

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

**In the Matter of the Complaint
of Nu-Sash Windows,**

Complainant,

V.

AT&T Ohio,

Respondent.

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) **Case No. 10-92-TP-CSS**
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ENTRY

The attorney examiner finds:

- (1) On January 28, 2010, Nu-Sash Windows (Nu-Sash or complainant) filed a complaint against AT&T Ohio (AT&T), alleging that AT&T is improperly requesting that complainant pay a \$450.00 termination fee. Nu-Sash claims that it never received any notice about the termination fee and that it never contractually agreed, either verbally or in writing, to be subject to the termination fee.
- (2) On February 18, 2010, AT&T filed its answer to the complaint, denying the material allegations of the complaint. AT&T admits that it has requested that complainant pay a \$450.00 early termination fee, but argues that a legally binding verbal agreement exists between the parties. AT&T states that it billed Nu-Sash the termination fee after complainant cancelled its 12-month (with a 36-month variable term following) verbal business agreement with AT&T before it had expired. AT&T further states that Nu-Sash received information about the termination fee when AT&T sent complainant a confirmation of service order following the initiation of service, and that the business service agreement boilerplate that is publically available in AT&T's guidebook also explains the termination fee. AT&T avers that Nu-Sash was also notified as to the expiration date of its term plan. AT&T states that it has breached no legal duty to complainant, and maintains that its service and practices at all relevant times have been in full accordance with all applicable provisions of law and accepted standards within the telephone industry.


- (3) The attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code, any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement discussion. However, nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference.
- (4) Accordingly, a settlement conference shall be scheduled for March 30, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th Floor, Room 1247, Columbus, Ohio, 43215-3793. The parties should bring all relevant documents to the conference.
- (5) If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.
- (6) As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.* (1966), 5 Ohio St.2d 189.


It is, therefore,

ORDERED, That, in accordance with finding (4), this matter be scheduled for a settlement conference on March 30, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th Floor, Room 1247, Columbus, Ohio, 43215-3793. It is, further,

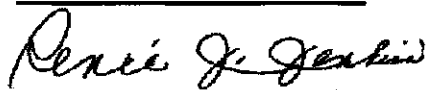
ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Henry H. Phillips-Gary
Attorney Examiner

/dah

Entered in the Journal
FEB 23 2010



Renee J. Jenkins
Secretary