

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

VANOVER, HALL & BARTLEY, P.S.C.	)	
	)	CASE NO.
COMPLAINANT	)	2004-00410
	)	
v.	)	
	)	
BELLSOUTH TELECOMMUNICATIONS, INC.	)	
	)	
DEFENDANT	)	

O R D E R

On October 11, 2004, Gregory L. Hall, a partner with Vanover, Hall & Bartley, P.S.C. ("VH&B"), filed with the Commission a formal complaint against BellSouth Telecommunications, Inc. ("BellSouth") alleging that a communications service, DSL, was terminated without notice by BellSouth.

On October 21, 2004, SouthEast Telephone, Inc. ("SouthEast"), the voice grade service provider of VH&B, requested intervention in the matter, also stating that BellSouth refused to provide its DSL product to VH&B.

BellSouth responded on October 22, 2004, arguing that the complaint should be dismissed, as it offered VH&B all of the relief to which that customer could be entitled. Specifically, BellSouth offered to reconnect the DSL service.

VH&B is a law firm located at 152 Third Street, Pikeville, Kentucky. As part of its communications needs, BellSouth provided DSL to the firm from March 2003 until

October 7, 2004, at which time VH&B discovered that its DSL service was terminated – it states without notice – by BellSouth.

VH&B contacted BellSouth. BellSouth informed VH&B of the following reasons for the termination of service: (1) because BellSouth was no longer VH&B's plain old telephone service ("POTS") provider, DSL service was not available to the firm pursuant to federal regulations; and (2) prior to the disconnection, the firm should have been given termination notice pursuant to federal regulations.

VH&B's complaint asserts that irreparable business harm was suffered by it due to the lack of access to "WestLaw," an Internet service essential to its daily law practice. Furthermore, if VH&B were required to change its e-mail address, the notifications to clients and others would be onerous.

In its response, BellSouth contends that VH&B received both POTS and DSL service from BellSouth until a change occurred in its POTS service. As a result of the voice provider change, BellSouth unsuccessfully attempted to contact VH&B to arrange an alternate billing method for the DSL service. For two months, VH&B continued to receive BellSouth DSL service yet failed to arrange for a separate billing arrangement. As a result of non-payment, BellSouth discontinued the DSL service.

This complaint ensued. When BellSouth received the complaint, it again contacted VH&B in an attempt to restore DSL service, yet was unsuccessful. On October 8, 2004, BellSouth received and completed a DSL service request submitted by SouthEast on behalf of VH&B.

Having reviewed the record and having been sufficiently advised, the Commission finds that the complaint should be dismissed, because BellSouth has

provided all the relief to which VH&B is entitled. Furthermore, SouthEast's intervention request is moot.

IT IS THEREFORE ORDERED that:

1. BellSouth's motion to dismiss is granted.
2. SouthEast's motion to intervene is denied as moot.
3. This case is dismissed with prejudice and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 17<sup>th</sup> day of March, 2005.

By the Commission

Commissioner W. Gregory Coker did not participate in the deliberations or decision concerning this case.

ATTEST:



Executive Director