

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held at its office  
in Jefferson City on the 21st  
day of February, 1992.

Thermalcraft, Inc.,	)	
	)	
Complainant,	)	
	)	
v.	)	<u>Case No. TC-92-191</u>
	)	
AT&T Company (AT&T Communications	)	
of the Southwest, Inc.),	)	
	)	
Respondent.	)	
	)	

ORDER DISMISSING COMPLAINT

On February 13, 1992, Thermalcraft, Inc. (Complainant) filed a complaint against AT&T Company (Respondent) alleging that Respondent had failed to provide Complainant with the most economical service available based upon Complainant's calling patterns. The Respondent's correct corporate name is AT&T Communications of the Southwest, Inc. Complainant alleges that Respondent failed to address its complaints concerning service. Complainant requests that the Commission award actual damages and damages for loss of sales and that the Commission fine Respondent and award damages to Complainant because of the service problems. Complainant also requests reasonable attorney fees and costs.

The Commission has considered Complainant's pleading and finds that it should be dismissed. Section 386.390, R.S.Mo. 1986, requires a complaint to allege any act or thing done or omitted to be done by a public utility in violation of any provision of law, or of any rule or order or decision of the Commission. The Commission finds that Complainant has failed to allege specifically what provisions of law, rule or Commission order Respondent is to have violated. In addition, Complainant's prayer for relief requests monetary damages, which the Commission cannot award. *Gaines v. Gibbs*, 709 S.W.2d 541 (Mo. App. 1986);

*Wilshire Construction Co. v. Union Electric Co.*, 463 S.W.2d 903 (Mo. 1971); *State ex rel. Fee Fee Trunk Sewer Inc. v. Litz*, 596 S.W.2d 466 (Mo. App. 1980).

IT IS THEREFORE ORDERED:

1. That the complaint of Thermalcraft, Inc., against AT&T Communications of the Southwest, Inc., be hereby dismissed.
2. That the Records Department shall send a copy of the complaint and this order to AT&T Communications of the Southwest, Inc.
3. That this order shall become effective on the 3rd day of March, 1992.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

( S E A L )

McClure, Chm., Mueller, Rauch,  
Perkins and Kincheloe, CC., concur.