

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
NorthEast Ohio Neighborhood Health)	
Services, Inc.,)	
)	
Complainant,)	
)	Case No. 15-325-TP-CSS
v.)	
)	
Windstream Communications, Inc.,)	
)	
Respondent.	

ENTRY

The attorney examiner finds:

- (1) On February 13, 2015, NorthEast Ohio Neighborhood Health Services, Inc. (NEON or Complainant) filed a complaint against Windstream Communications, Inc. (Windstream) for continuing to bill after the termination of a contract for voice and data services. The Complainant alleges that it paid the monthly invoices in error and now seeks to recover the overpayments and incidental costs.
- (2) On March 5, 2015, Windstream filed an answer and a motion to dismiss. In its answer, Windstream denies the material allegations of the complaint.
- (3) By Entry issued March 16, 2015, the attorney examiner scheduled this matter for a settlement conference to occur on April 14, 2015.
- (4) After the settlement conference, NEON filed a motion for default judgment and sanctions for failure of a corporate representative of Windstream to appear at the settlement conference.
- (5) On May 19, 2015, June 16, 2015, July 22, 2015, and August 27, 2015, the parties jointly moved to extend the time for Windstream to respond to NEON's motion. The parties explained that they wished to direct their efforts exclusively

toward negotiating a resolution of the complaint. The attorney examiner granted the motions.

- (6) On September 2, 2015, NEON voluntarily withdrew its motion for sanctions.
- (7) Understanding that the parties wish to mediate this dispute with the aid of an attorney examiner, a second settlement conference shall be scheduled. The parties are reminded that in accordance with Ohio Adm.Code 4901-1-26, any statement made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible in future proceedings in this case or be admissible to prove liability or invalidity of a claim. Nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference. An attorney examiner with the Commission's Legal Department will facilitate the settlement process.
- (8) A settlement conference shall be scheduled for October 21, 2015, at 10:00 a.m., in Room 1247, at 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 may conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.
- (9) Pursuant to Ohio Adm.Code 4901-1-26(F), the representatives of the Respondent shall investigate the issues raised in the complaint prior to the settlement conference, and all parties participating in 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 participating in the settlement conference should have with them all documents relevant to this matter.
- (10) 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 a settlement conference be held on October 21, 2015, at 10:00 a.m. in Room 1247 in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

ORDERED, That a copy of this Entry be served upon the parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ L. Douglas Jennings

By: L. Douglas Jennings
Attorney Examiner

jrj/vrm

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in

Case No(s). 15-0325-TP-CSS

Summary: Attorney Examiner Entry scheduling October 21, 2015, settlement conference; electronically filed by Vesta R Miller on behalf of L. Douglas Jennings, Attorney Examiner, Public Utilities Commission of Ohio