

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
J & M Machine, Inc.,)	
)	
Complainant,)	
v.)	Case No. 07-60-TP-CSS
)	
Qwest Communications Corporation,)	
)	
Respondent.)	

ENTRY

The Commission finds:

- (1) On January 22, 2007, J & M Machine, Inc. (complainant or J&M) filed a complaint against Qwest Communications Corporation (Qwest) alleging that its long distance service was switched to Qwest without authorization. J&M states that the time period for the unauthorized switch was from December 27, 2006 until January 19, 2007, when J&M was returned to its previous long distance carrier.
- (2) On February 12, 2007, Qwest filed an answer and motion to dismiss this complaint. In its answer, Qwest denies that it switched J&M's long distance carrier without any communication with the complainant or without authorization from complainant. Further, Qwest asserts, among other things, that J&M failed to join Legent Communications Corporation (Legent) as a necessary party to this complaint. Next, Qwest contends that the complaint has been satisfied as J&M was switched back to its previous long distance carrier prior to its complaint filing. Last, Qwest asserts that the complaint fails to state a claim upon which relief can be granted.
- (3) In its motion to dismiss, Qwest asserts that it received a "subscription order" from Legent, a reseller of Qwest long distance services. Qwest further asserts that it acted lawfully in submitting a long distance carrier change request to J&M's local exchange service provider (AT&T Ohio), in response to Legent's subscription order. Qwest contends that whether or not Legent had the proper authority to place the order with Qwest was beyond Qwest's knowledge and beyond its ability, under the Federal Communication Commission's rules, to

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inquire prior to processing Legent's order. Therefore, Qwest requests that the slamming complaint against Qwest be dismissed. As a final matter Qwest claims that, under Rule 4901-9-01(E), Ohio Administrative Code, complainant was notified that it has 20 days to file a written response agreeing or disagreeing with Qwest's assertion that its complaint has been satisfied (by J&M's return to its previous long distance carrier on January 19, 2007).

- (4) On February 13, 2007, J&M filed a request with the Commission to withdraw its complaint.
- (5) The Commission will treat J&M's request as a motion to dismiss the complaint against Qwest. Accordingly, J&M's motion should be granted and this complaint should be dismissed.

It is, therefore,

ORDERED, That J&M's motion to dismiss the complaint is granted. It is, further,

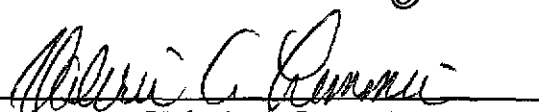
ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

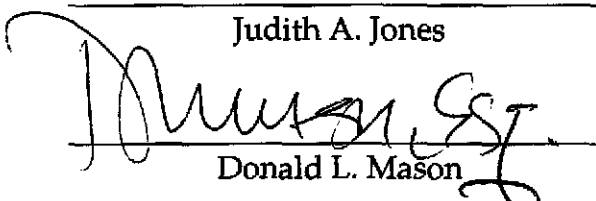


Ronda Hartman Fergus



Valerie A. Lemmie

Judith A. Jones




Donald L. Mason

JKS:ct

Entered in the Journal

FEB 28 2007



Renee J. Jenkins
Secretary