

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHRIS MILLS	)	
	)	
	)	COMPLAINANT
	)	
V.	)	
	)	CASE NO.
	)	2018-00173
BRANDENBURG TELEPHONE COMPANY,	)	
INC.	)	
	)	
	)	DEFENDANT

ORDER

On May 10, 2018, Chris Mills (“Complainant”), filed a formal complaint against Defendant, Brandenburg Telephone Company, Inc. (“Brandenburg Telephone”). Complainant alleged that Brandenburg Telephone “is trying to charge [him] for services they (sic) did not do to [his] home.”<sup>1</sup> Complainant states that he used services offered by Brandenburg Telephone for a few weeks but the service it provided did not meet his expectations. He alleged that technicians for Brandenburg Telephone performed service outside his home to try to correct the issues, but they were not successful. Complainant seeks to get out of his contract with Brandenburg Telephone and relief from any obligation to pay amounts allegedly owed.<sup>2</sup>

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<sup>1</sup> Complaint at 1.

<sup>2</sup> *Id.* at 2.

A formal complaint filed with Commission must state the full name and address of the complainant and the defendant.<sup>3</sup> Further, a formal complaint must state:

Fully, clearly, and with reasonable certainty, the act or omission, of which complaint is made, with a reference, if practicable, to the law, order, or administrative regulation, of which a failure to comply is alleged, and other matters, or facts, if any, as necessary to acquaint the commission fully with the details of the alleged failure.<sup>4</sup>

Finally, a formal complaint must state the relief sought by the complainant.<sup>5</sup>

Upon receiving a complaint, the Commission is required to examine the complaint to determine whether it establishes a prima facie case.<sup>6</sup> “A complaint establishes a prima facie case when, on its face, it states sufficient allegations that, if uncontroverted by other evidence, would entitle the complainant to the relief requested.”<sup>7</sup> If a complaint does not establish a prima facie case, the Commission must give the complainant an opportunity to amend the complaint, but the Commission must dismiss the complaint if the complainant fails to do so.<sup>8</sup>

Here, even if the Commission assumes that all of the allegations made by Complainant were true, it would be unable to find that Complainant is entitled to the relief requested. In fact, based on the limited information provided by Complainant, the Commission is unable to determine the nature of the services that gave rise to the dispute

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<sup>3</sup> 807 KAR 5:001, Section 20(1)(a)-(b).

<sup>4</sup> *Id.* at Section 20(1)(c).

<sup>5</sup> *Id.* at Section 20(1)(d).

<sup>6</sup> *Id.* at Section 20(4).

<sup>7</sup> *Diane L. Deaton v. Duke Energy Kentucky, Inc.*, Case No. 2017-00174, 1 (Ky. PSC May 22, 2017).

<sup>8</sup> *Id.* at Section 20(4).

at issue, and therefore, whether it has jurisdiction over those services.<sup>9</sup> Thus, Complainant failed to establish that a prima facie case exists or that the Commission has jurisdiction over the allegations made herein. For the Commission to determine whether jurisdiction and a prima facie case exist, Complainant must provide at least a detailed a description of the services about which he complains and the relief sought.

IT IS THEREFORE ORDERED that:

1. Complainant shall have 14 days from the date this Order is entered to file an amended complaint with the Commission that conforms to the requirements of 807 KAR 5:001, Section 20.

2. If Complainant does not file an amended complaint with the Commission that conforms to the requirements of 807 KAR 5:001, Section 20 within 14 days from the date this Order is entered, this matter will be dismissed without prejudice.

3. Brandenburg Telephone shall have no obligation to file an answer or responsive pleading to the complaint or any supplement or amendment thereto until ordered to do so by this Commission.

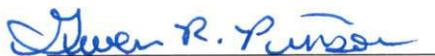
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<sup>9</sup> It should be noted that the Commission has limited jurisdiction over the services of telephone companies due to changes in the law precipitated by federal preemption of state regulation over the last several decades. Thus, in cases involving a telephone company, it is even more important that the complainant clearly describe the dispute that gave rise to the complaint in detail and explicitly describe the relief sought in detail.

By the Commission



ATTEST:

  
Executive Director

Case No. 2018-00173

Chris Mills  
1332 East Highway 86  
Irvington, KENTUCKY 40146

\*Brandenburg Telephone Company, Inc.  
200 Telco Road  
P. O. Box 599  
Brandenburg, KY 40108

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P. O. Box 599  
Brandenburg, KY 40108