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**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 29th
day of July, 1997.

Kelly Consultants,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-97-534</u>
)	
GTE Midwest Incorporated,)	
)	
Respondent.)	
)	

**ORDER DISMISSING REQUEST FOR DAMAGES
AND DIRECTING STAFF INVESTIGATION**

Kelly Consultants (Complainant) filed a complaint with the Commission against GTE Midwest Incorporated (GTE) on June 13, 1997, alleging that Complainant had suffered economic loss as a result of GTE's conduct. Specifically, Complainant stated that GTE supplied misinformation about equipment availability and installation time, and that GTE installed hardware that resulted in poor telephone service and service outages. Complainant stated that GTE's actions resulted in economic losses and asked the Commission to award compensation in the amount of \$8,000 for subscription cancellations, \$7,390 in losses because of delay in installation of Frame Relay Service to Springfield, \$875 for repair of lightning-damaged equipment, \$1,790 as compensation for installation charges paid to Southwestern Bell Telephone Company, and \$41,895 for subscribers lost and damage to Complainant's good will.

GTE filed its answer on July 18 denying the substantive allegations of the complaint. GTE stated that it made its best efforts to provide the service Complainant requested despite the remote location and lack of available facilities. GTE stated that Complainant rejected alternative suggestions for obtaining the service offered by GTE, and that the facilities GTE was able to install were not designed to provide the data grade of service required by Complainant. GTE stated that it violated no Commission rule, Missouri statute, or tariff provision in its transactions with Complainant. Finally, GTE argued that the Commission does not have jurisdiction to award damages and so cannot grant the relief requested.

The Commission agrees with GTE that the agency does not have jurisdiction to award damages. Although the Commission has jurisdiction to establish rates and assure an acceptable quality of service, it is an administrative body and not a court, and has no power to determine damages or award pecuniary relief. Straube v. Bowling Green Gas Co., 227 S.W.2d 666, 668-669 (Mo. 1950); Wilshire Constr. Co. v. Union Electric Co., 463 S.W.2d 903, 905 (Mo. 1971). The Complaint shall be dismissed insofar as the Complainant requests an award of damages.

However, the Commission finds that Commission Staff should investigate this complaint to determine whether there have been any violations of service quality standards or other violations of Missouri statute, Commission order or rule, or of GTE's tariff provisions. Staff shall file a memorandum setting out the results of the investigation.

IT IS THEREFORE ORDERED:

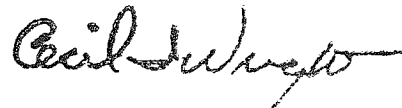
1. That the complaint filed by Kelly Consultants on June 13, 1997, is dismissed insofar as the Complainant requests an award of damages.

2. That the Staff shall conduct an investigation to determine whether, in the course of the transactions described in the complaint, GTE Midwest Incorporated violated any Missouri statute, Commission rule or order, or its tariff provisions. Staff shall file a report of its findings no later than October 29, 1997.

3. That GTE Midwest Incorporated and the Complainant may file responses to Staff's memorandum no later than December 1, 1997.

4. That this order shall become effective on July 29, 1997.

BY THE COMMISSION

A handwritten signature in dark ink, appearing to read "Cecil I. Wright", written over a horizontal line.

Cecil I. Wright
Executive Secretary

(S E A L)

Zobrist, Chm., Crumpton,
Drainer, Murray and Lumpe,
CC., concur.

ALJ: Wickliffe