

THE PUBLIC UTILITIES COMMISSION OF OHIO

**Respondent.**

**Case No. 09-515-TP-CSS**

### The Commission finds:

- (1) On October 28, 2009, the Commission issued an entry on rehearing in which it held in abeyance an order requiring OHIOTELNET.COM, Inc. (OHIOTELNET) to pay by November 18, 2009, the sum of \$70,666.84 into escrow. The entry noted that OHIOTELNET and Windstream Ohio, Inc. (Windstream) had agreed that between October 19, 2009, and November 18, 2009, they would attempt to resolve the issues relating to the balance owed in their billing dispute.
- (2) By letter dated November 20, 2009, Windstream informed the Commission that the parties had reached an impasse in their negotiations. In its letter, Windstream summarized its calculations of disputed and undisputed amounts. With a write-off of \$6,025.55, Windstream calculated a balance due of \$64,641.29. Noting that OHIOTELNET calculated the outstanding balance to be \$69,873.73, Windstream, nevertheless, agreed to accept the lower figure as the applicable escrow payment.
- (3) On December 4, 2009, OHIOTELNET filed a letter in which it denied that the parties had reached an impasse. In its letter, OHIOTELNET disputes Windstream's account of the facts and figures. For example, OHIOTELNET rejects Windstream's assertion that OHIOTELNET stated that the outstanding balance is \$69,873.73. OHIOTELNET clarifies that \$69,873.73 represents the total disputed amount; the actual amount owed,

according to OHIOTELNET, is lower. Moreover, OHIOTELNET claims that, in compliance with the interconnection agreement, it has paid all undisputed amounts. Noting some success during the 30-day negotiation period, OHIOTELNET states that it is willing to continue working to resolve remaining disputes. OHIOTELNET is confident that the parties can come to a full resolution within 14 days if a Windstream representative were to come to OHIOTELNET's location to go through the accounts. In the interim, OHIOTELNET urges the Commission to hold the escrow payment requirement in abeyance.

- (4) In the entry on rehearing, the Commission stated that "[s]hould discussions between the parties fail to result in resolution of the outstanding dispute, the Commission will consider the appropriate amount to be placed into escrow upon a request in writing by either party ...." Windstream has stated that it is willing to accept an escrow payment of \$64,641.29, even though OHIOTELNET has calculated an escrow payment of \$69,873.73. OHIOTELNET, on the other hand, has not proposed an escrow amount. Referring to an arrangement between the parties where OHIOTELNET paid \$8,393.14 on an account and \$8,393.14 as a deposit, OHIOTELNET believes that it should be relieved of paying any amount into escrow.

The Commission has already determined that "[a]n escrow arrangement is a reasonable method to balance the interests of both parties." As before, OHIOTELNET has not challenged the reasonableness of an escrow arrangement. Consequently, consistent with Windstream's calculations, OHIOTELNET shall place into escrow the sum of \$64,641.29 in an interest bearing account within 15 days of this entry. Upon placing the sum into escrow, Windstream shall refrain from terminating service to OHIOTELNET while the complaint is pending. If OHIOTELNET does not place the sum of \$64,641.29 in an interest bearing escrow account within 15 days of this entry, Windstream is authorized to proceed with applicable disconnection procedures. OHIOTELNET may resolve any remaining billing disputes through the pending complaint case.

It is, therefore,

ORDERED, That Windstream maintain service to OHIOTELNET for the duration of this proceeding upon the condition that OHIOTELNET pay into an interest bearing escrow account the sum of \$64,641.29 within 15 days of this entry. If OHIOTELNET fails to remit the sum of \$64,641.29 into an interest bearing escrow account within 15 days of this entry, Windstream may initiate applicable notice and disconnection procedures. It is, further,

ORDERED, That copies of this entry be served upon the parties, their counsel, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

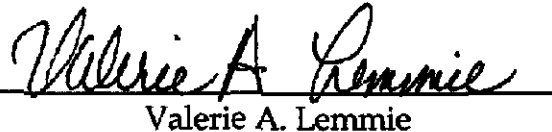


Alan R. Schriber, Chairman

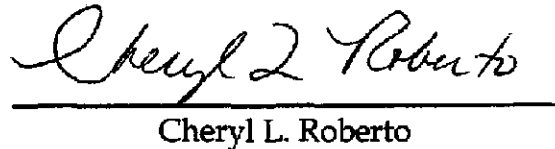
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Paul A. Centolella



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Valerie A. Lemmie



Cheryl L. Roberto

LDJ/vrm

Entered in the Journal

JAN 27 2010



Renee J. Jenkins  
Secretary