

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Thomas	)	
G. Holowitz,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 05-1403-TP-CSS
	)	
SBC Ohio,	)	
	)	
Respondent.	)	

OPINION AND ORDER

The Commission, considering the complaint filed November 16, 2005, and the public hearing held on June 27, 2006, hereby issues its Opinion and Order.

APPEARANCES:

Thomas G. Holowitz, 322 Tallman Street, Groveport, Ohio 43125, on behalf of himself as the complainant.

Ms. Mary Ryan Fenlon, 150 East Gay Street, Floor 4 Room C, Columbus, Ohio 43215, on behalf of AT&T Ohio.

I. HISTORY OF THE PROCEEDINGS

On November 16, 2005, Mr. Thomas G. Holowitz (Mr. Holowitz or Complainant) filed a complaint against SBC Ohio, now known as AT&T Ohio (AT&T), alleging errors on his bills dating from December 2001 through May 2004. Mr. Holowitz asserted that he attempted to bring the errors to AT&T's attention in writing when he paid his bills but repeatedly received no response. He further states that in April 2004 he was unable to make long distance telephone calls because AT&T had imposed a toll block for his late payment of bills. Finally, he adds that in November 2004 he was contacted by a collection agency regarding the alleged back payments owed to AT&T.

AT&T filed its answer to the complaint on December 7, 2005. AT&T admitted that Mr. Holowitz was an AT&T customer from December 2001 through May 2004 and added that Mr. Holowitz had an outstanding balance of \$39.32. AT&T admitted that the amount owed had been sent to an outside collection agency and denied any remaining allegations of Mr. Holowitz. AT&T added that its practices were in accordance with all applicable

laws and closed by stating that Mr. Holowitz had failed to state reasonable grounds for proceeding to hearing.

By entry issued January 20, 2006, the attorney examiner determined that the matter should be set for a settlement conference. A date of January 31, 2006, was selected. Mr. Holowitz responded on February 2, 2006, by stating that he did not receive a copy of the entry until February 2, 2006. Accordingly, he requested a new date for the conference. The attorney examiner issued another entry dated March 2, 2006, which rescheduled the settlement conference for March 15, 2006. Attempts to settle matters were unsuccessful, and by entry issued June 6, 2006, a hearing date of June 27, 2006 was set. The hearing was held, as scheduled, on June 27, 2006. Briefs were filed by AT&T on August 4, 2006, and by Mr. Holowitz on August 21, 2006.

## II. APPLICABLE LAW

The Commission first observes that under Section 4905.26, Revised Code, upon complaint in writing against a public utility that any charge or service is unjust, unreasonable, or in violation of law, and if it appears that reasonable grounds for complaint are stated, the Commission must conduct a hearing into the matter. The Commission also notes that under *Grossman v. Pub. Util. Comm.* (1966), 5 Ohio St.2d 189, the burden of proof in complaint proceedings is on the complainant.

Next, the Commission takes notice that the complaint addresses several matters, specifically (a) customer opportunity to contact a telecommunications carrier upon discovering an alleged billing error, (b) AT&T's responses to Complainant's claims that he was improperly billed, (c) AT&T's imposition of a toll calling block when Complainant allegedly was not paying bills on time, and (d) assessment of charges for Complainant's alleged late payment of bills.

A customer's opportunity to contact a carrier about billing matters is addressed in Rule 4901:1-5-15(A)(1), Ohio Administrative Code (O.A.C.), which requires a customer's bill to state the carrier's toll free telephone number for subscriber billing questions. In addition, Rule 4901:1-5-06(B)(7)(e), O.A.C., requires a telephone directory to contain a toll free telephone number and address for customer complaints or inquiries.

Upon receiving a customer complaint, Rule 4901:1-5-05(A)(1), O.A.C., states that a carrier must "fully and promptly investigate all complaints" and must provide a report of each complaint's resolution within ten business days of receiving the complaint from the customer.

