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In the Matter of the Complaint of	)	
WILLIAM J. SIVILL,	)	<u>DOCKET NO. 99-049-15</u>
Complainant	)	
vs.	)	
MOUNTAIN STATES TELEPHONE	)	
AND TELEGRAPH COMPANY, dba	)	
U.S. WEST COMMUNICATIONS,	)	<u>REPORT AND ORDER</u>
Respondent	)	

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ISSUED: June 30, 1999

SYNOPSIS

Complainant having failed to show any violation of Respondent's published tariffs or of the applicable statutes and Commission rules, we dismiss.

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Appearances:

Jill M. Pohlman	for	MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, dba U.S. WEST COMMUNICATIONS
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By The Commission:

PROCEDURAL HISTORY

Complainant above-named filed his complaint April 12, 1999, and Respondent filed its answer, together with a motion to dismiss, May 21, 1999. Customer complaints being designated informal proceedings under Commission rules, and there appearing to be no disputed factual issue necessary to the resolution of this matter, we deem it ripe for disposition without hearing or submission of further evidence. The Administrative Law Judge, having been fully advised in the premises, now enters the following Report, containing proposed findings of fact, conclusions of law, and the Order based thereon.

FINDINGS OF FACT

1. Complainant is a residential customer of Respondent, a telephone corporation certificated by this Commission.
2. Complainant alleges that Respondent is illegally failing to provide service on a 1FR line of sufficient quality to allow a 56K modem to use its full potential data throughput. Complainant seeks an upgrade in his line to allow such throughput.
3. In its answer, Respondent asserts that its tariff does not guarantee any digital communication capability on its voice-grade lines.

CONCLUSIONS OF LAW

The Commission has party and subject-matter jurisdiction. Complainant has failed to allege facts or a legal basis which

would entitle him to the relief he seeks. Respondent's tariff , once approved by the Commission, has the force of law. That tariff specifically does not guarantee digital communications capability of any particular level for a voice-grade line, which is what Complainant is using.

Furthermore, it is patent that affording Complainant the relief he seeks would entail major investment by Respondent, which would have a substantial financial impact on all of Respondent's ratepayers, including those who have no interest in digital communication services. We are not willing to consider an issue with such wide policy ramifications in the context of a complaint proceeding by a single subscriber. Accordingly, the complaint must be dismissed.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The complaint of WILLIAM J. SIVILL against MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, dba U.S. WEST COMMUNICATIONS, be, and the same hereby is, dismissed.

If WILLIAM J. SIVILL wishes to proceed further, WILLIAM J. SIVILL may file a written petition for review within 20 days of the date of this Order. Failure so to do will forfeit the right to appeal to the Utah Supreme Court.

DATED at Salt Lake City, Utah, this 30th day of June, 1999.

/s/ A. Robert Thurman  
Administrative Law Judge

Approved and Confirmed this 30th day of June, 1999, as the Report and Order of the Public Service Commission of Utah.

Though we approve this order because it is legally correct, we are not satisfied that the data throughput standard today will be adequate for the future. This is an issue we will ask the Division of Public Utilities to investigate and make recommendations.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary