

In the Matter of the Complaint of)
STEVEN RASMUSSEN, Complainant)
vs.)
MOUNTAIN STATES TELEPHONE AND)
TELEGRAPH COMPANY, dba U.S.)
WEST COMMUNICATIONS,)
Respondent)

DOCKET NO. 99-049-24

REPORT AND ORDER

ISSUED: August 19, 1999

SYNOPSIS

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

Appearances:

Jill M. Pohlman

For

MOUNTAIN STATES TELEPHONE
AND TELEGRAPH COMPANY, dba
U.S. WEST COMMUNICATIONS

By the Commission:

PROCEDURAL HISTORY

Complainant above-named filed his complaint June 18, 1999, and Respondent filed its answer, together with a motion to dismiss, July 19, 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 has wrongfully failed to deploy residence lines capable of sustaining 56k modem throughput or Digital Subscriber Line (DSL) service to his residence in Mount Pleasant, Utah.
3. In its answer, Respondent asserts it has not violated its tariff or applicable law.

CONCLUSIONS OF LAW

The Commission has party and subject-matter jurisdiction. Complainant has failed to allege facts which would entitle him to relief under Section 54-7-20, UCA 1953, as amended. That statute entitles a customer to reparations only upon a showing of charges beyond Respondent's published tariff, or a discriminatory application of the tariff. The facts alleged by Complainant do not indicate such overcharge or discrimination.

While the Commission does set service standards for regulated utilities, it is unwilling to do so in the context of a complaint by a single ratepayer, since deployment of such technology may (in fact almost certainly) would impact rates for all customers, including many who would not be interested in the service Complainant seeks. We note that if he can interest Central Utah Telephone in serving him at a cost he is willing to pay, that entity can petition the Commission for authority to serve him. The complaint must be dismissed.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

the complaint of STEVEN RASMUSSEN against MOUNTAIN STATES TELEPHONE AND TELEGRAPH COMPANY, dba U.S. WEST COMMUNICATIONS, be, and the same hereby is, dismissed.

If STEVEN RASMUSSEN wishes to proceed further, STEVEN RASMUSSEN 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 19th day of August, 1999.

/s/ A. Robert Thurman
Administrative Law Judge

Approved and Confirmed this 19th day of August, 1999, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Clark D. Jones, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary