

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RITA DOWDY	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 99-460
	)	
GTE SOUTH INCORPORATED	)	
	)	
	)	
DEFENDANT	)	

O R D E R

On November 7, 1999, Rita Dowdy, a resident of Smiths Grove served by Park City exchange, filed a formal complaint against GTE South Incorporated ("GTE South") because she is unable to obtain GTE South service through the Smiths Grove exchange and thereby have local calling to areas in Warren, Barren and Edmonson counties served by GTE South through the Smiths Grove exchange. Ms. Dowdy alleges that a number of her neighbors also wish to obtain service from GTE South through the Smiths Grove exchange rather than the Park City exchange and have not been permitted to do so. Ms. Dowdy states that she does business in Warren County and has relatives in adjoining areas. Ms. Dowdy asserts that granting her request would not constitute a problem because of her proximity to GTE South's telephone lines. Ms. Dowdy does not allege that the service provided through the Park City exchange is inadequate in any way other than that its local calling area is not the one

she prefers. GTE South responded to the Complaint on December 6, 1999, asserting that its refusal to accommodate Ms. Dowdy's request violates no law.

For the reasons discussed below, the Commission finds that the complaint fails to state a *prima facie* case and should therefore be dismissed.

As the Franklin Circuit Court and the Commission previously have found, a desire for a local calling area other than the one offered by one's local exchange carrier does not render that carrier's service "inadequate" so as to justify action on a complaint pursuant to KRS 278.269.<sup>1</sup> Complaints similar to that of Ms. Dowdy have been filed before. For example, in response to complaints of Rochester residents that they wanted a local calling area other than that offered by the carrier that served their exchange,<sup>2</sup> the Commission ordered Southern Bell Telephone and Telegraph Company ("Southern Bell"), the adjacent local carrier, to serve the complainants' exchange. The Franklin Circuit Court, however, in Logan Co. Rural Telephone Coop. Corp. v. Public Service Commission, Civil Action No. 61507 (Memorandum dated December 21, 1963, Order and Judgment dated December 27, 1963), set aside the Commission's Order. In its Memorandum, the court noted, *inter alia*, that no inadequacy of service had been shown. The circumstances here are similar: Ms. Dowdy alleges no inadequacy of service.

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<sup>1</sup> See Case No. 99-430, Tommy Lee Pendley v. Logan Telephone Cooperative, Inc. and South Central Bell Telephone Company, Order dated June 15, 1995, and citations therein.

<sup>2</sup> Case No. 3963, Estill Knight v. Southern Bell Telephone and Telegraph Company and Logan County Rural Telephone Cooperative Corporation, Order dated August 21, 1961.

The Commission is not insensitive to Ms. Dowdy's concerns, or to those of others who desire local calling to areas other than those offered by their local exchange carriers. Nevertheless, the Commission is required to recognize that its decisions in such matters do not take place in a vacuum. In Administrative Case No. 218,<sup>3</sup> Order dated February 21, 1980, the Commission stated, "The establishment of telephone boundary lines is absolutely necessary to allow economical and efficient communication system planning ... once established, the integrity of boundary lines must be observed by both the telephone utilities and by telephone subscribers, except in those instances where, upon application by the utility, a deviation is granted by the Commission for good cause shown...." In other words, considerations of economy and policy dictate that deviations be granted only when a utility so requests, offering evidence regarding potential adverse impact as well as of exceptional circumstances that justify the deviation. However, although the relief requested cannot be granted on the basis of Ms. Dowdy's complaint, the Commission recommends that GTE South review the issues presented herein and consider the feasibility of realigning its exchanges in this area.

Having reviewed the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Complainant has failed to state a *prima facie* case upon which the Commission can offer relief.

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<sup>3</sup> Administrative Case No. 218, In the Matter of Telephone Utility Exchange Boundaries.

2. A hearing in this matter is not necessary in the public interest or for the protection of substantial rights, and this Complaint should be dismissed without a hearing.

IT IS THEREFORE ORDERED that the complaint herein be and it is hereby dismissed with prejudice.

Done at Frankfort, Kentucky, this 10<sup>th</sup> day of April, 2000.

By the Commission

ATTEST:

  
Executive Director