

In the Matter of the Complaint of)
THOMAS MANSELL,)
Complainant)
vs.)
SOUTH CENTRAL TELEPHONE)
ASSOCIATION,)
Respondent)

DOCKET NO. 99-052-03

REPORT AND ORDER

ISSUED: March 29, 1999

SYNOPSIS

Complainant having failed to show 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 December 22, 1998, and Respondent filed its answer, together with a motion to dismiss, January 19, 1998. 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 telecommunications corporation certificated by this Commission.
2. Complainant alleges Respondent negligently published erroneous information regarding Complainant's telephone numbers in its white pages and furnished erroneous information to publishers of yellow pages, causing damage to Complainant's business.
3. In its answer, Respondent asserts the Commission has no jurisdiction over directory publishing.

CONCLUSIONS OF LAW

The Commission has party jurisdiction 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. We have no statutory authority to award damages for other violations of the law.

Although Complainant's Complaint is legitimate, we do not believe it is in the public interest to require a reprinting of Respondent's directory, since such costs would have to be borne by all ratepayers for the benefit of only one.

Accordingly, the Commission is unable to afford the relief Complainant seeks, and the Complaint must be dismissed. We believe, however, that since Respondent is a member owned association, it should address the Complaint in its Board of Directors meeting.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

The complaint of THOMAS MANSELL against SOUTH CENTRAL TELEPHONE ASSOCIATION, be, and the same hereby is, dismissed.

If THOMAS MANSELL wishes to proceed further, THOMAS MANSELL may file a written petition for review within 20 days of the date of this Order. Failure so to do will preclude 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