

In the Matter of the Complaint of)
JULIAN D. HATCH,)
Complainant)
vs.)
SOUTH CENTRAL UTAH TELEPHONE)
ASSOCIATION,)
Respondent)

DOCKET NO. 99-052-01

REPORT AND ORDER

ISSUED: March 29, 1999

SYNOPSIS

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

By the Commission:

PROCEDURAL HISTORY

Complainant above-named filed his complaint February 9, 1999, and Respondent filed its answer, together with a motion to dismiss, March 11, 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 would-be residential customer of Respondent, a telephone corporation certificated by this Commission.
2. Complainant alleges that Respondent has improperly denied an extension of service to his property. He has not cited any portion of Respondent's tariff to support the allegation. In addition to the extension of service, he seeks placement of the service within the platted utility easement on his property, as well as engineering estimates and plans for the extension, and that Respondent answer his questions in writing.
3. In its answer, Respondent represents that it stands ready to extend the service upon the payment of a fixed price which it has quoted Complainant. It denies Commission authority to order the other relief Complainant seeks.

CONCLUSIONS OF LAW

The Commission has party and subject-matter jurisdiction. While the Commission accords a customer complainant a good deal of latitude so far as form and content of a written complaint is concerned, there must, nevertheless, be sufficient specific content included to enable the Commission to make a determination whether the Complaint has any basis in law. Without reference to the applicable line extension policy of the utility, the Commission cannot make that determination and so must conclude there is no such violation.

Further, since Respondent is a cooperative, we assume copies of the tariff are readily available for inspection, and Respondent's employees can help Complainant find the applicable sections.

The only relief the Commission could order would be for the Respondent to extend service in compliance with its tariff. The Commission has no authority to specify how Respondent is to accomplish this, or afford Complainant the other relief he seeks.

In its present posture, the case should be dismissed without precluding Complainant from re-filing with more specificity and a showing that Respondent is violating its tariff.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

The complaint of JULIAN D. HATCH against SOUTH CENTRAL UTAH TELEPHONE ASSOCIATION, be, and the same hereby is, dismissed without prejudice to re-filing with more specificity.

If JULIAN D. HATCH wishes to proceed further, JULIAN D. HATCH 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 29th day of March, 1999.

/s/ A. Robert Thurman
Administrative Law Judge

Approved and Confirmed this 29th day of March, 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