COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HEARTLAND COMMUNICATIONS INTERNET SERVICES, INC.	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 97-425
	)	
BELLSOUTH TELECOMMUNICATIONS, INC.	)	
	)	
DEFENDANT	)	

ORDER TO SATISFY OR ANSWER

BellSouth Telecommunications, Inc. ("BellSouth") is hereby notified that it has been named as defendant in a formal complaint filed on October 14, 1997, a copy of which is attached hereto.

Pursuant to 807 KAR 5:001, Section 12, BellSouth is HEREBY ORDERED to satisfy the matters complained of or file a written answer to the complaint within 10 days from the date of service of this Order.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record.

Done at Frankfort, Kentucky, this 28th day of October, 1997.

PUBLIC SERVICE COMMISSION

Linda K Breathitt
Chairman

Vice Chairman

B. J. Helton
Commissioner

ATTEST:

Dan Mills
Executive Director

HEARTLAND COMMUNICATIONS INTERNET SERVICES, INC.
Serving Western Kentucky and Southern Illinois

Todd Heinrich
- Phone : (502) 898-7871
- Fax : (502) 898-8295
- Email : todd@hcis.net
- Http://www.hcis.net

In the Matter of:

Heartland Communications Internet Services, Inc.
COMPLAINANT

VS.

BellSouth Telephone
DEFENDANT

Case No. 97-475

COMPLAINT

The complaint of **Heartland Communications Internet Services, Inc.** respectfully shows:

(a) Heartland Communications Internet Services, Inc.
201 Reid Circle, Paducah, KY. 42003

(b) BellSouth Telecommunications, Inc.
601 West Chestnut St., Room 408
P. O. Box 32410
Louisville, KY 40232

(c) That:

Preface:
This complaint is being filed in order to solve an issue between the defendant, and the complainant listed above. The main issue is which party is responsible for costs to supply services ordered. The Defendant claims that the "construction" costs to supply public telephone service shall be the responsibility of the Complainant, and visa-versa. The costs under complaint are those costs concerning "construction charges" which are necessary to complete such services ordered by the complainant.

A second issue, which directly relates to the first, concerns the most economical manner in which to provide the services in question.

Brief Time Line and History of matter:
Monday, March24th, 1997: A verbal acknowledgement, made by the defendant, granted a total of 216 analog residential telephone lines to the complainant, at the residential rate, which was in effect prior to the tariff re-structuring of March 24th, 1997. The order placed for these lines was made, by the complainant, on this day. Let it be known that the complainant discussed said tariff with personnel of the defendant, one business day prior to the effective tariff date (Friday, March 21st, 1997). Due to the offering of incorrect information by the defendant on that day, a decision was made, by the complainant, to *not* order the service in question. As a result of the incorrect information given that day, a verbal phone conversation took place between the defendant and complainant on March 24th, 1997, and a verbal grant was given by the defendant, to the complainant, offering a *Grandfathered* placement under PSC KY Tariff 2A, outlining applicable charges for services rendered prior to March 24th, 1997.

As of this date, September 19th, 1997, the order for the residential lines in question, has not been completed. An installation total of 83 of the 216 phone lines has been fulfilled, however the remaining difference of 133 phone lines has been placed on a *Pending Facilities* status, by the defendant.

Construction charges in the amount of $1299 have been paid in full, by the complainant, for a 100 pair cable, placed on the premises of the complainant. From the 100 pair cable, a total of 91 pair are currently being utilized as follows:

1] 81 pair - 81 residential phone lines in hunting arrangement
2] 2 pair - 2 residential phone lines in hunt with a line placed on the premises prior to 100 pair cable
3] 2 pair - 2 Business Rate BRI circuits servicing ISDN capabilities
4] 2 pair - 1 Business Rate PRI circuit servicing Primary Rate 24 channel ISDN capabilities
5] 4 pair - 2 Digital 24 channel T1 circuits servicing Internet access to/from premises

Complaint Issues:

1] A "Construction Charge" of $9,708 is being asked of the complainant, by the defendant, to equip Fibre Optic Services from the Telco Central Office, to the residence of the complainant, so that the order in question may be completed. It has been suggested by the defendant that this would be the *most economical* way to provide the remainder of the order placed for services. This proposed construction charge is a fee that the complainant believes to be both excessive and not the responsibility of the complainant. Due to the tariff in place at the time of the order, it is clear in the tariff, that additional "Construction Charges" were not a part of the tariff of 1993 to March 23rd, 1997, and that such construction charges shall only apply to orders placed after the activation of said tariff, dated March 24th, 1997. As the complainant was granted a Grandfathered placement to the prior tariff, it is also clear that provision of services requested be delivered by the local public service at the expense of the defendant. Let it be known, however, that the complainant is prepared to pay for "reasonable" construction charges, which shall apply from the building where services shall be used, to the junction of the nearest connection point to the public right-of-way. This would be costs amounting in the expense of construction from the junction box placed approximately 10 feet off the property of the complainant, to the building where the services shall be used. Let it also be known, that during the construction placement of the initial 100 pair cable, a second cable, containing 200 additional pair, was suggested to be placed in the same trench as that containing the initial 100 pair cable, and such suggestion was made by the complainant. The second cable was installed by contracted assistance of the defendant, and currently extends from the building where services are used, to the junction box of the nearest right-of-way.

