

**CASE**

**NUMBER:**

99-495

INDEX FOR CASE: 1999-495  
GTE SOUTH, INC.  
Complaints - Service  
OF WILL L. MCGINNIS, III

IN THE MATTER OF WILL L. MCGINNIS, III VS. GTE

SEQ NBR	ENTRY DATE	REMARKS
0001	11/18/1999	Amended Complaint.
M0001	12/03/1999	WILL L. MCGINNIS, III-COMPLAINT (FAX)
0002	12/13/1999	Acknowledgement letter.
0003	02/14/2000	Final Order dismissing complaint.



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
211 SOWER BOULEVARD  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-495  
GTE SOUTH, INC.

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on February 14, 2000.

Parties of Record:

Will L. McGinnis  
1807 Barwick Drive  
Lexington, KY. 40505

Larry D. Callison  
State Manager-Regulatory Affairs  
GTE South, Inc.  
150 Rojay Drive  
Lexington, KY. 40503

*Stephanie J. Bell*  
Secretary of the Commission

SB/hv  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WILL L. MCGINNIS	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 99-495
	)	
GTE SOUTH INCORPORATED	)	
	)	
DEFENDANT	)	

ORDER

Will L. McGinnis has brought a formal complaint before the Commission against GTE South Incorporated ("GTE"). Mr. McGinnis alleges that GTE's actions have caused financial damages to Kentucky R.I.T.E., Inc. ("KRI"), a Kentucky corporation of which Mr. McGinnis is the sole shareholder. Mr. McGinnis also claims that he has suffered emotional damages as a direct result of GTE's actions. Mr. McGinnis has brought this complaint against GTE in his capacity as the sole shareholder of KRI.

Mr. McGinnis lacks standing to bring this complaint against GTE. The alleged losses are to KRI and not to Mr. McGinnis. Since the losses are to KRI and not to Mr. McGinnis, any action must be brought in the name of KRI. "Every action shall be prosecuted in the name of the real party in interest..." CR.17.01. Mr. McGinnis brings this action in his own name and does not name KRI as a party to the complaint.

Mr. McGinnis's status as the sole shareholder has no effect on his standing to bring a complaint for KRI's alleged losses. Any losses are those of the corporation for which a shareholder may not institute an action to recover. A corporation is a separate

entity, created by statute with the power to sue and to be sued, and is recognized as being separate from its shareholders. Holsclaw v. Kenilworth Ins. Co., Ky.App., 644 S.W.2d 353 (1982); White v. Winchester Land Development Corporation, Ky.App., 584 S.W.2d 56. Accordingly, Mr. McGinnis can legally claim no losses due to GTE's alleged action. The only party that has the proper standing and right to file a complaint with this Commission is KRI.

If KRI seeks to file a complaint against GTE with the Commission, KRI must be represented by counsel. Kentucky's highest court held in Kentucky State Bar Association v. Henry Vogt Machine Co., 416 S.W.2d 727 (Ky. 1967), that a corporation must be represented by counsel before a state administrative agency.

In a previous case, this Commission ordered that:

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission, must engage a member of the Kentucky Bar Association. It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.

Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (June 15, 1981) at 2.

Commission regulations concerning formal complaints incorporate, at least in part, these sentiments. Administrative Regulation 807 KAR 5:001, Section 12(2), states in part:

Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address.

The regulation requires that a corporation or other organization, from the outset of a complaint proceeding, be represented by an attorney.

Based on the above, the Commission finds that Mr. McGinnis's complaint fails to comply with Kentucky law and may not be accepted for filing.

IT IS THEREFORE ORDERED that the complaint filed by Will. L. McGinnis is dismissed.

Done at Frankfort, Kentucky, this 14th day of February, 2000.

By the Commission

ATTEST:

  
Executive Director



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

December 13, 1999

Mark Scovic,  
Settlements Admin. & Compliance  
GTE Service Corporation  
600 Hidden Ridge  
Irving, TX. 75038

Will L. McGinnis  
1807 Barwick Drive  
Lexington, KY. 40505

RE: Case No. 1999-495  
GTE COMMUNICATIONS CORPORATION  
(Complaints - Service) OF WILL L. MCGINNIS, III

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received December 3, 1999 and has been assigned Case No. 1999-495. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/jc

*WLM*

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

CASE NUMBER 99-495

RECEIVED  
DEC 03 1999  
PUBLIC SERVICE  
COMMISSION

In the matter of :

Will L. McGinnis, III

Complainant

vs.

