

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Dr. Thomas M. Pokabla,)	
)	
Complainant,)	
)	
v.)	Case No. 13-1636-TP-CSS
)	
United Telephone Company of Ohio dba)	
CenturyLink,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On July 15, 2013, Dr. Thomas M. Pokabla (Dr. Pokabla or complainant), a podiatrist located in Niles, Ohio, filed a complaint against United Telephone Company of Ohio dba CenturyLink (CenturyLink or respondent), alleging that CenturyLink has failed to provide the complainant with a written, signed copy of the telephone monthly service contract, priced at \$330.00 per month for all service provided to the complainant, which, he alleges, was orally consummated between the parties on September 12, 2012. The complainant further alleges that, in a telephone conversation that occurred on December 12, 2012, the parties agreed to a different verbal contract, as a compromise designed to settle the dispute, extending for a three-year period and priced at \$380.00 per month for all service provided to the complainant. The complainant claims that CenturyLink has, since September 12, 2012, "continued to over bill" him on his monthly statement. Dr. Pokabla also alleges that the respondent has failed to provide two calling features that CenturyLink promised to provide him, namely, a redial feature and a speed dial feature. The complainant seeks to have the Commission require CenturyLink to: (a) give him a written three-year contract, at the \$330.00 per month price, with no add-ons; (b) provide the two calling features already mentioned; and (c) provide a guaranteed three-year warranty on his new office phone system."

- (2) On August 9, 2013, the respondent filed a motion requesting an extension of time to file its answer, along with a memorandum in support of that motion. Based on the respondent's allegations that it was not served with and, consequently, first learned of the complaint on August 7, 2013, the attorney examiner finds that the respondent's motion for an extension of time to file its answer has been submitted in good faith and without any intention to cause undue delay. The attorney examiner finds that the motion is reasonable and should be granted.
- (3) CenturyLink filed its answer on August 9, 2013. CenturyLink denies that a contract for all of the complainant's services was formed at a rate of \$330.00 per month. CenturyLink admits that, in September 2012, its sales representative provided the complainant with a quote for monthly services at the rate of \$330.00 per month based on the belief that the complainant was ordering a package of six business lines and one DSL line, with no additional features. CenturyLink admits that there was a misunderstanding between the complainant and CenturyLink's sales representative concerning what services were being ordered and the monthly rate for those services, and that a mistake had been made. The respondent admits that, in an effort to resolve the informal dispute that arose as a result of the mistake, in December 2012, a telephone conversation between the parties occurred. CenturyLink denies that a final settlement was reached during the call, but admits that the respondent's representative stated that she would try to see if it was possible to arrange for a \$380 per month billing for services. The respondent states that billing system limitations prevented CenturyLink from arranging to have the complainant billed \$380 per month and that CenturyLink therefore offered a lump sum credit as an alternative. CenturyLink denies that it is over billing the complainant and affirmatively states that the rates the complainant is being charged are standard rates for the package of services he is receiving. CenturyLink indicates that it lacks knowledge sufficient to form a belief as to whether or when the complainant requested and was promised the calling features referred to as "Redial feature" and "Speed dial." The respondent denies all other allegations made by the complainant and contends that the complainant

is not entitled to the relief he is seeking. CenturyLink asserts that the complaint fails to state reasonable grounds for complaint as required by Section 4905.26, Revised Code, and is barred by the equitable doctrine of laches.

- (4) 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 in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code (O.A.C.), 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 any party from initiating settlement negotiations prior to the scheduled settlement conference.
- (5) Accordingly, a settlement conference shall be scheduled for September 24, 2013, at 10:00 a.m. at the Commission offices, 180 East Broad Street, 12th floor, Conference Room 1246, Columbus, Ohio 43215-3793. 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) Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised on 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 authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.
- (7) 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.*, 5 Ohio St.2d 189, 214 N.E. 2d 666 (1966).

It is, therefore,

ORDERED, That, in accordance with Finding (2), CenturyLink's August 9, 2013, motion for time extension for filing its answer is granted and, as a result, CenturyLink's answer, filed on August 9, 2013, is accepted and shall be considered as timely filed. It is, further,

ORDERED, That a settlement conference be scheduled for September 24, 2013, at 10:00 a.m. at the Commission offices, 180 East Broad Street, 12th floor, Conference Room 1246, 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

s/Daniel Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/sc

This foregoing document was electronically filed with the Public Utilities

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8/21/2013 11:19:16 AM

in

Case No(s). 13-1636-TP-CSS

Summary: Attorney Examiner Entry orders a prehearing settlement conference for 09/24/2013, 10:00 a.m. at the Commission offices located on 180 E. Broad St., Rm. 1246, 12th Flr., Columbus, Ohio. - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio