

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>GRACE JOINT SCHOOL DISTRICT NO. 148,</b>	)	
	)	<b>CASE NO. QWE-T-10-04</b>
<b>COMPLAINANT,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>QWEST CORPORATION,</b>	)	<b>ORDER NO. 32039</b>
	)	
<b>RESPONDENT.</b>	)	

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On May 6, 2010, the Commission received a “formal complaint” from Brian Stutzman on behalf of Grace School District No. 148. In the complaint, Mr. Stutzman claimed that a power surge caused by Qwest Corporation damaged telephone equipment at one of the District’s elementary schools. Mr. Stutzman requested that Qwest pay \$1,500 to partially cover the cost of replacing the damaged telephone equipment. He also asserted Qwest had not been responsive to his claims for damage reimbursement.

In Order No. 31099 issued June 3, 2010, the Commission dismissed the complaint, finding it does not have the statutory authority to award damages under the Idaho Telecommunications Act, *Idaho Code* §§ 62-601 *et seq.* The Commission also found that although “Qwest may have been more responsive to [Mr. Stutzman’s] calls and letters, we cannot find that [Qwest] was entirely non-responsive.” Order No. 31099 at 5. While “Qwest did not respond to every letter or phone call, . . . what is clear is that Qwest denied the District’s liability claim.” *Id.*

On June 17, 2010, Commission Staff received a request from Mr. Stutzman asking if Order No. 31099 could be amended. He asserted that Order No. 31099 “made it look like there had been regular and constant responses from Qwest. It has been nothing of the sort.” Having reviewed Mr. Stutzman’s request and our prior Order No. 31099, we deny the request to amend the Order.

**DISCUSSION AND FINDINGS**

Mr. Stutzman asserts in his e-mail that the Commission’s Order does not accurately portray the exchange of communications between himself and Qwest. More specifically, his e-mail states in part:

I would ask that part of [Order No. 31099] be corrected to include that I called Qwest's Joni Duran at least three times each month of December, January and February, for a total of nine times, and received zero response except for 2 form letters. It was only after I drove to Denver to try to meet with her that she left 2 after hour voice mails for me. To this date, she has never returned a call during business hours.

Your [Order] made it look like there had been regular and constant responses from Qwest. It has been nothing of the sort.

Can you amend [the Order] to reflect this?

The Commission's Procedural Rule 326 addresses the amendment of final orders. Rule 326.01 provides that any person may petition "to rescind, alter or amend a final order pursuant to Section 61-625, Idaho Code." This rule further provides that a petition to amend must state that "there have been changed circumstances or new information that has become available since the order was issued, or that there are other good and sufficient reasons for rescinding, altering or amending the order." IDAPA 31.01.01.326.01.b. For purposes of our review, we shall treat Mr. Stutzman's e-mail as a Petition to Amend our final Order No. 31099.

Having reviewed Mr. Stutzman's e-mail and our prior Order, the Commission finds it is unnecessary to amend our prior Order No. 31099. We believe the prior Order captures the tenor of Mr. Stutzman's complaint that Qwest did not return each and every one of his telephone calls. We note that Mr. Stutzman's complaint does not succinctly state that he called Qwest nine times (three times each month in December, January and February). However, Order No. 31099 specifically states the Commission agreed with Mr. Stutzman's claim that "Qwest did not respond to every letter or phone call, but what is clear is that Qwest denied the District's liability claim." Order No. 31099 at 5.


The Commission's prior Order noted that "While Qwest may have been more responsive to the calls and letters, we cannot find that the Company was entirely non-responsive." *Id.* Again as we found in the prior Order, the gravamen of this complaint was the District's claim for damages. When the District submitted a written damage claim to Qwest on December 7, 2009, the Company sent a reply letter denying the claim on December 16, 2009. *Id.* at 1. When Mr. Stutzman sent another claim request on February 5, 2010, to Qwest, it was denied in writing on February 18, 2010. *Id.* at 5.

**ORDER**

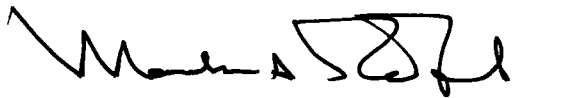
IT IS HEREBY ORDERED that Mr. Stutzman's request to amend Order No. 31099 is denied.

THIS IS A FINAL ORDER DENYING RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. QWE-T-10-04 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

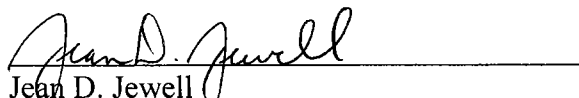
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28<sup>th</sup> day of July 2010.

  
JIM D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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