COMPLAINT

GTE

Defendant

\*\*\*\*\*

The complaint of Will L. McGinnis, III respectfully shows:

a) Will L. McGinnis, III  
1807 Barwick Drive  
Lexington, KY 40505

b) GTE  
700 Hidden Ridge  
Irvine, Tx 75038

c). That: My business phone number, 606 258-2980, which I am 100% owner was disconnected without notice and without just cause. (see attached complaint)

Wherefore, complainant seeks \$1,425,000 (see attached calculations)

Dated at Lexington, Kentucky, this 2nd day of December, 1999

By: *Will L. McGinnis, III*  
Will L. McGinnis, III

## COMPLAINT

On Thursday September 23, 1999, GTE representatives disconnected phone service for Kentucky R.I.T.E., Inc.(KRI), which is 100% owned by Will L. McGinnis, III, for reasons that are in direct violation of the law.

The reason given, by GTE, for the disconnecting KRI service, is as follows: *Will McGinnis, has an outstanding balance of 432.52 for a phone number (606) 299-2249. Therefore, we disconnected his phone service for phone number (606) 258-2980. We notified Will McGinnis, via U.S. Post Office, in a letter dated August 31, 1999., that a balance of 432.52 was owed and needed to be paid by September 13th or current service may be disconnected.* The letter that they said they "mailed" was never received. I did receive a copy of the letter via fax on September 27, 1999.

The True Facts: I, Will McGinnis on or about August 9, 1999 applied for new telephone service for Kentucky R.I.T.E., Inc.(KRI) I was told ( by GTE sales reps) that I would be unable to obtain new service for KRI because a balance on an old account was unpaid. I informed GTE that KRI was a Kentucky Corporation, with its own Tax ID number and was an entity in itself, and thus not responsible for the bills of Will McGinnis, nor the bills of A Dominating Experience(606) 299-2249. They informed me my Social Security number was on both accounts and would have to pay the past due balance before service could be arranged. I told GTE reps my SS# should not be on the KRI's account, and that KRI should be identified by its own Tax ID number. GTE reps refused to allow KRI to be identified by its own Tax ID number.

After six hours of arguing and explaining the law in the State of Kentucky, I was finally given a date when service would be connected. And service for (606) 258-2980 was finally connected on or around August 15th, 1999.

Now, On September 23, 1999 without any notice, (the letter GTE said they "mailed" on August 31 was never received) KRI's phone number, (606) 258-2980, was disconnected. The same reasons for not allowing service in the first place were given in explanation of service being disconnected.

I spent an additional 5 hours arguing with GTE reps on September 27, 1999 re-explaining the law in the State of Kentucky and service was restored on September 28, 1999.

As of Today, service for KRI is working, however, KRI is currently under the threat of being disconnected if the balance of 432.52 (that was incurred by A Dominating Experience, a company that has been out of business for around 2 years and is not now nor has ever been affiliated with KRI) is not paid.

In summary, KRI, is a Kentucky Corporation and by so being is an entity in itself. KRI, is not responsible for the bills of Will McGinnis nor the bills of A Dominating Experience. KRI, is only responsible for KRI's bills and only KRI's bills. By disconnecting the phone service of KRI without notice, and by refusing to allow KRI to be identified by its Tax ID number, GTE is not only in direct violation of the law, but also has caused damages to Will L. McGinnis, III.

Therefore, Will L. McGinnis, III seeks \$1,425,000, for damages incurred while arguing with GTE representatives.

	<u>Hrs</u>	<u>Rate</u>	<u>Total</u>
1). 8/09/99 arguing with GTE	3	\$100	\$300
2). 8/10/99 arguing with GTE	2	\$100	\$200
3). 8/10/99 preparation of letter	1	\$100	\$100
4). 9/27/99 arguing with GTE	5	\$100	\$500
5). 9/27/99 GTE service credit			\$100
6). 9/27/99 Drive to Paris, KY to replace yard sign	1	\$100	\$100
7). 9/27/99 Newspaper Ad that ran but phone was disconnected			\$100
8). 9/30/99 Preparation of letter	2	\$100	\$200
9). Lost Business			\$400,000
10). Lost Business			\$10,200
11). Lost Business			\$13,500
12). Emotional Damages			<u>\$1,000,000</u>
 Total			 \$1,425,000 =====

PREPARED BY: Will L. McGinnis, III  
  
 Will L. McGinnis, III

DATE: 12/2/99

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

CASE NUMBER

99-495 (99-495)

RECEIVED  
DEC 03 1999  
PUBLIC SERVICE  
COMMISSION

In the matter of :

Will L. McGinnis, III

Complainant

vs.

