

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ROBYN KEMPER)	
)	
COMPLAINANT)	
)	
v.)	CASE NO. 98-628
)	
STATE COMMUNICATIONS INCORPORATED)	
)	
DEFENDANT)	

O R D E R

On December 2, 1998, Robyn Kemper (Complainant) filed a formal complaint against State Communications, Inc. (State Communications). The Complainant alleges that a State Communications employee named Cliff contacted her by telephone and offered her a discount on her local telephone service. According to the Complainant, the representative informed her that her local service provider, BellSouth Telecommunications, Inc. (BellSouth) would not be changed but that she would receive a discount on her local service. The Complainant further alleges that she received a bill from State Communications that was approximately \$10 higher than her usual bill from BellSouth. The Complainant has since had her local service returned to BellSouth, but she requests that the Commission dismisses the charges billed by State Communications due to fraudulent change of service.

Pursuant to the Commission s December 15, 1998 Order to Satisfy or Answer the complaint, State Communications filed an Answer on December 23, 1998. State Communications begins by identifying itself as a reseller of local and long-distance telecommunications services in areas of Kentucky served by BellSouth. In its Answer,

State Communications also denies the general allegations set forth in the complaint and presents its position with regard to each of the allegations made by the Complainant.

First, State Communications specifically denies the allegation that a representative named Cliff called Ms. Kemper to solicit her business for State Communications. According to State Communications, the company does not use outbound telemarketing calls. Instead, the company states that its marketing efforts consist of mass advertising via television, radio, and print media followed by a mass mail campaign. State Communications further states that it did not employ an individual named Cliff as of May 19, 1998, the date on which the third-party verification procedure was completed. In support of its position, the company offers an employee roster, Exhibit I to the Answer, which lists its representatives as of May 19, 1998.

Second, with regard to the actual change of service, State Communications states that it had proper authorization from the Complainant to change her local phone service. According to State Communications, the Complainant completed a third-party verification procedure which was recorded by its third-party verifier, VoiceLog, LLC, on May 19, 1998. State Communications offers a transcript of the recording as Exhibit D to the Answer.¹ The transcript reveals that Ms. Kemper confirmed her identity, confirmed her status as the decision-maker for the phone service, and answered yes when requested to confirm her decision to select State Communications as her local phone service.

Finally, State Communications denies the allegation that its bill for service dated July 15, 1998 was about \$10 higher than the Complainant's normal bill from BellSouth.

¹ Commission staff has listened to the recording and confirms the accuracy of the transcript provided as Exhibit D to the Answer.

The bill in question states that the total amount due is \$43.64. According to State Communications, the July 15, 1998 invoice includes the cost of prorated service from June 19 through June 30, 1998 (\$9.04 plus tax) and the monthly charge for local service from July 1 through July 31, 1998 (\$22.62 plus tax). State Communications contends that the additional \$10 amount is attributable to the cost of the prorated portion of the bill. State Communications requests payment for those services provided to the Complainant from June 19 to July 30, 1998, and states that the Complainant's account will be closed upon such payment.

Based upon the information contained in the complaint and State Communications Answer, the Commission finds that the Complainant's service was not changed fraudulently. The facts indicate that State Communications properly changed Ms. Kemper's service based upon the information contained in the third-party verification recording. The recording clearly states, This recording is designed to confirm your decision to select State Communications for your local phone service. Ms. Kemper confirmed her selection by stating yes in response to the statement. Moreover, Ms. Kemper acknowledges in the complaint that she participated in the verification call using the keypad of her telephone. Thus, while the complaint indicates that Ms. Kemper may have misunderstood or misheard the statements to which she responded, the evidence does not suggest a finding that State Communications acted fraudulently in changing the Complainant's local telephone service. The Commission also finds that the \$10 amount Ms. Kemper alleges to be over her usual bill from BellSouth is attributable to the cost of prorated service from June 19 through June 30.

IT IS THEREFORE ORDERED that:

1. The Complainant's requested relief is denied.

2. State Communications shall offer the Complainant an extended payment plan for payment of outstanding amounts for service as billed by the July 15, 1998 invoice. Because the overdue amount has been in dispute with the utility since August 4, 1998, State Communications shall not demand payment of any charges that have accrued as a penalty for the overdue balance.

Done at Frankfort, Kentucky, this 18th day of February, 1999.

By the Commission

ATTEST:

Executive Director