

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of	)	
Mark Drake,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 10-411-TP-CSS
	)	
AT&T Ohio,	)	
	)	
Respondent.	)	

ENTRY

The Commission finds:

- (1) On March 29, 2010, the complainant, Mark Drake, filed a complaint against the respondent, AT&T Ohio, (AT&T), alleging that he was overcharged by AT&T. According to the complaint, the amount charged on his monthly bill increased without notification of any change, from \$28.00 to \$35.10. The complainant states that the efforts he made with the company and with the Commission's staff to resolve this billing dispute on an informal basis proved unsuccessful, prompting him to file the formal complaint in this case.
- (2) On April 19, 2010, the respondent filed both its answer to the complaint, as well as a motion to dismiss the complaint. AT&T asserts that the dispute in this case concerns the manner in which Mr. Drake has been billed by AT&T for digital subscriber line (DSL) service.
- (3) The Federal Communications Commission (FCC) has deemed retail DSL service to be an information service. Both DSL service and any charges or credits related to it are matters beyond the Commission's jurisdiction.<sup>1</sup>

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<sup>1</sup> See, e.g., In the Matter of the Complaint of Don Damyanic v. Verizon North Inc., Case No. 06-270-TP-CSS (Entry issued April 10, 2006). A complaint about DSL would need to be filed at the FCC. To the extent that Mr. Drake wishes to pursue a complaint regarding DSL service, assistance on this topic is available at the FCC web page found at <http://esupport.fcc.gov/complaints.htm?sid=d1e571&id=d1e617> or by calling toll-free 1-888-CALL-FCC (1-888-225-5322).

- (4) On January 24, 2011, the attorney examiner issued an entry which found that the complaint, as it stands, does not provide a clear set of facts upon which the Commission can base a determination that reasonable grounds for complaint have been stated on a subject matter over which the Commission has jurisdiction. The entry directed Mr. Drake to provide, on or before February 8, 2011, a clear concise statement of the facts underlying the complaint. The entry specified that Mr. Drake's statement of facts must explain how the subject matter of this case relates to something other than the manner in which AT&T provides and bills the complainant for DSL service. The entry indicated that if such a statement of facts was not provided by the February 8, 2011, deadline, that the attorney examiner would recommend to the Commission that the complaint be dismissed. By subsequent entry issued on February 14, 2011, the deadline for filing the statement of facts was extended until February 18, 2011.
- (5) To date, the complainant has filed no response to the directives of the January 24, 2011, entry. In fact, at no time since the initial filing of the original complaint, has the complainant filed any additional information or statement of facts. Under such circumstances, the Commission finds that this case should be dismissed, both for the complainant's failure to sufficiently prosecute the complaint, and for the failure of the complaint, as filed, to state reasonable grounds for complaint on a subject matter over which the Commission has jurisdiction.

It is, therefore,

ORDERED, That, in accordance with the above findings, the complaint is dismissed and this case be closed of record. It is, further,

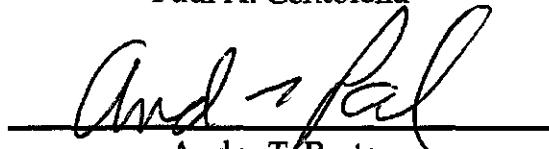
ORDERED, That a copy of this entry be served upon all parties of record.

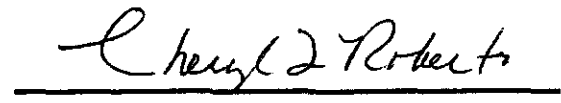
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Paul A. Centolella

  
Steven D. Lesser

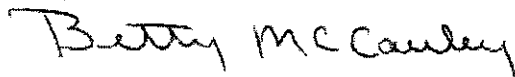
  
Andre T. Porter

  
Cheryl L. Roberto

DEF/dah

Entered in the Journal

**JUN 22 2011**



Betty McCauley  
Secretary