

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

JOHN BREWSTER,)	
)	
Complainant,)	CASE NO. VZN-T-10-03
)	
vs.)	
)	
VERIZON NORTHWEST INC.,)	
)	ORDER NO. 32079
Respondent.)	
)	

In December 2009, John Brewster filed an informal complaint with Commission Staff against Verizon Northwest Inc.¹ Mr. Brewster requested telecommunications service from Verizon. The remote location of his home requires a line extension of more than 7,900 feet. Mr. Brewster argued that Verizon's line extension policy, allowing only its approved contractor to install and splice new service cable, is unreasonable. Mr. Brewster obtained a bid from a private contractor that was significantly lower than the price quoted by Verizon for the same work. Attempts to resolve his informal complaint were unsuccessful. Mr. Brewster filed a "formal complaint" on February 3, 2010. On April 8, 2010, the Commission issued a summons and the Company filed its answer on April 29, 2010. The Company requested dismissal of the complaint for failure to state a legal claim and lack of jurisdiction by the Commission to adjudicate the dispute.

In Order No. 32046 issued August 12, 2010, the Commission dismissed Mr. Brewster's complaint, concluding that Verizon's actions were consistent with the line extension provisions of its filed price lists. The Commission further determined that Mr. Brewster's circumstances did not amount to "unusual conditions" in order to invoke a clause in the price list that could allow a departure from Verizon's standard rates for line extensions. The Commission did, however, urge Verizon to consider a competitive bidding process and/or an approved contractors list for its line extension projects and other similar work.

On September 1, 2010, Mr. Brewster filed a Petition for Reconsideration pursuant to *Idaho Code* § 61-626. Mr. Brewster asserts that the Commission's final Order is "unreasonable,

¹ On July 1, 2010, while this complaint was still pending, Frontier Communications Corporation acquired control of Verizon's local and long-distance telephone operations in Idaho.

unlawful, erroneous, unduly discriminatory and not in conformance with the facts of record and applicable law.” Petition at 1. More specifically, Mr. Brewster argues that (1) his situation *does* fit within the “unusual conditions” clause; (2) Verizon failed to provide justification for its higher estimate of costs to complete the line extension work; and (3) the Commission should direct Verizon to competitively bid his project. After reviewing the Petition for Reconsideration and our prior Order No. 32046, we deny Mr. Brewster’s request for reconsideration.

DISCUSSION AND FINDINGS

The Commission’s Procedural Rule 331 addresses reconsideration of the Commission’s final orders. Rule 331.01 states in pertinent part:

Petitions for reconsideration must set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted.

IDAPA 31.01.01.331.01. Reconsideration affords the Commission an opportunity to rectify a mistake or omission of a matter previously considered prior to its appeal to the Idaho Supreme Court. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979).

Mr. Brewster’s request for reconsideration does little more than re-argue the facts that were considered and weighed by the Commission prior to issuing its final Order. Mr. Brewster reiterates his position that his contractor should be able to complete the project, that his situation amounts to an unusual condition, and that Verizon has provided no justification to support its price estimate which exceeds Mr. Brewster’s contractor’s bid for the same work. In the alternative, Mr. Brewster asks that the Commission require Verizon to allow contractors to competitively bid his project.

While Mr. Brewster does an adequate job of stating his disagreement with the Commission’s Order, he does not offer insight into how the Commission’s Order No. 32046 is unreasonable, unlawful, erroneous, or not in conformity with the law as required by Rule 331. As stated in its final Order, the Commission has the authority to investigate and resolve complaints regarding whether prices and conditions of service are in conformance with a telecommunications provider’s filed price lists. *Idaho Code* § 62-616. The Commission determined that Verizon was within the terms of its price list. Other than the argument that his situation fits within the

parameters of unusual conditions, Mr. Brewster does not contend the Commission's conclusion is inconsistent with Verizon's filed price list. Moreover, the Commission clearly delineated what amounts to an unusual condition. Mr. Brewster's situation does not meet the criteria. The Commission appreciates that Mr. Brewster does not agree with its decision and would like a different outcome. However, Mr. Brewster has failed to articulate a legal basis for the Commission to reach a different conclusion.

ORDER

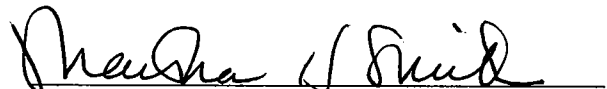
IT IS HEREBY ORDERED that Mr. Brewster's Petition for Reconsideration is denied.

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. VZN-T-10-03 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

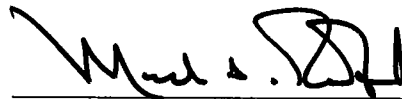
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29th day of September 2010.



JIM D. KEMPTON, PRESIDENT

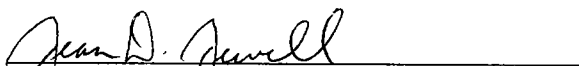


MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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