

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



REPORT AND ORDER

Issue Date: July 20, 2016

Effective Date: August 19, 2016

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Melody Sue Moss,)	
)	
v.)	<u>File No. IC-2015-0286</u>
)	
Windstream Missouri, Inc.,)	
)	
Respondent)	

Appearances

Melody Sue Moss, Complainant, appeared *pro se*

Larry Dority, Attorney for Windstream Missouri, Inc.

Marcella Mueth and Cully Dale, Attorneys for the Staff of the Commission

Judge: Kim S. Burton and Kennard Jones, Senior Regulatory Law Judges

REPORT AND ORDER

Syllabus: The Commission concludes that Windstream Missouri, Inc. has not violated any statute within the Commission’s jurisdiction, the company’s tariff, or any Commission rule or order.

Background

Melody Sue Moss (Complainant) complained to Windstream Missouri, Inc. (Windstream) that when using her telephone she received severe shocks and could hear/feel pulsating currents through the telephone. Concerned that she may suffer physical harm from these phenomena, Complainant requested that her Network Interface Device (NID) and wires, which transverse under the crawl space of her home, be moved. Her request was grounded in the theory that ductwork under her home acted as a rectifier, turning alternating electrical currents into direct currents and thus causing her harm. Complainant also requests \$3,000 as damages for mental anguish.

On May 5, 2015, Complainant filed a complaint with the Missouri Public Service Commission (Commission) against Windstream. On May 6, 2015, the Commission directed the Staff of the Public Service Commission (Staff) to investigate and file a report concerning complaint. After Staff investigated and filed a report, the Commission held an evidentiary hearing on April 1, 2016, in Piedmont, Missouri. During the evidentiary hearing, the Commission admitted the testimony of four witnesses and received three exhibits into evidence. On April 29, the Regulatory Law Judge filed a Notice of Recommended Report and Order. On May 6, Windstream submitted comments in support of the Regulatory Law Judge's Recommendation. In response to the Judge's recommendation, on June 14, Staff forwarded comments received from Ms. Moss.

Findings of Fact

1. Complainant made an informal request to have her Network Interface Device (NID) moved.¹
2. In order for Windstream to act on Complainant's request to have her NID moved, Complainant would need to make a formal request, which includes an application and payment.²
3. Steven Findley has 29 years of experience in the telecommunications field, with 23 of those years being with Windstream.³
4. Steven Findley has personal experience with the issues raised by Complainant.⁴

¹ Tr. page 44, lines 2-11.

² Tr. page 44, lines 12-15.

³ Tr. page 45, line 22 – page 46, line 13.

5. The NID serving Complainant's telephone service is properly bonded and grounded.⁵

6. There is no reason to move the NID from where it is currently located.⁶

7. When Myron Couch, of the Staff of the Commission, visited Complainant's home, there was no telephone wire on the ductwork running through the crawl space under her home.⁷

8. The NID, the stained glass window, AC unit and the ductwork on Complainant's home do not act as an electromotive force or oscillations or rectifiers for the conduction of electricity.⁸

9. The first knowledge of the Company being made aware that Complainant wanted her NID moved was during the prehearing conference in this case.⁹

10. The cost of moving the NID will be well in excess of \$150, which Complainant believes Windstream quoted as a price.¹⁰

11. Complainant wants the wires moved from under her home to the outer perimeter of her home, and she is able to either do that herself or hire an electrician to move the telephone line.¹¹

⁴ Tr. page 47, lines 1-7.

⁵ Tr. page 48, lines 20-23.

⁶ Tr. page 49, lines 2-5.

⁷ Tr. page 62, lines 12-13.

⁸ Tr. page 65, lines 1-19.

⁹ Tr. page 70, line 24 – page 71, line 5.

¹⁰ Tr. page 78, lines 2-11.

12. Complainant has a correctly installed NID, which is bonded to the electric ground, connected to the multi-grounded neutral. This is the safest installation that the telephone company is able to make.¹²

13. Complainant's inside wire is not routed over the ductwork under her home but is routed directly from the NID to two locations in her home where she has wall telephones.¹³

Conclusions of Law

The Staff of the Commission argues that the Commission does not have jurisdiction over this complaint because Complainant's telephone service is properly grounded.¹⁴ By that rationale, if Complainant's telephone service is not properly grounded, then the Commission has jurisdiction. Pursuant to Section 386.390, any person may make a complaint to the Commission asserting, "any act of thing done or omitted to be done by any corporation, person or public utility...in violation, or claimed violation, of any provision of law, or of any rule or order or decision of the commission...." Commission rule 4 CSR 240-28.060 states that any company providing intrastate telecommunication service shall comply with the safety standards identified in 4 CSR 240-18.010. Whether Complainant's telephone service is properly grounded is, therefore, a fact to be determined. The Commission held a hearing in order to determine whether, in fact, Complainant's telephone service is properly grounded.

¹¹ Tr. page 82, line 13 – page 82, line 2; and, page 84, line 16 – page 85, line 3.

¹² Tr. page 65, lines 19-24.

¹³ Staff Exhibit 1, page 2, paragraph 2 of the memorandum.

With regard to Complainant's request for damages, the Commission has no authority to award damages.¹⁵

The Complainant has the burden of proving that Windstream has violated the law, its tariff or is otherwise engaging in unjust or unreasonable action.¹⁶

Discussion

Considering the testimony presented by both the Staff of the Commission and Windstream, Complainant's claims of injury caused by her telephone line are not credible. Experts have sworn that Complainant's telephone line is working properly and is not conducting electricity as claimed by Complainant. Complainant has not shown that the NID is working improperly.

Complainant has also requested that the Company move a telephone line from under her home. Complainant's reason for this request, that the wire under her home causes electrical disturbances and could cause her harm, is unfounded. Further, in light of Staff's investigation and testimony, there are no telephone wires traversing the crawl space under Complainant's home. Complainant has not carried her burden of proving otherwise.

Decision

The Complainant has not shown that Windstream has violated the law, its tariff or any Commission rule. Complainant's request for relief is, therefore, denied.

¹⁴ Tr. page 114, line 19 – page 115, line 3.

¹⁵ *State ex rel. GS Techs. Operating Co. v. PSC of Mo.*, 116 S.W.3d 680, 696 (Mo. App. 2003).

¹⁶ *State ex rel GS Technologies Operating Co. Inc. v. Public Service Comm'n*, 116 S.W.3d 680, 693 (Mo. App. 2003).

THE COMMISSION ORDERS THAT:

1. Melody Sue Moss' complaint is denied.
2. This Report and Order shall become effective on August 19, 2016.
3. This file shall close on August 20, 2016.

BY THE COMMISSION



Morris L. Woodruff

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney, Rupp, and
Coleman, CC., concur;
and certify compliance with the
provisions of Section 536.080, RSMo.

Dated at Jefferson City, Missouri,
on this 20th of July, 2016.