Under Rule 4901:1-5-17(K)(1), O.A.C., a customer's bill shall not be due earlier than 14 days from the date of the postmark on the bill; if the bill is not paid by the due date, it is

considered past due. Next, Rule 4901:1-5-17(B), O.A.C., permits a carrier to disconnect toll service for subscriber nonpayment; Rule 4901:1-5-17(C), O.A.C., states that partial payments applies toward any past due amount on a bill or the balance due on a disconnection notice must be apportioned first to past due regulated local service charges, then to any current local charges, before being applied to toll or nonregulated charges. Rule 4901:1-5-17(K)(2)(b), O.A.C., states that a carrier cannot disconnect service without sending a written notice of disconnection, postmarked at least seven days before the date of disconnection of service. Finally, Rule 4901:1-5-17(L), O.A.C., specifies the contents for a notice of disconnection, and Rule 4901:1-5-17(M), O.A.C., addresses reconnection of local and toll service. Assessment of late payment charges are determined by a carrier's tariff.

### III. SUMMARY OF THE TESTIMONY AND BRIEFS

Mr. Holowitz opened his remarks by alleging that AT&T was unjust and unreasonable when it failed to respond to the information that he had provided concerning billing errors (Tr. 7). He claims that the errors began with a bill for the period November 29, 2001, to December 28, 2001, and asserts that he notified AT&T by writing comments on the bill before mailing it back. Despite this, he stated that he received no response (Tr. 8). Mr. Holowitz believes that the aforementioned bill should have totaled \$64.04; upon questioning by the attorney examiner, however, Mr. Holowitz could not explain how he calculated this amount (Tr. 8-9). Mr. Holowitz added that he continued writing comments on his bills and sending them back from December 2001 through November 2002 (Tr. 10), paying only the current charges and none of the back charges (Tr. 13, 54). According to Mr. Holowitz, from December 2002 through December 2003 he added remarks about alleged billing errors on his payment checks in addition to writing comments on the bill (Tr. 11).

Next, said Mr. Holowitz, on January 29, 2004, he received a past due notice. In response, he reported alleged errors by writing on the past due notice and on his payment check before mailing payment (Tr. 12; AT&T Ex. 11). Mr. Holowitz asserts that the bill he received for the period February 29, 2004, to March 28, 2004, was also in error, and he wrote remarks on the bill and on the check indicating this (Tr. 13).

Continuing, Mr. Holowitz stated that on March 28, 2004, he received another past due notice. He responded by writing on the notice that the notice was in error because "all charges have been fully and timely paid even though many recent charges are seemingly quite non-legitimate." Mr. Holowitz added that he signed the notice on April 9, 2004 (Tr. 14). Shortly after that, alleges Mr. Holowitz, his long distance service was terminated because the late payment fees assessed to him were unpaid (Tr. 15). Mr. Holowitz says that he contacted the Commission around April 19 or 21, 2004, and that on April 23, 2004, he received a letter from AT&T stating that late payment fees must be paid to have the

long distance service restriction removed (Tr. 16). Mr. Holowitz responded in writing on May 6, 2004, by saying that he had paid legitimate charges fully and on time, "historically . . . in advance." He also objected to AT&T "restricting my ability to do business with a third-party company," i.e., blocking his ability to make long distance telephone calls (Tr. 16-17; AT&T Ex. 15).

In response to the bill for the period March 29, 2004, to April 28, 2004, which totaled \$97.61, Mr. Holowitz wrote a May 21, 2004, letter stating that he only owed \$29.12 (AT&T Ex. 16).<sup>1</sup> After receiving an AT&T letter dated June 29, 2004 (AT&T Ex. 17), which stated that his account was past due \$39.32, Mr. Holowitz sent a letter dated July 15, 2004, to AT&T asserting that \$19.01 was owed to him (Tr. 20). Eventually, he received a November 30, 2004, letter from the collection agency acting on AT&T's behalf (Tr. 21).

