## COMMONWEALTH OF KENTUCKY

## BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

GARY DEAN MALLORY, ET AL.

COMPLAINANTS

v.

BELLSOUTH TELECOMMUNICATIONS, INC.

## DEFENDANT

CASE NO. 2000-462

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## <u>O R D E R</u>

On September 29, 2000, Gary Dean Mallory and a group of residents in his subdivision ("Complainants") filed а formal complaint against BellSouth Telecommunications, Inc. ("BellSouth"). The Complainants allege that they had contacted BellSouth in July 2000 to request telephone service to their new subdivision. Complainants allege that BellSouth gave them an initial connection date for service on August 9, 2000. BellSouth was unable to provide the service by August 9, 2000 and told Complainants that service would be available by the end of September. BellSouth later revised the time of connection and told Complainants that they would receive service on September 19, 2000. BellSouth then informed Complainants that the first available date for connection of service would be October 18, 2000 or later. Complainants ask the Commission to order BellSouth to commence their service immediately. Complainants also pray that BellSouth be ordered to provide service for 1 year at a discount rate of 25 percent, to waive the connection fee for new service, to

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issue a formal written apology, and to reimburse for cell phone usage by the residents of the community who were forced to use cell phones because of lack of land line service. Additionally, Complainants request that the Commission prohibit BellSouth from continuing this type of business practice.

On October 13, 2000, the Commission ordered BellSouth to satisfy or answer the complaint. In its answer BellSouth admits that it failed to provide Complainants' service by the promised August and September dates. However, BellSouth stated that it installed service to Complainants on September 27, 2000.

BellSouth claims that the delay in installation of service arose from difficulties in obtaining the necessary fiber cable to extend service to the Complainants' subdivision.

BellSouth states that, as a goodwill gesture, it has adjusted Complainants' bills with a 2-month local service refund as well as a waiver of installation charges.

On January 3, 2001, the Commission issued a data request to BellSouth requesting that BellSouth provide proof that it had served its answer on all the Complainants who were signatories to the complaint. On January 12, 2001, BellSouth responded to the data request, stating that it had served a copy of its answer on the Complainants. As of January 23, 2001, no Complainant has contested BellSouth's assertions in its answer.

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

1. As Complainants are now receiving service, 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.

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2. Although the extreme delay in providing service in this case appears to have been caused by factors beyond BellSouth's control, BellSouth should take all reasonable precautions to ensure that such delays do not recur.

IT IS THEREFORE ORDERED that:

1. The complaint herein is dismissed with prejudice.

2. This case is closed and shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 8<sup>th</sup> day of February, 2001.

By the Commission

ATTEST:

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Executive Director