

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Larry Hawkins,)	
)	
Complainant,)	
)	
v.)	<u>Case No. TC-2005-0139</u>
)	
Missouri Comm South,)	
)	
Respondent.)	

ORDER DIRECTING RESPONSE

Issue Date: March 27, 2006

Effective Date: March 27, 2006

On November 22, 2004, Larry Hawkins filed a complaint against Missouri Comm South, alleging issues regarding the way in which his telephone service is provided and requesting relief by compensation. The Respondent requested mediation, stating that the company was, at the time, in Chapter 11 bankruptcy and lacked resources to hire an attorney. On May 2, 2005, Complainant filed a statement indicating that mediation had not taken place. Respondent filed its answer to the complaint on May 4, 2005, and filed a further response on June 1, 2005.

On May 4, 2005, the Commission directed its Staff to investigate the complaint and file a report. Staff's report was filed on June 13, 2005. Staff stated that it believes the Complainant's issues have been resolved, in that Missouri Comm South has provided Mr. Hawkins a free number change to a nonpublished number, is not charging for the nonpublished number, and has also given credit for call traces initiated by Mr. Hawkins.

Staff stated further that it “appears that MCS has not violated its tariff, Commission statutes or orders in this matter.” Staff notes, regarding Mr. Hawkins’ request for compensation, that the Commission does not have the authority to provide this relief.¹ Neither Mr. Hawkins nor Missouri Comm South responded to Staff’s report.

On January 17, 2006, Staff filed a motion to dismiss the case either for lack of prosecution under 4 CSR 240-2.116(2) because more than 90 days have elapsed since the last activity in the case, or for good cause under 4 CSR 240-2.116(4). Staff stated that since submitting its report, it has been informed that Missouri Comm South is no longer providing service in Missouri. Therefore, as the Respondent has ceased providing service in Missouri and is also no longer providing service to Mr. Hawkins; because Mr. Hawkins’ underlying request to have a nonpublished number has been accommodated at no charge and he has received credit for call traces he initiated; because Staff has found no violation of any tariff, statute or Commission rule; and because the Commission has no authority to provide Mr. Hawkins the relief that he has requested, Staff moves the Commission to dismiss this case. No responses have been filed to Staff’s motion, and the deadline for doing so has passed.

The Commission has considered the pleadings in this case. In addition, the Commission takes official notice of its case file in Case No. TD-2006-0302, where the Commission canceled the certificate of Missouri Comm South because it was no longer doing business in the state. The Commission will direct Mr. Hawkins to file a response stating whether his complaint has been satisfied and may be dismissed, or showing cause why it should not be dismissed. If no response is received, the case will be dismissed.

¹ *DeMaranville, et al., v. Fee Fee Trunk Sewer, Inc.*, 573 S.W.2d 674, 676 (Mo. App. 1978). See, also, *State*

IT IS ORDERED THAT:

1. The Complainant, Larry Hawkins, shall file a response no later than April 11, 2006, advising whether his complaint has been satisfied and may be dismissed, or showing cause why his complaint should not be dismissed.
2. This order shall become effective on March 27, 2006.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Nancy Dippell, Deputy Chief Regulatory
Law Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 27th day of March, 2006.