To the best of Mr. Holowitz's knowledge, AT&T never terminated his local service for nonpayment (Tr. 22, 24). He did change to another local service provider, Talk America (Tr. 22-24). His wife continued to shop for lower telephone rates and eventually the Holowitzes returned to AT&T for local and long distance service, which is now in Mrs. Holowitz's name (Tr. 23).

Ultimately, says Mr. Holowitz, he seeks a correction of errors and a return of \$24.16 plus interest (Tr. 25-26, 29).<sup>2</sup> Mr. Holowitz stated that he determined that he had overpaid \$24.16 after he examined his bills for the periods ending April 28, 2004, and May 28, 2004, and AT&T's June 29, 2004, letter stating that he owed \$39.32; beyond these comments, Mr. Holowitz provided no further detail about how he calculated the \$24.16 (Tr. 28-29). Mr. Holowitz believes that the late payment fees that were assessed to him were erroneous (Tr. 28-29) and concluded that, if AT&T would pay him \$24.16, his complaint before the Commission would be resolved. For damages, which he notes would be addressed by the courts, he asks the Commission to find that SBC's service was inadequate (Tr. 31). Finally, Mr. Holowitz clarified to the attorney examiner that he "did try to call [AT&T about his concerns] from time to time" but "it was such a hassle dealing with machines and not being able to get a hold of people and having machines put me on hold and so forth" (Tr. 37).

Under cross-examination by AT&T's counsel, Mr. Holowitz stated that he had noticed a telephone number on his bills for customers to call with any billing inquiries. He

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<sup>1</sup> In his letter, he further alleged having been billed for "full service" while only having "partial service" available (Tr. 18); upon questioning by the attorney examiner, Mr. Holowitz explained that he could only make local calls even though, in his opinion, he was billed as if he could still make long distance calls (Tr. 18-19). Upon further questioning by the attorney examiner, Mr. Holowitz later said he was not billed for the ability to make long distance calls (Tr. 20).

<sup>2</sup> Mr. Holowitz later said that the interest could be "left in the category of damages which will be addressed by the courts at a later date" (Tr. 31).

added that he preferred to resolve billing matters via U.S. Mail because when he attempted to do so by telephone "you get put on hold. You deal with machines." (Tr. 34-35). He also said that he had observed on his bills a written explanation regarding how to deal with billing inquiries and what happens when bills are paid late (Tr. 36).

AT&T's witness, Kathleen Gentile-Klein (Ms. Gentile-Klein), who is AT&T's Manager of Customer Complaints, stated that residential late payment charges are addressed in AT&T's tariff, which was effective on August 19, 2001. She added that from the August 19, 2001 tariff forward, charges were assessed to residential customers who did not pay bills on time. Ms. Gentile-Klein noted that customers were notified of the late payment fee in billing messages during July 2001, August 2001, and October through December 2001 (Tr. 39-42; AT&T Ex. 2). She also observed that in August 2003 the late payment charge increased from a rate of 1.5 percent to a fee of \$5 or 1.5 percent of the late unpaid balance, whichever was greater, and that Mr. Holowitz's July 28, 2003 bill contained a notice of this fee increase (Tr. 61).

Ms. Gentile-Klein examined a spreadsheet of Mr. Holowitz's payment history from January 2001 to May 2004 and described, using supporting exhibits, numerous instances when Mr. Holowitz paid late (Tr. 43-47) and occasions when he did not pay at all (Tr. 43). Ms. Gentile-Klein stated that the first time a late payment charge appeared on a bill for Mr. Holowitz was in December 2001. She added that this charge was dismissed in the January 2002 bill as a goodwill gesture, which AT&T does the first time such a charge is incurred (Tr. 57). Mr. Gentile-Klein noted that, upon reviewing the history of Mr. Holowitz's bills from January 2001 to May 2004, she realized that "he was just subtracting out the late payment charge each and every month when he was making his payment" (Tr. 60). In sum, she says, Mr. Holowitz "kept ignoring the late payment charges . . . from January of 2002 to May of 2004" (Tr. 61).