COMPLAINT

GTE

Defendant

\*\*\*\*\*

The complaint of Will L. McGinnis, III respectfully shows:

a) Will L. McGinnis, III  
1807 Barwick Drive  
Lexington, KY 40505

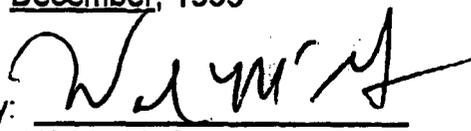
b) GTE  
700 Hidden Ridge  
Irvine, Tx 75038

c). That: My business phone number, 606 258-2980, which I am 100% owner was disconnected without notice and without just cause. (see attached complaint)

Wherefore, complainant seeks \$1,425,000 (see attached calculations)

Dated at Lexington, Kentucky, this 2nd day of December, 1999

By:



Will L. McGinnis, III

## COMPLAINT

On Thursday September 23, 1999, GTE representatives disconnected phone service for Kentucky R.I.T.E., Inc.(KRI), which is 100% owned by Will L. McGinnis, III, for reasons that are in direct violation of the law.

The reason given, by GTE, for the disconnecting KRI service, is as follows: *Will McGinnis, has an outstanding balance of 432.52 for a phone number (606) 299-2249. Therefore, we disconnected his phone service for phone number (606) 258-2980. We notified Will McGinnis, via U.S. Post Office, in a letter dated August 31, 1999., that a balance of 432.52 was owed and needed to be paid by September 13th or current service may be disconnected. The letter that they said they "mailed" was never received. I did receive a copy of the letter via fax on September 27, 1999.*

The True Facts: I, Will McGinnis on or about August 9, 1999 applied for new telephone service for Kentucky R.I.T.E., Inc.(KRI) I was told ( by GTE sales reps) that I would be unable to obtain new service for KRI because a balance on an old account was unpaid. I informed GTE that KRI was a Kentucky Corporation, with its own Tax ID number and was an entity in itself, and thus not responsible for the bills of Will McGinnis, nor the bills of A Dominating Experience(606) 299-2249. They informed me my Social Security number was on both accounts and would have to pay the past due balance before service could be arranged. I told GTE reps my SS# should not be on the KRI's account, and that KRI should be identified by its own Tax ID number. GTE reps refused to allow KRI to be identified by its own Tax ID number.

After six hours of arguing and explaining the law in the State of Kentucky, I was finally given a date when service would be connected. And service for (606) 258-2980 was finally connected on or around August 15th, 1999.

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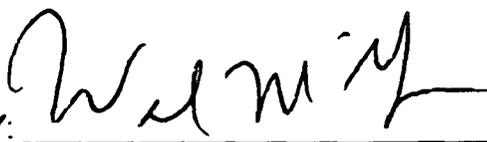
I spent an additional 5 hours arguing with GTE reps on September 27, 1999 re-explaining the law in the State of Kentucky and service was restored on September 28, 1999.

As of Today, service for KRI is working, however, KRI is currently under the threat of being disconnected if the balance of 432.52 (that was incurred by A Dominating Experience, a company that has been out of business for around 2 years and is not now nor has ever been affiliated with KRI) is not paid.

In summary, KRI, is a Kentucky Corporation and by so being is an entity in itself. KRI, is not responsible for the bills of Will McGinnis nor the bills of A Dominating Experience. KRI, is only responsible for KRI's bills and only KRI's bills. By disconnecting the phone service of KRI without notice, and by refusing to allow KRI to be identified by its Tax ID number, GTE is not only in direct violation of the law, but also has caused damages to Will L. McGinnis, III.

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12). Emotional Damages			<u>\$1,000,000</u>
<b>Total</b>			<b>\$1,425,000</b> =====

PREPARED BY: Will L. McGinnis, III  
  
 Will L. McGinnis, III

DATE: 12/2/99

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

NOV 18 1999

CASE NUMBER ~~99-495~~ (99-495)

PUBLIC SERVICE  
COMMISSION

In the matter of :

Will L. McGinnis, III

Complainant

vs.

AMENDED COMPLAINT

GTE

Defendant

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a) Will L. McGinnis, III  
1807 Barwick Drive  
Lexington, KY 40505

b) GTE  
700 Hidden Ridge  
Irvine, Tx 75038

c). That: The business phone number, 606 258-2980 was disconnected without notice and without just cause. (see attached complaint)

Wherefore, complainant asks \$1,425,000 (see attached calculations)

Dated at Lexington, Kentucky, this 17 day of November, 1999

  
\_\_\_\_\_

## COMPLAINT

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PREPARED BY:   
Will L. McGinnis, III

DATE: 11/17/99