

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THOMAS B. GRAVES	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 99-466
	)	
EXCEL TELECOMMUNICATIONS, INC.	)	
	)	
DEFENDANT	)	

O R D E R

On November 15, 1999, Thomas B. Graves filed a formal complaint against Excel Telecommunications, Inc. ("Excel") for violation of KRS 278.535 (slamming statute). The Complainant alleged that Excel caused an unauthorized change of his prescribed primary interexchange carrier ("PIC") to Excel.

The complainant requests "the sum of one million dollars plus lawyer's fee" as his damages. KRS 278.535 provides that a telecommunications provider in violation of the PIC statute must pay all costs to switch the consumer back to his/her original interexchange provider and must pay "charges for usage subsequent to the change that are in excess of the amount the customer would have paid had the service not been changed." The Commission does not have jurisdiction to consider or resolve issues of damages that are punitive in nature such as are sought by this complaint.

Excel gave Complainant a credit for the PIC change and all of one long-distance call made by Complainant. In doing so, Excel exceeded the requirements of restitution in KRS 278.535.

Based upon the above facts, the Commission finds that Excel has made full satisfaction according to the requirements of the statute.

IT IS THEREFORE ORDERED that the complaint filed by Thomas B. Graves is dismissed.

Done at Frankfort, Kentucky, this 14<sup>th</sup> day of March, 2000.

By the Commission

ATTEST:

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Executive Director