Ms. Gentile-Klein noted that Mr. Holowitz's first past due notice scheduled disconnection of local and long distance service if he failed to pay by February 7, 2004; Mr. Holowitz later submitted payment with a check dated March 8, 2004 (Tr. 47-48; AT&T Ex. 11). Similarly, for a past due notice indicating possible disconnection by April 7, 2004, Mr. Holowitz responded by writing a message on the disconnection notice and dating the message April 9, 2004 (Tr. 49; AT&T Ex. 13).

According to Ms. Gentile-Klein, upon receipt of an informal complaint filed at the Commission by Mr. Holowitz in spring 2004, Ms. Waneka Northern, the executive assistant of Ms. Gentile-Klein, wrote a letter to Mr. Holowitz. The letter stated that Mr. Holowitz' billing statements for the prior two years had been reviewed and that he had not made all payments before the due date, thus generating late payment charges. The letter also explained how late payment charges were applied to each bill and reminded

Mr. Holowitz to contact Ms. Northern with additional questions or call the collection department at a designated number to pay the bill in full (Tr. 49-50; AT&T Ex. 14).

Next, stated Ms. Gentile-Klein, upon receipt of an April 28, 2004 bill with a due date of May 29, 2004, Mr. Holowitz responded by letter on May 21, 2004, claiming that the bill was in error and alleging that the adjusted amount should be \$29.12; he did not make a payment, nor did he explain how he calculated the \$29.12 (Tr. 51-52; AT&T Ex. 17). AT&T also sent a letter dated April 30, 2004, requesting that Mr. Holowitz call service representative Natalie Bulter at a designated telephone number to provide more information about his dispute (Tr. 52). In addition, AT&T sent a letter dated June 29, 2004, indicating that Mr. Holowitz owed \$39.32 and that he would have ten days to pay that amount (Tr. 52).

According to Ms. Gentile-Klein, Mr. Holowitz cancelled service on May 3, 2004 and, as a result, was credited for some unused local service that he had paid for in advance, because his billing cycle was April 29, 2004 to May 28, 2004 (Tr. 64). Ms. Gentile-Klein testified that the final bill sent to Mr. Holowitz on May 31, 2004, was for \$39.32; \$26.36 of the \$39.32 was for late payment charges and the remainder was for local or long distance service (Tr. 62-63).

AT&T Ex. 19 represents the final response that was sent to the Commission concerning the informal complaint. Ms. Gentile-Klein stated that, under the final response, Ms. Northern spoke with Mr. Holowitz and explained that if he makes payment after the due date, a late payment charge applies. Ms. Northern also reviewed billing statements with him and confirmed payment dates. Finally, Ms. Northern indicated that Mr. Holowitz had said that he is only paying the current charges, not the late charge fee (Tr. 54).

Finally, AT&T Ex. 20 is a letter to Mr. Holowitz that was, according to Ms. Gentile-Klein, generated after AT&T received Mr. Holowitz's formal complaint and had participated in a settlement conference. The letter states that AT&T adjusted the final bill on January 11, 2006, to a zero balance. In addition, an outside collection agency was asked by AT&T to stop collection action and remove any negative entries on his credit report regarding the AT&T billing (Tr. 55).

Ms. Gentile-Klein testified that mail sent to AT&T's payment center in Michigan is processed through a computer; consequently, handwritten remarks on billing statements would go unnoticed, because the computer only processes checks (Tr. 65). According to Ms. Gentile-Klein, AT&T would likely have answered Mr. Holowitz's complaints immediately had he not sent the complaints to the bill payment center in Saginaw, Michigan (Tr. 70-71). Further, she added, in the white pages of AT&T's telephone book is an address for written correspondence regarding billing complaints; upon receipt of a

letter at this address, a service representative will examine the customer's comments and respond to the customer (Tr. 65). She added that the billing statement does not contain an address to write to with billing complaints but noted that a toll free telephone number is indicated on the bill for customers to call regarding billing matters (Tr. 72).

