully with the PSC rule going forward.

VI. System Error

1. Gould – Ms. Gould claims this was an unauthorized switch by Qwest. Qwest records indicate that this telephone number was inadvertently entered into the system as a business account. A credit for LEC charges has been issued no toll charges were billed.

Position: This appears to be an isolated system error.

VII. TPV Could not be Located

1. Calderwood – Mr. Calderwood claims this was an unauthorized switch by Qwest. No additional information is available. A credit for toll and LEC charges has been issued.
2. Morilla - Mr. Morilla claims this was an unauthorized switch by Qwest. No additional information is available. A credit for toll and LEC charges has been issued.

3. O. Gonzalez - Ms. Gonzalez claims this was an unauthorized switch by Qwest. Qwest records indicate account established in 1999 through a 3rd party vendor. The vendor is unable to locate the LOA or TPV. Vendor was terminated by Qwest in March, 2000. A credit for toll and LEC charges has been issued.