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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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Francesca Brumley,)
)
Complainant,)
)
v.)
)
Sage Telecom, Inc. and AT&T Ohio,)
)
Respondents.)

Case No. 05-834-TP-CSS

MEMORANDUM CONTRA

AT&T Ohio¹, by its attorneys and pursuant to Ohio Admin. Code § 4901-1-35(B), opposes the application for rehearing filed by the Complainant on December 20, 2007. The Complainant has failed to specify the grounds upon which she considers the Commission order to be unreasonable or unlawful, as required by R. C. § 4903.10 and Ohio Admin. Code § 4901-1-35(A).² Moreover, she raises no new issues that would justify the Commission in reconsidering its Opinion and Order ("Order") adopted on November 28, 2007. The Complainant's request for rehearing should, therefore, be denied.

The Complainant makes vague allegations that the Attorney Examiner "covered up" evidence of inadequate service. Application, p. 1. The extensive record compiled in this case, as summarized in the Order, shows the exact opposite. The Attorney Examiner was fair

¹ The Ohio Bell Telephone Company uses the name AT&T Ohio.

² The Complainant has also failed to include a certificate of service, as required by Ohio Admin. Code § 4901-1-05(A); the filing does therefore not conform to R. C. § 4903.10.

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and impartial and even assisted the Complainant in the presentation of her case. While there is no ready definition of "inadequate service," the Commission has, over the years, adopted a case-by-case approach to such a determination. As the expert trier of fact, it properly reached the conclusion here that AT&T Ohio had not provided inadequate service to the Complainant. The Commission concluded that "AT&T appears to have exhausted all of its technical resources and has conducted a complete investigation of Ms. Brumley's telephone service." Order, p. 8. The Commission properly concluded that the record evidence was insufficient for a finding of inadequate service with respect to AT&T. Id.

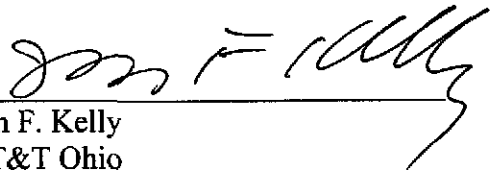
It is simply not the case that "no dial tone" equates to "inadequate service," as the Complainant suggests. Application, p. 1. A "no dial tone" condition can be caused by many factors, some of which are not in the control of the telephone company providing service. For example, a subscriber might have faulty equipment that does not transmit a dial tone when the receiver is picked up. A "no dial tone" condition might exist because someone excavating nearby might cut a telephone company cable. The Commission's policy calls on the telephone companies to respond to service-related complaints in a reasonable manner. AT&T Ohio's extensive testimony, summarized on pp. 5-7 of the Order, clearly demonstrates that the Company responded to the service complaints in a manner consistent with the Commission's policy. The record shows that AT&T Ohio responded time and again to the Complainant's service complaints and, as noted above, exhausted its resources in investigating them. In the end, the Commission could only conclude that AT&T Ohio had not provided inadequate service in any respect.

In a complaint case such as this one, the burden of proof is on the Complainant. *Grossman v. Public Utilities Commission* (1966), 5 Ohio St.2d 189. The Complainant failed to sustain her burden here. She offers no reasonable basis for the Commission to grant rehearing of its Order. Her application for rehearing should be denied.

Respectfully submitted,

AT&T Ohio

By:


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on the following parties by depositing it in the U. S. Mail, postage prepaid, this 31st day of December, 2007.

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