AT&T filed its brief on August 4, 2006, and Mr. Holowitz filed a reply brief on August 21, 2006. AT&T's brief does not raise any additional issues or arguments beyond what was presented in exhibits and testimony. In his brief, Mr. Holowitz reemphasizes points made in his testimony, while adding that "SBC's actions are in violation of U.S. Code: Title 15, Chapter 83 Telephone Disclosure and Dispute Resolution and Correction of Billing Errors, the Federal Trade Commission Fair Debt Collection Act, the Consumer Protection Act and/or etc." (Holowitz Br. 2). He adds that bills sent by AT&T have no postmarks and thus give no indication of the bill's mailing date, and that when he is billed in advance of receiving service, the due dates for payment "are about 45 days prior to the time the payments should realistically be due" (Holowitz Br. 2). Finally, in his May 21, 2004, letter to AT&T, he says that he never questioned the disconnection of long distance service but, rather, reported alleged errors on AT&T's bills, and comments that it had "never occurred" to him to "[search] for an address other the one the Company [AT&T] presented to me each month. . . ." (Holowitz Br. 4).

#### IV. DISCUSSION

The Commission first notes Mr. Holowitz's contention that AT&T's service was unjust and unreasonable because AT&T did not respond to his written remarks alleging billing errors. Accordingly, the Commission first examines whether Mr. Holowitz was properly informed how to contact AT&T with billing concerns. The Commission notes that AT&T Ex. 2, which are AT&T's bills for service to Mr. Holowitz dated July 28, 2001 and August 28, 2001, indicates a toll free telephone number for billing inquiries on the first and second pages of the bill. By providing this toll free number on customer bills, AT&T is in compliance with Rule 4901:1-5-15(A)(1), O.A.C., which requires the presence of such a number on customer bills; presumably, the number was also present on Mr. Holowitz's November 29, 2001, to December 28, 2001 bill. The Commission recognizes Mr. Holowitz's preference to resolve billing matters via written correspondence and that it had not occurred to Mr. Holowitz to search for a mailing address for billing concerns that differed from the payment address indicated on his monthly bills. Still, despite Mr. Holowitz's understandable objections to resolving matters via telephone, the Commission takes notice of Mr. Holowitz's statement that he had seen a written explanation and a telephone number on his bills for customers to call with any billing inquiries. Further, the Commission believes that Mr. Holowitz could have contacted AT&T by telephone to determine the correct address to write to after several months of unsuccessfully attempting to resolve matters by mail. Indeed, Mr. Holowitz could have done so starting

in December 2002, but he decided to begin writing remarks about alleged billing errors on his payment checks, while also continuing to write comments on the bill. Unfortunately for Mr. Holowitz, and as Ms. Gentile-Klein testified, the address that Mr. Holowitz wrote to is only a payment center that processes checks via computer and is not equipped to address customer concerns written on billing statements or, presumably, on checks.

Given that Mr. Holowitz was mailing his comments to an incorrect address, AT&T's failure to respond did not violate Rule 4901:1-5-05(A)(1), O.A.C., which requires, for a complaint made directly to the carrier, that a report of the complaint's resolution be sent to the customer within ten business days of receiving the complaint.

