

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of OTC Daihen Inc.,)	
)	
Complainant,)	
)	
v.)	Case No. 11-549-TP-CSS
)	
Frontier North Inc.,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On February 2, 2011, OTC Daihen, Inc. (OTC) filed a complaint against Frontier North Inc. (Frontier). OTC alleged that, before February 2010, its business data service and T1 line were provided by Verizon Business (Verizon). According to OTC, on May 1, 2006, Verizon sent a letter stating that if OTC did not take steps to transition its internet service to a new service platform, the internet service would terminate on June 30, 2006.

OTC contended that it had believed that all of its service from Verizon would end on June 30, 2006, and that no further action would be required on OTC's part. However, OTC stated, after June 30, 2006, Verizon continued to send bills. OTC added that its accounting department was unaware that billing from Verizon was supposed to terminate, so OTC continued to pay Verizon's bills. Since March 2010, OTC emphasized, it has made repeated inquiries to Frontier asking why the billing continued after June 30, 2006. OTC stated that despite such inquiries, it has received no explanation why its bills from Verizon continued after June 30, 2006.

- (2) Frontier answered the complaint on February 24, 2011, by admitting that OTC had subscribed to internet service and DS1 in June 2001 and received both services through June 2010. Frontier denied that the allegations concerning a May 1, 2006, letter from Verizon are accurate. Frontier contended that, at any time after June 2006, OTC could have reviewed its bills and contacted

Frontier to disconnect any unwanted service. Frontier explained that it was formerly known as Verizon North Inc., and that "Verizon Business is a separate legal entity from Frontier," with Frontier billing OTC for internet and DS1 "separately from any invoice OTC may have received from Verizon Business before and after June 30, 2006."

- (3) On March 11, 2011, pursuant to Rule 4901-1-10(A)(7), Ohio Administrative Code (O.A.C.), the attorney examiner issued an entry joining MCI Communications Services, Inc. dba Verizon Business Services (MCICS) as a necessary party to the proceeding, and directing MCICS to file an answer to the complaint. In doing so, the attorney examiner emphasized that the Commission was seeking "clarity regarding which entity with the Verizon name was providing and billing OTC for internet and DS1 service." In the same entry, the attorney examiner also scheduled an April 13, 2011, settlement conference.
- (4) MCICS filed its answer, as well as a motion to dismiss, on March 31, 2011. MCICS asserts that it has never provided services to OTC, nor has it ever billed OTC for any services, including the services that are the subject of the complaint. MCICS contends that subsequent to the January 6, 2006, merger of Verizon Communications Inc. and MCI, Inc., the name "Verizon Business" referred to "the several hundred affiliates owned by Verizon Communications Inc. that provide telecommunications and other services to business customers . . . and not to MCICS in particular." Furthermore, MCICS observes, "OTC began subscribing to Verizon-branded data and T-1 services in 2001, nearly five years prior to Verizon Communications, Inc.'s acquisition of MCICS," and thus, MCICS contends, it "could not have been the entity providing those services to OTC." MCICS asserts that the circuit number indicated in the Verizon invoice that is attached to the complaint does not belong to MCICS, but rather to Verizon Advanced Data, Inc., "whose advanced data services assets were transferred to Verizon North Inc. in 2001." MCICS requests that the complaint, as against MCICS, be dismissed with prejudice, and that MCICS be dismissed as a party to the proceeding.
- (5) OTC replied to MCICS' motion to dismiss on April 15, 2011. OTC states that MCICS' motion contains no legal arguments, but rather only factual contentions that MCICS never billed or provided services to OTC. OTC requests that the Commission order Frontier

to identify the party responsible for billing and providing Verizon Business services to OTC, so that the appropriate party may be joined in the matter. OTC adds that it would accept dismissal of MCICS as a party, on the condition that Frontier can identify any additional proper parties who should be joined in this proceeding, rather than a general denial that Frontier is responsible.

- (6) On April 20, 2011, MCICS responded to OTC's April 15, 2011, filing. MCICS argues that it has confirmed that it never provided service to OTC, nor has it billed OTC for service. MCICS adds that it has provided the clarification sought by the Attorney Examiner regarding which Verizon entity, i.e., Verizon Advanced Data, Inc., an entity owned by Frontier, billed OTC for services. MCICS observes that Frontier has not denied ownership of the circuit for which OTC was billed for service, nor has Frontier objected to MCICS' motion to dismiss. Finally, adds MCICS, OTC does not dispute that MCICS is not a necessary party to the proceeding.
- (7) The parties met for the April 13, 2011, settlement conference but were unable to resolve matters.
- (8) The attorney examiner observes that neither Frontier nor OTC have disagreed with MCICS' contention or its reasons that it is not a party necessary to the proceeding. In light of this, the attorney examiner finds that MCICS' motion to dismiss, with prejudice, is well made and should be granted. In addition, given the parties' failure to reach resolution at the April 13, 2011, settlement conference, a hearing shall be scheduled by the attorney examiner in a subsequent entry.

It is, therefore,

ORDERED, That the motion filed by MCICS on March 31, 2011, be granted, and MCICS be dismissed, with prejudice, from the proceeding. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

By: James M. Lynn
James M. Lynn
Attorney Examiner

jet
/dah

Entered in the Journal

JUN 21 2011

Betty McCauley

Betty McCauley
Secretary