

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Ed McCaul,)	
)	
Complainant,)	
)	
v.)	Case No. 10-845-TP-CSS
)	
Windstream Ohio, Inc.,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On June 17, 2010, the complainant, Ed McCaul, filed a complaint against the respondent, Windstream Ohio, Inc. (Windstream), alleging that Windstream has in place an unjust and unreasonable billing practice. Elaborating, the complainant alleges that a recent bill he received from the respondent identified his calling plan as Contiguous Community Calling, but provided no other details regarding the charges billed under that plan. The complainant alleges that when he contacted Windstream for a further explanation, he was told that if he wanted further details he would have to pay extra fees to obtain them, under a Windstream tariff provision that authorizes such additional fees. The complainant also alleges that Windstream told him that if he contacted the Commission about this, that the Commission would refer him back to Windstream. The complainant alleges that when he did contact the Commission and explained his problem, that, indeed, the Commission did refer him back to the respondent. The complainant alleges that the Commission also told him that the only way that the complained of practice would change would be if Windstream would apply to have it changed.

The complaint alleges that it is an unjust and unreasonable billing practice for Windstream to provide to its customers bills that do not provide a detailed explanation of all billed charges. The complaint alleges that it is an unjust and unreasonable billing practice to permit Windstream to charge its customers extra fees for providing detailed information concerning the charges billed to such

customers. The complaint alleges that it is an unjust and unreasonable to place exclusively in Windstream's hands, control over changing these unjust and unreasonable billing practices, given that Windstream has a financial incentive not to do so when they can make money by charging their customers for the detailed information not otherwise provided on the customers' bills. By bringing this complaint, the complainant is seeking to effect a change in these billing practices that would result in detailed billing information being provided at no cost to the customer.

- (2) On June 28, 2010, the respondent filed its answer to the complaint. Other than to admit that its tariff addresses billing matters, Windstream's answer amounts to a general denial of all of the material allegations of the complaint. In its answer, Windstream claims that it has, at all times relevant to the complaint, complied with its duties under law. According to Windstream, the complaint fails to set forth reasonable grounds for complaint and, accordingly, Windstream seeks its dismissal by the Commission.
- (3) At this time, 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 process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.

Accordingly, a settlement conference shall be scheduled for August 24, 2010, at 10:00 a.m., in Hearing Room 1246, in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. 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.

Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference and all parties attending the

conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.

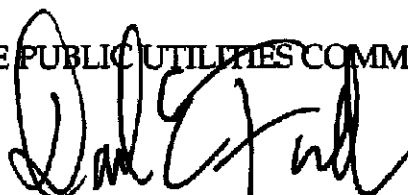
As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.* (1996), 5 Ohio St.2d 189.

It is, therefore,

ORDERED, This a prehearing settlement conference shall be held in accordance with Finding (3). It is, further,

ORDERED, That a copy of this entry be served upon the complainant, and upon the respondent.

THE PUBLIC UTILITIES COMMISSION OF OHIO

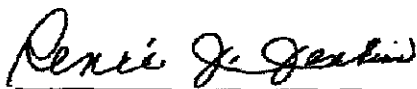


By: Daniel E. Fullin
Attorney Examiner

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Entered in the Journal

JUL 20 2010



Renee J. Jenkins
Secretary