Next, the Commission examines AT&T's actions after April 19, 2004, the earliest date when Mr. Holowitz says that he contacted the Commission via informal complaint regarding his concerns. Under Rule 4901:1-5-05(A)(2), O.A.C., when a complaint is made to Commission staff, a carrier has ten business days to inform the customer of the carrier's resolution of the complaint. AT&T Ex. 14 is a letter to Mr. Holowitz dated April 23, 2004, which states that the blocked access to long distance calling is because of unpaid late payment charges, and that to have the calling restriction removed and to pay the balance in full Mr. Holowitz must call a designated toll-free number. Mr. Holowitz testified that he did receive this letter and that he responded in writing on May 6, 2004, by saying that he had paid legitimate charges fully and on time, "historically . . . in advance." Given the date of AT&T's letter, AT&T complied with Rule 4901:1-5-05(A)(2), O.A.C.

Moving on to another concern of Mr. Holowitz, the Commission examines whether AT&T improperly disconnected Mr. Holowitz' long distance service. As discussed earlier in this opinion and order, Rule 4901:1-5-17(B), O.A.C., allows a carrier to disconnect for customer nonpayment of toll service, provided that billing, notice, and disconnection standards are properly followed. Rule 4901:1-5-17(C), O.A.C., states that partial payments applied toward any past due amount on a bill or the balance due on a disconnection notice must be apportioned first to past due local service charges and then to current local charges before being applied to toll charges. In addition, Rule 4901:1-5-17(K)(2)(b), O.A.C., states that a carrier cannot disconnect service without sending a written notice of disconnection that is postmarked at least seven days before the date of disconnection of service, while Rule 4901:1-5-17(L), O.A.C., specifies the contents for a notice of disconnection. Applying these rules to evidence in the record, Mr. Holowitz acknowledged that he received past due notices dated January 29, 2004 and March 28, 2004. An examination of AT&T Ex. 11, which is the past due notice to Mr. Holowitz dated January 29, 2004, and AT&T Ex. 13, which is a past due notice to Mr. Holowitz dated March 28, 2004, shows that each notice contains the information required by Rule 4901:1-5-17(L), O.A.C., including language stating that (1) failure to pay specified amounts will result in disconnection of long distance service and voicemail, (2) the date of such disconnection, (3) the reason for disconnection, and (4) a telephone number to call with



questions. The Commission further observes that AT&T Ex. 11 and AT&T Ex. 13 each contain only one of two pages,<sup>3</sup> so it is unclear whether either exhibit contains the required mailing address for customers to write to, as well as language indicating that customers can contact the Commission with concerns. However, while the record does not conclusively show that AT&T sent an incomplete notice to Complainant, Mr. Holowitz did not allege or prove that the disconnection notice lacked all required information. In addition, Mr. Holowitz did not specify exactly when the disconnection of his long distance service occurred, so whether AT&T failed to comply with requirements in Rule 4901:1-5-17(K)(2), O.A.C., concerning when such a notice was sent and whether adequate time was indicated before the disconnection occurred also is not clear. As already noted in this opinion and order, in complaint proceedings the burden of proof is on the complainant. Further, AT&T's Ex. 14, which is a letter from Ms. Northern to Mr. Holowitz dated April 23, 2004, indicates that Mr. Holowitz had complained to the Commission about a long distance calling block, but not even this indicates the exact date of disconnection. Finally, Mr. Holowitz does not allege that he made full payment before the due date specified by AT&T in the disconnection notice; rather, he responded to the March 28, 2004, disconnection notice on April 9, 2004, which is beyond the indicated April 7, 2004, deadline for payment.

The final matter of concern to the Commission is whether AT&T improperly assessed late payment charges to Mr. Holowitz. Although Mr. Holowitz asserts that he often paid in advance or on time, numerous AT&T exhibits, i.e., the bills that Mr. Holowitz returned with payment, contain remarks in Mr. Holowitz's writing indicating that payment was made on a date later than the due date. Further, regarding Mr. Holowitz's bill dated December 28, 2001, which is the month that Mr. Holowitz alleges that AT&T's billing errors began, the Commission notes that Mr. Holowitz could not explain why the amount owed was incorrect; indeed, he stated that he did not have his notes pertaining to that bill. In addition, Mr. Holowitz could not explain his ultimate conclusion that AT&T owes him \$24.16; again, he said that he did not have his notes for this calculation. Assuming that AT&T was justified in assessing a late payment charge to Mr. Holowitz, the record does not clearly indicate, nor did Mr. Holowitz prove, that AT&T incorrectly applied the terms of its tariff and miscalculated the late payment fee. Thus, concerning late payment charges assessed to Mr. Holowitz, the Commission cannot conclude that AT&T unjustly or unreasonably did so in violation of its tariff.

