

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTH CENTRAL TELCOM, LLC)	
)	
COMPLAINANT)	CASE NO. 2008-00126
)	
V.)	
)	
WINDSTREAM KENTUCKY EAST, INC.)	
)	
DEFENDANT)	

O R D E R

On April 4, 2008, South Central Telcom, LLC (“South Central”) filed with the Commission a complaint against Windstream Kentucky East, Inc. (“Windstream”). In the complaint, South Central states that, on December 5, 2007, Windstream issued a notice to South Central stating that it would be disconnected unless it paid an outstanding balance of \$22,667.20 within 30 days.¹

South Central stated that the disconnection notice from Windstream included charges belonging to South Central’s incumbent counterpart, South Central Rural Telephone Cooperative.² South Central also states that after subsequent discussions with Windstream disputing the alleged balance, Windstream later claimed that the company owed \$4,071.84 for switched access service and \$13,163.33 for usage

¹ See Complaint at ¶ 9.

² Id. at ¶ 10.

service.³ South Central states that, on January 16, 2008, by letter, Windstream stated that it would not terminate service to South Central and also provided the name of a Windstream employee who could assist in addressing the billing dispute. South Central states that after initial conversations with that employee, no resolution was reached. South Central states that it has formally requested a meeting with Windstream management, but Windstream has failed to respond to the request and has not “otherwise worked with South Central to resolve the dispute.”⁴ South Central requests that the Commission order Windstream not to terminate service to South Central while the dispute is pending, to identify and compel particular personnel to work with South Central to resolve the billing dispute, and to schedule an informal conference to resolve the allegations regarding Windstream’s billing practices.⁵

Pursuant to 807 KAR 5:001, Section 12(4)(a), upon receipt of a formal complaint, the Commission must determine whether the complaint states a prima facie case. A complaint establishes a prima facie case when it sets forth on its face sufficient allegations that, if not contradicted by other evidence, would entitle the complainant to the relief requested. If a complaint fails to establish a prima facie case, the Commission must notify the complainant and provide a reasonable opportunity to amend the complaint. Having reviewed the complaint and the allegations contained therein, the Commission finds that South Central has not met the standard for the establishment of a prima facie case.

³ Id. at ¶ 13.

⁴ Id. at ¶ 19.

⁵ Id. at 5.

When reviewing complaints, the Commission seeks both substantive argument and evidence supporting the complaining party's allegations. In this complaint, South Central provides no references to specific portions of Windstream's tariffs, special contracts, or interconnection agreements to support the allegation that South Central is being billed inaccurately.⁶ South Central has not provided copies of any billing statements, the December 5, 2007 disconnection notice, or e-mail documentation between South Central and Windstream wherein the billing dispute is addressed. Most notably, within paragraph 16 of the complaint, South Central states that Windstream acknowledged receipt of a letter from South Central's counsel disputing the balance owed and acknowledged that "Windstream would not terminate service to South Central." Based on this statement, Windstream's threat of disconnection has been voluntarily withdrawn, although the dispute over the accuracy of the billing remains. Given the withdrawal of impending service termination, the Commission finds South Central's request for relief, in part, is moot.

The Commission also notes that South Central has outlined several allegations but has provided neither a concrete understanding nor supporting evidence to demonstrate why it believes it is being inaccurately billed. Without directing the Commission to specific documentation sufficient to support its claims, South Central has submitted a mixture of statements and claims without necessary evidence or appropriate references and, therefore, has failed to establish a prima facie case. For these reasons, South Central's complaint is rejected for filing.

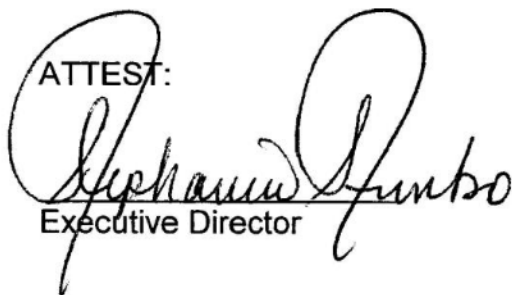
⁶ The Commission references those particular documents only as examples. South Central did not indicate the basis for its belief that it is being incorrectly billed (i.e., Windstream agreed to bill South Central in a different manner, as provided in an interconnection agreement, a special contract, or within published tariffs).

IT IS THEREFORE ORDERED that:

1. The complaint is rejected for filing for failing to state a prima facie case.
2. Within 20 days of the date of this Order, South Central may file an amended complaint with the Commission that states a prima facie case.
3. In the event South Central fails to file within the allotted time, or submits an amended complaint that does not state a prima facie case, this case shall be closed and removed from the Commission's docket by separate Order.

Done at Frankfort, Kentucky, this 17th day of April, 2008.

By the Commission

ATTEST:

Executive Director