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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UC 486

SKAMANIA NETWORKS,)	
)	
Complainant,)	
)	
vs.)	ORDER
)	
UNITED TELEPHONE COMPANY OF)	
THE NORTHWEST dba SPRINT,)	
)	
Defendant.)	

DISPOSITION: COMPLAINT DISMISSED WITH PREJUDICE

Background

The initial complaint (Complaint) in this proceeding was filed by Skamania Networks (Skamania, Plaintiff, Complainant or Customer) on November 3, 1999, against United Telephone Company of the Northwest dba Sprint (Sprint, Defendant or Company). Skamania states that it is an Internet Service Provider (ISP). Skamania provides internet access services to its customers, but it does not claim to be a competitive provider of intrastate telecommunications services (CLEC) pursuant to ORS 759.020. Sprint is an incumbent local exchange carrier (ILEC) regulated by the Commission as a telecommunications utility under ORS Chapter 759.

Skamania alleges that it was improperly billed for Presubscribing Interexchange Carrier Charges (PICC), Local Number Portability (LNP) and network access charges on its data accounts, improperly provisioned tariffed services and not provided adequate information by Sprint as required by the Oregon Administrative Rules, presumably OAR 860-021-0010. Sprint timely filed an answer to the Complaint. In the year that followed, the parties actively engaged in negotiations to resolve the dispute and regularly sought extensions of time from the Commission to delay these proceedings while such negotiations were underway.

On November 8, 2000, a telephone prehearing conference was held and the scope of the dispute was narrowed: the evidence and prayer for relief would be limited to the provision of services and facilities in Oregon. A schedule was set for data requests and motions to compel discovery or for summary disposition.

Each party submitted data requests to the other and both parties filed motions to compel discovery. A procedural conference was held on February 20, 2001, for hearing oral argument and ruling on the motions. Allan J. Arlow, the presiding Administrative Law Judge (ALJ), issued oral rulings in which he indicated he would reduce to a written document. He also ruled that, in order for the Commission to consider allegations related to events occurring after the filing of the original Complaint, Skamania would have to file an amended complaint directed to such intervening events occurring up until February 20, 2001. On March 1, 2001, Skamania filed an Amended Formal Consumer Complaint (Amended Complaint). On March 23, 2001, Sprint filed a Motion to Dismiss or Make More Definite and Certain. On April 17, 2001, Sprint filed a request that an order be issued regarding Sprint's pending motions and, on April 23, 2001, Skamania responded.

On, May 2, 2001, the ALJ issued a Ruling dismissing the Amended Complaint. With respect to the original Complaint, the ALJ found that Complainant had failed to satisfy the requirements of OAR 860-013-0015 with respect to three of the four issues presented. With respect to the fourth issue--that because Skamania is an information service provider, "Sprint is precluded from charging network access fees to ISPs -- is a question of law and is sufficiently specific to satisfy the requirements of OAR 860-013-0015." The ALJ then stated, "[h]owever, it is not a new question, but one which was raised in the initial Complaint and for which Complainant has had the opportunity but failed to provide any legal foundation for its assertions. Skamania has likewise failed to describe with any specificity how the Sprint tariffs on file with the Commission fail to support the charging of network access fees to ISPs." (Ruling, p. 8). Thus, in order for the Complainant to be entitled to a hearing on the factual questions, it was necessary to provide the legal basis for the claim, as required by OAR 860-013-0015(3).

Discussion. That brief or statement of points and authorities requested by the ALJ has yet to be filed by the Complainant, and it has now been almost ten months since the issuance of the ALJ's Ruling and almost five months since the receipt of the most recent correspondence from the Complainant, a status letter indicating, generally, that the Complainant is awaiting some reply from Sprint.

Over the course of the past two years, the Complainant has had ample opportunity to either pursue the Complaint to its conclusion or reach an agreement with Sprint. This Complainant has failed to do. The Complaint fails to comply with the requirements of OAR 860-013-0015.

ORDER

The Complaint filed by Skamania Networks on November 3, 1999 against United Telephone Company of the Northwest dba Sprint is dismissed with prejudice.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

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