

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the :
 Complaint of: :
 Office of the Ohio :
 Consumers' Counsel, :
 Complainant, :
 vs. : Case No. 07-546-TP-CSS
 UMCC Holdings, Inc., :
 Respondent. :

PROCEEDINGS

before Mr. James M. Lynn, Attorney Examiner, at the
 Public Utilities Commission of Ohio, 180 East Broad
 Street, Room 11-G, Columbus, Ohio, called at 9 a.m.
 on Thursday, August 16, 2007.

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1 APPEARANCES:

2 Janine L. Migden-Ostrander,
3 Ohio Consumers' Counsel
4 By Mr. Terry Etter
5 and Mr. David C. Bergmann,
6 Assistant Consumers' Counsel
7 10 West Broad Street, Suite 1800
8 Columbus, Ohio 43215-3485

9 On behalf of the Complainant.

10 - - -

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Witness

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Linda L. Pausch

Direct Examination by Mr. Etter

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OCC Exhibit

Identified Admitted

1 Prefiled testimony of Linda L.
Pausch

10

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- - -

1 Thursday Morning Session,
2 August 16, 2007.

3 - - -

4 ATTORNEY EXAMINER LYNN: Okay. Let's go
5 on the record at this time. The Public Utilities
6 Commission of Ohio has assigned for hearing at this
7 time and place Case No. 07-564-TP-CSS in the Matter
8 of Office of Consumers' Counsel versus UMCC Holdings,
9 Incorporated.

10 At this time we will have the appearances
11 of counsel on behalf of the Ohio Consumers' Counsel.

12 MR. ETTER: Okay. Thank you. Good
13 morning, your Honor. For the Office of the Ohio
14 Consumers' Counsel, 10 West Broad Street, Suite 1800,
15 Columbus, Ohio, Janine Migden-Ostrander, Consumers'
16 Counsel, I am Terry Etter, Assistant Consumers'
17 Counsel; David C. Bergmann as well, B-E-R-G-M-A-N-N,
18 Assistant Consumers' Counsel.

19 ATTORNEY EXAMINER LYNN: Fine. Thank
20 you. We will also note and let the record reflect
21 there is no counsel nor anyone present representing
22 UMCC Holdings, Incorporated.

23 Before we continue, let's see, we have
24 set a date for filing of briefs by OCC and that will

1 be August 30 of 2007.

2 And if OCC is ready to proceed, we will
3 go ahead with your first witness.

4 MR. ETTER: Thank you. We would call
5 Linda L. Pausch.

6 ATTORNEY EXAMINER LYNN: Okay.
7 Ms. Pausch, if you would take the witness stand,
8 please.

9 (Witness sworn.)

10 ATTORNEY EXAMINER LYNN: Please continue.

11 - - -

12 LINDA L. PAUSCH
13 called as a witness on behalf of the Complainant,
14 being first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 By Mr. Etter:

17 Q. Would you state your name, please.

18 A. Linda L. Pausch, P-A-U-S-C-H.

19 Q. And what is your position with the Office
20 of the Ohio Consumers' Counsel?

21 A. I am a Senior Telecom Compliance Analyst.

22 Q. And do you have before you today the
23 testimony that was filed August 9 in this proceeding?

24 A. Yes. I have my prefiled testimony with

1 me.

2 Q. Okay. And do you have any other
3 documents there with you this morning?

4 A. Yes. I need to supplement the testimony
5 that was filed on August 7 -- August 9, sorry.

6 Q. Okay. And why do you believe that you
7 need to supplement your testimony?

8 A. On Monday, August 13, we held a -- OCC
9 held a deposition with Scott Wilson from UMCC and we
10 learned information during that deposition and we
11 also received discovery responses from Mr. Wilson on
12 Monday as well.

13 Q. And what additional information are you
14 presenting from the discovery responses?

15 A. I would like to supplement my testimony
16 looking at page 6, line 12. During the deposition,
17 Mr. Wilson stated that UMCC continued to bill
18 customers through May of 2007. My initial testimony
19 indicated that at that time we believed that he
20 billed -- that UMCC billed customers through April of
21 2007, and we learned at that deposition he billed
22 customers through May of 2007.

23 Q. And, now, turning to the discovery what
24 additional information are you presenting from the

1 discovery responses?

2 A. From the discovery Mr. Wilson admitted
3 that UMCC was not certified to provide long distance
4 service here in Ohio. He also mentioned that UMCC
5 did not include OCC nor PUCO information on the
6 consumer invoices that were sent to consumers between
7 December, 2006, and May, 2007. And Mr. Wilson also
8 admitted in the discovery that Ohio consumers were
9 not notified that UMCC would be their long distance
10 carrier after the conversion of assets between Buzz
11 and UMCC.

12 And, finally, Mr. Wilson admitted that
13 UMCC did bill one or more Ohio consumers for long
14 distance services beginning December 1 through --
15 beginning December 1, 2006, through May of 2007.

