

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Menorah Park Center	)	
for Senior Living Bet Moshav Zekenim Hadati, Inc.,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 15-1860-TP-CSS
	)	
The Ohio Bell Telephone Company dba AT&T Ohio,	)	
	)	
Respondent.	)	

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**RESPONDENT AT&T OHIO’S ANSWER AND AFFIRMATIVE DEFENSES**

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The Ohio Bell Telephone Company (“AT&T Ohio”) hereby submits its Answer and Affirmative Defenses in response to the Complaint of Menorah Park Center for Senior Living Bet Moshav Zekenim Hadati, Inc. (“Menorah Park” or “Complainant”). For its Answer to the Complaint filed against it, AT&T Ohio states as follows:

1. AT&T Ohio admits the allegations of Paragraph 1.
2. AT&T Ohio admits the allegations of Paragraph 2.
3. AT&T Ohio admits the allegations of Paragraph 3.
4. AT&T Ohio denies the allegation in Paragraph 4 that the Commission has jurisdiction to hear this Complaint under R.C. 4905.26.
5. AT&T Ohio admits the allegations of Paragraph 1-3, but denies the allegation in Paragraph 4.
6. AT&T Ohio admits that it has provided phone service to Complainant for many years.

7. AT&T Ohio admits that Complainant paid for the circuits that are the subject of the Complaint. AT&T Ohio cannot ascertain at this time the exact date the circuits went into service.

8. AT&T Ohio admits the allegations of Paragraph 8.

9. AT&T Ohio admits that the most recent rate for the circuits was approximately \$1,688 per month. Previous rates may have been different.

10. AT&T Ohio admits the allegations of Paragraph 10.

11. AT&T Ohio admits the allegations of Paragraph 11.

12. In response to Paragraph 12, AT&T Ohio states that it has provided to Complainant a copy of the Business Services Agreement that applies to the services that are the subject of the Complaint.

13. AT&T Ohio admits that there was correspondence between Menorah Park and AT&T Ohio in January 2012 and that some of that correspondence is attached to the Complaint as Exhibit A.

14. The document quoted from in Paragraph 14 speaks for itself, and AT&T Ohio is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in Paragraph 14.

15. AT&T Ohio admits that it identified Complainant's phone lines in 2015, but denies that Complainant requested it to do so prior to 2015.

16. AT&T Ohio admits the allegations of Paragraph 16.

17. AT&T Ohio denies that it told Complainant that it would provide a credit upon learning that the circuits were inoperable. AT&T Ohio admits that it provided Complainant a goodwill credit in the amount of \$10,128.

18. AT&T Ohio admits that a meeting took place at Menorah Park on April 14, 2015 and further admits that the subject of a credit was discussed. AT&T Ohio denies the remaining allegations of Paragraph 18.

19. AT&T Ohio denies the allegations of Paragraph 19. Responding further, the documents attached to the Complaint speak for themselves.

20. AT&T Ohio denies that it agreed to provide a credit in the amount of \$61,000. AT&T admits that 36 months of charges for the three special services circuits is approximately \$61,000.

21. AT&T Ohio denies the allegations of Paragraph 21. Responding further, the documents attached to the Complaint speak for themselves.

22. AT&T Ohio admits that it provided Complainant a credit of \$10,128 and denies the remaining allegations in Paragraph 22. Responding further, the documents attached to the Complaint speak for themselves.

23. AT&T Ohio denies the allegations of Paragraph 23. Responding further, the documents attached to the Complaint speak for themselves.

24. AT&T Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 24.

25. AT&T Ohio is presently without sufficient knowledge or information to form a belief as to the truth of the allegations in Paragraph 25.

26. AT&T Ohio admits the allegations of Paragraph 26. Responding further, the documents attached to the Complaint speak for themselves.

27. AT&T Ohio admits the allegations of Paragraph 27. Responding further, the documents attached to the Complaint speak for themselves.

#### COUNT I

28. AT&T Ohio repeats its Answers to Paragraphs 1-27, above.

29. AT&T Ohio denies that it did not provide the three special services circuits. AT&T Ohio is presently without sufficient knowledge or information to form a belief as to the truth of the allegation concerning the amount Complainant paid for the three special services circuits since 2001.

30. AT&T Ohio denies that it did not provide the three special services circuits. AT&T Ohio admits that Complainant has demanded a refund.

31. AT&T Ohio admits the allegations of Paragraph 31.

32. The allegations in Paragraph 32 state a legal conclusion to which no answer is required. Notwithstanding the foregoing, AT&T Ohio denies the allegations of Paragraph 32.

#### COUNT II

33. AT&T Ohio repeats its Answers to Paragraphs 1-32, above.

34. AT&T Ohio denies the allegations of Paragraph 34.

35. AT&T Ohio denies the allegations of Paragraph 35.

36. AT&T Ohio admits that it located the circuits in March or April 2015. AT&T Ohio denies the remaining allegations of Paragraph 36.

37. AT&T Ohio admits that it performed tests on the circuits and discovered that they had been disconnected.

38. The allegations in Paragraph 38 state a legal conclusion to which no answer is required. Notwithstanding the foregoing, AT&T Ohio denies the allegations of Paragraph 38.

39. AT&T Ohio denies the allegations of Paragraph 39.

40. AT&T Ohio denies the allegations of Paragraph 40.

41. The allegations in Paragraph 41 state a legal conclusion to which no answer is required. Notwithstanding the foregoing, AT&T Ohio denies the allegations of Paragraph 41.

### COUNT III

42. AT&T Ohio repeats its Answers to Paragraphs 1-41, above.

43. AT&T Ohio denies the allegations of Paragraph 43.

44. AT&T Ohio admits that it provided a six month credit, but denies the remaining allegations of Paragraph 44.

45. AT&T Ohio denies the allegations of Paragraph 45.

46. AT&T Ohio denies the allegations of Paragraph 46.

47. The allegations in Paragraph 47 state a legal conclusion to which no answer is required. Notwithstanding the foregoing, AT&T Ohio denies the allegations of Paragraph 47.

### AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.

2. The Complaint is barred by the arbitration provision in the contract that governs the provision of service.

3. The Complaint is subject to the limitation of liability and other provisions of the contract that govern the provision of service.

4. The Complaint is barred by the applicable statute of limitations.

5. The Complaint is barred by the equitable doctrines of laches and estoppel.

6. The Complaint purports to allege a cause of action under § 4905.26, but no such action is available per § 4927.03(C).

7. The Commission lacks statutory authority to adjudicate the Complaint, which alleges common law contract claims against AT&T Ohio.

8. The Commission lacks statutory authority to award monetary damages, costs, expenses, or attorney's fees, as requested in the Complaint.

WHEREFORE, having fully answered, Respondent AT&T Ohio respectfully requests that the Complaint be dismissed, with prejudice.

Respectfully submitted,

AT&T Ohio

By:           /s/ Douglas W. Trabaris            
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(willing to accept service by email)

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served this 23<sup>rd</sup> day of November 2015 by e-mail and/or U.S. Mail on the party shown below.

\_\_\_\_\_/s/ Douglas W. Trabaris

Douglas W. Trabaris

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Summary: Answer RESPONDENT AT&T OHIO'S ANSWER AND AFFIRMATIVE DEFENSES  
electronically filed by Douglas W Trabaris on behalf of AT&T and AT&T Ohio and Ohio Bell  
Telephone Company