

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

DOCKET NO. 99-049-26

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 her complaint June 28, 1999, and Respondent filed its answer, together with a motion to dismiss, July 28, 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 included long distance charges for a toll carrier named USBI, double-billed her for a primary carrier change, and did not specifically inform her of the availability of a PIC freeze.
3. In its answer, Respondent avers that it has credited her account for the double charge, has put a PIC freeze on her account, and has recoured all USBI charges through July 1, 1999. Respondent is not threatening to suspend her service over the USBI charges. Respondent states that it is only a billing agent for USBI, and Complainant will have to contact USBI directly to settle the disputed charges.

CONCLUSIONS OF LAW

The Commission has party jurisdiction; subject-matter jurisdiction is lacking. Complainant has failed to allege facts

which would entitle her 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.

The Commission has no jurisdiction over USBI, and hence cannot resolve the controversy over charges from that entity to Complainant. Since Respondent is only a billing agent for USBI, and is not asserting any claim of its own, there appears to be no violation of respondent's tariff or other applicable law. Complainant will have to contact USBI directly to resolve the matter. Since Respondent has credited Complainant's account for the double carrier change charge, she has received the maximum relief the Commission has authority to afford. Accordingly, the complaint must be dismissed.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

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

If PAULA K. SMITH wishes to proceed further, PAULA K. SMITH 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