16 Q. And along with those discovery responses
17 do you recall that OCC had requested records from
18 UMCC?

19 A. Yes, we did.

20 Q. And did Mr. Wilson -- did UMCC provide
21 those records that OCC had requested in those
22 discovery responses?

23 A. No, he has not. However, he did indicate
24 those records would be forthcoming within the next

1 two weeks.

2 Q. And where did he say that those records
3 are currently housed?

4 A. He said that the records were in an
5 office space in Veedersburg, Indiana, and that those
6 records are in boxes and file cabinets in his office
7 space.

8 ATTORNEY EXAMINER LYNN: Ms. Pausch, for
9 the record would you spell the name of that city?

10 THE WITNESS: Veedersburg,
11 V-E-E-D-E-R-S-B-U-R-G.

12 ATTORNEY EXAMINER LYNN: Okay. Thank
13 you.

14 THE WITNESS: Veedersburg.

15 ATTORNEY EXAMINER LYNN: Thank you.

16 Q. And do you have any concerns regarding
17 the preservation of those records?

18 A. Yes, we do. First of all, we have
19 concerns that the data may not be in a secure
20 location. He mentioned that it's in an office space
21 in Veedersburg, Indiana, where there is no one
22 watching over these records. That led us to believe
23 that the records are just sitting there. He further
24 mentioned that he is behind on the rent at that

1 office space and let us know he has to be out of that
2 office space by October -- sorry, by August 31 which
3 also led us to believe that time is of the essence
4 and the chance those records may disappear after
5 August 31, so we do have concerns that that data is
6 not in a secured place.

7 Initially, Mr. Wilson stated that he is
8 in the process of undoing the transaction between
9 Buzz Telecom and UMCC and that some of the data may
10 have already been transferred back to Buzz Telecom.
11 So we are very concerned that the data may just
12 disappear on us, and we would ask the Commission
13 that -- that the Commission require UMCC and Buzz
14 Telecom to preserve the data for inspection by OCC
15 and PUCO Staff.

16 Q. And taking a look at your prefiled
17 testimony, if I ask you the same questions today,
18 would you respond in the same way as you've
19 supplemented them here today?

20 A. Yes, I would.

21 MR. ETTER: That's all I have for
22 Ms. Pausch and I tender the witness for
23 cross-examination, your Honor.

24 ATTORNEY EXAMINER LYNN: All right. I

1 accept there is no one here to do a cross-examination
2 so thank you for providing -- thank you for providing
3 that up, but as I indicated here earlier, there is no
4 one to represent the UMCC at all.

5 MR. ETTER: Just in case you have any
6 questions.

7 ATTORNEY EXAMINER LYNN: Oh, I have none,
8 thank you. Will you be moving that her --
9 Ms. Pausch's testimony be presented into evidence?

10 MR. ETTER: Yes, I would. I so move.

11 ATTORNEY EXAMINER LYNN: Then we will
12 have the testimony of Linda Pausch designated as OCC
13 Exhibit 1.

14 (EXHIBIT MARKED AND ADMITTED INTO
15 INTO EVIDENCE.)

16 ATTORNEY EXAMINER LYNN: And is there
17 anything else you would be?

18 MR. ETTER: Yes. At this moment, at this
19 time, your Honor, I would like to renew our motion
20 for default judgment that we filed earlier in this
21 proceeding. We also move at this time for summary
22 judgment, you know, based on the documents that have
23 been filed in this proceeding. And we also move that
24 the Commission order the UMCC to preserve the records

1 that Ms. Pausch discussed and that they have
2 concerning this proceeding and also would request an
3 expedited ruling on that.

4 ATTORNEY EXAMINER LYNN: What was that
5 last?

6 MR. ETTER: Request an expedited ruling
7 on that.

8 ATTORNEY EXAMINER LYNN: Okay. Will you
9 be filing anything requesting that, Mr. Etter?

10 MR. ETTER: Yes, we will.

11 ATTORNEY EXAMINER LYNN: Okay. Thank you
12 very much.

13 MR. ETTER: And I just wanted to confirm
14 that anyone including UMCC may file a brief on
15 August 30?

16 ATTORNEY EXAMINER LYNN: Yes, yes. If
17 they choose to do so, yes.

18 MR. ETTER: Okay.

19 ATTORNEY EXAMINER LYNN: All right then.
20 Is there anything else then?

21 MR. ETTER: No. That's all we have.

22 ATTORNEY EXAMINER LYNN: That's fine.

23 All right. Thank you, Ms. Pausch.

24 And that will close the proceeding for

1 today. Thank you very much.

2 (Thereupon, the hearing was concluded at
3 9:10 a.m.)

4

5

CERTIFICATE

6 I do hereby certify that the foregoing is
7 a true and correct transcript of the proceedings
8 taken by me in this matter on Thursday, August 16,
9 2007, and carefully compared with my original
10 stenographic notes.

11

12

Karen Sue Gibson
Karen Sue Gibson, Registered
Merit Reporter.

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14 (KSG-4740)

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EXHIBIT

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The following exhibit(s) were prefiled and can be located with the pleadings:

[illegible]