#### V. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On November 16, 2005, Thomas G. Holowitz (Mr. Holowitz) filed a complaint against SBC Ohio now known as AT&T Ohio (AT&T), alleging errors on his bills dating from December 2001 through May 2004.

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<sup>3</sup> Each exhibit states "page 1 of 2"; only the first page is present in either exhibit.

Mr. Holowitz asserted that he attempted to bring the errors to AT&T's attention in writing when he paid his bills but repeatedly received no response. He also alleged that in April 2004 he was unable to make long distance telephone calls because AT&T had imposed a toll block for his late payment of bills. Finally, he adds that in November 2004 he was contacted by a collection agency regarding the alleged back payments owed to AT&T.

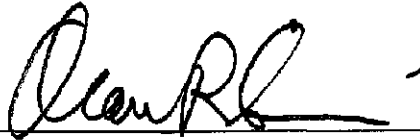
- (2) AT&T answered the complaint on December 7, 2005. AT&T admitted that Mr. Holowitz was an AT&T customer from December 2001 through May 2004 and added that Mr. Holowitz had an outstanding balance of \$39.32. AT&T admitted that the amount owed had been sent to an outside collection agency and denied any remaining allegations of Mr. Holowitz.
- (3) By entry issued January 20, 2006, the attorney examiner determined that the matter should be set for a settlement conference. A date of January 31, 2006, was selected. Upon Mr. Holowitz' request, the conference was rescheduled to March 15, 2006. Attempts to settle matters were unsuccessful, and by entry issued June 6, 2006, a hearing date of June 27, 2006 was set. The hearing was held on the scheduled date. Briefs were filed by AT&T on August 4, 2006, and by Mr. Holowitz on August 21, 2006.
- (4) AT&T is a telephone company as defined by Section 4905.03(A)(2), Revised Code, and a public utility by reason of Section 4905.02, Revised Code. Thus, AT&T is subject to the jurisdiction of this Commission under the authority of Sections 4905.04 and 4905.05, Revised Code.
- (5) In a complaint case, such as this one, the burden of proof is on the complainant. *Grossman v. Public Utilities Commission*, 5 Ohio St. 2d 189, 214 N.E. 2d 666 (1966).
- (6) The complainant has failed to sustain his burden of proof in any of the allegations of the complaint.

It is, therefore,

ORDERED, That the complaint is dismissed. It is, further,

ORDERED, That a copy of this opinion and order be served upon all parties of record.

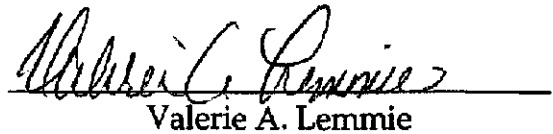
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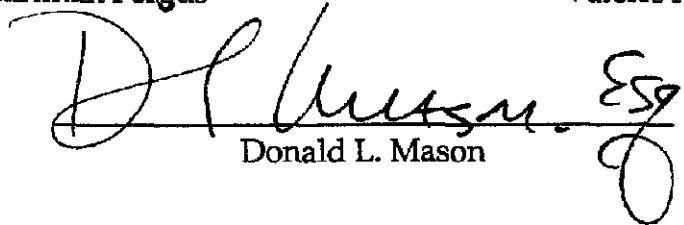
Alan R. Schriber, Chairman



Ronda Hartman Fergus



Valerie A. Lemmie



Donald L. Mason

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Renee J. Jenkins  
Secretary