2] The issue of "practical economics": Accompanying this complaint, is an attached letter of engineering recommendation by the defendant. The claim of utilizing Fibre Optics as the most economical way to provide the service order in question, is found as unjustifiable to the complainant. As the technology of channelized circuits provide 24 phone lines, or channels, per two cable pair, the more obvious, and definitely the most cost effective way, for both parties concerned, would be to install CT1 circuits, otherwise known as "channel banks". With this method of utilization, the 216 phone lines could have already been provided, using no more than 10 cable pair from the initial 100 pair cable. It is believed that the reason this method has not been suggested is simply that no tariffs have been established, which outline the costs to provide this service to a residential building, at a residential pricing structure. This method would be less expensive for both the defendant, and the complainant, and would require no additional facilities be used to complete the order in question. It is asked, and preferred by the complainant, that this method be chosen in place of the additional cost of Fibre Optics.

WHEREFORE, complainant asks:
The complainant believes, due to the Grandfather Act according to the Tariff of 1993 through March 23, 1997, that it be the responsibility of the defendant, to incur any and all necessary costs to provide the service order in question, to the last point of right-of-way, as there are no alternative companies available to provide such services as those outlined in the above complaint.

Concerning the matter of "most effective cost", it is the belief of the complainant, that the utilization of Fibre Optics to the place of services rendered, is unjustifiable, as technology for alternative options is available. It is suggested by the complainant, that a more cost effective way to provide such services, is that of Channelized T1 circuitry, and that very little, or no additional costs, will be deemed necessary to provide such services.

The complainant is prepared to cover those costs, which shall be deemed as "Construction Charges", from the last point of "public right-of-way" to the building in which said services shall be used. As an additional cable already exists, from the public right-of-way to the building, it is assumed that any additional construction charges shall be minimal and "within reason".

Dated at Paducah, Kentucky, this 19th day
of September, 1997.

Heartland Communications Internet Services, Inc.
201 Reid Circle, Paducah, KY 42003

Todd Heinrich, V.P. Operations

Keith Kibler, Attorney at Law
208 N. Market St.
Marion, Illinois 62959

BELLSOUTH

BellSouth Telecommunications, Inc.

April 23, 1997
Paducah, KY

Mr. Todd Heinrich
201 Reid Cir
Paducah, KY 42003

Dear Mr. Heinrich:

This letter is to explain the situation concerning the addition of the residential lines into your residence. After I considered the questions and dialogue that we had, I felt it best that I refer you to a Bellsouth person who could answer your questions concerning prices of services and tariff changes. Wendy Munnell should have contacted you by the time you get this letter or will be contacting you shortly. Please understand that it is not my job and I do not have the expertise to discuss these issues with you. I feel sure Wendy will be able to answer all you questions.

However, I will deal with the orders that are written at this time. As I explained on the phone earlier, Bellsouth does not have the facilities to your residence to provide your service you have ordered with Bellsouth. Therefore it is my job to provide the facilities to your house. As I stated before, fiber optics is the less expensive method to provide the service that your have ordered. As stated before the customer is required to pay Special Construction Charges. This is a clear cut case where the additional construction is for your service and only your service. The existing facilities in your area are more than adequate to met Bellsouth's plans at the time. Therefore, to meet your service orders, it will be necessary for you to pay for the fiber at the cost of $9,708.02. If you decide to pay this, Bellsouth at it's cost will provide the electronics on each end of the fiber to provide your service needs. I will be answering your orders to this effect and the business office will contact you concerning payment. If you agree to this, I will be contacting you to work out the details of the fiber placement and also the cabinet that will need to go in your home. Please be mindful that I can only deal with service orders. If you need to contact me concering the construction charges I can be reached at 444-5926.

Sincerely,
Neal W. Lindsey
Neal W. Lindsey

cc: Glenda Rogers

BELLSOUTH

BellSouth Telecommunications, Inc.

2/25/97

Mr Todd Heinrich
201 Reid Cir
Paducah, KY 42003

Dear Mr. Heinrich,

This correspondence confirms our telephone conversation of 2/21/97. As I explained at that time, the cost associated with placing a 100 pair cable to your house per your order is $1,299.

In order to begin this construction, we need your authorization. Please sign in the space below and return this letter to us accompanied with your payment of $1,299. The return address is:

Bellsouth
Service Dept.-Const.
534 Armory Place
Louisville, KY 40202

Upon receipt of your signed authorization and payment, we will commence the construction. I may be reached at (502) 444-5926 should you have inquiries.

Sincerely Yours,

Neal W. Lindsey

Engineering Specialist

Authorized By:

_____

Customer's Signature

DAWN R. HEINRICH
DBA COMPUTERS MADE PERSONAL
201 REID CIR. 898-7871
PADUCAH, KY 42003

405

2-26 19 97

73-040/839

PAY TO THE ORDER OF BellSouth $ 1,299.00

One thousand two hundred ninety nine DOLLARS

THE PADUCAH BANK
AND TRUST COMPANY
PADUCAH, KENTUCKY 42001

FOR

Dawn R Heinrich

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