

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of William	)	
M. Heyman,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 15-1906-TP-CSS
	)	
Frontier Communications, Inc.,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) Pursuant to R.C. 4927.21, the Commission has authority to consider written complaints filed against a telephone company by any person or corporation regarding any rate, practice, or service relating to any service furnished by the telephone company that is unjust, unreasonable, unjustly discriminatory, or in violation of or noncompliance with any provision of R.C. 4927.01 to 4927.20 or rule or order adopted or issued under those sections.
- (2) Frontier Communications, Inc. (Frontier) is a telephone company as defined in R.C. 4905.03 and, as such, is subject to the jurisdiction of this Commission.
- (3) On November 12, 2015, William M. Heyman (Complainant) filed a complaint against Frontier. The complaint alleges that Frontier failed to mark properly its telephone lines and that the lines were damaged as a result of the Complainant excavating near his rental property.

The Complainant alleges that in September 2015 he had to replace water lines to his rental property. Prior to excavation, he contacted the Ohio Utilities Protection Service (OUPS) to have the location of underground utilities marked. The Complainant alleges that Frontier marked its lines but did not mark them completely. Upon excavating, the Complainant's workers struck and damaged Frontier's telephone lines. To aid

in visual location and repair of the damaged telephone lines, the Complainant allowed the exposure of the damaged lines to remain. After approximately a week, the holes remained without Frontier initiating repairs. Over a period of days, the Complainant and Frontier disputed over the responsibility of filling in the holes. In the meantime, the Complainant discovered that Frontier had installed new lines and did not repair the old lines. The Complainant believes that Frontier should fill the hole because its failure to mark the location of its lines led to the excavation and damage to its telephone lines.

- (4) The Complainant demands that Frontier fill in the excavation site. The Complainant also requests information about the OUPS ticket number and issue date for Frontier's replacement line, the installation date, a copy of a particular Commission filing, and the depth of the new telephone line.
- (5) On December 2, 2015, Frontier filed a motion to extend the time to plead. By Entry issued December 7, 2015, the attorney examiner granted Frontier's motion.
- (6) Frontier filed an answer on December 28, 2015, in which it denied the material allegations of the complaint. Asserting affirmative defenses, Frontier moves that the complaint be dismissed with prejudice.<sup>1</sup>
- (7) At this time, the attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. 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.

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<sup>1</sup> On January 14, 2016, Frontier refiled its answer which included a page missing from its December 28, 2015 filing.

- (8) Accordingly, a settlement conference shall be scheduled for February 23, 2016, at 10:00 a.m., in Room 1246, 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 February 23, 2016, at 10:00 a.m. in Room 1246 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 all 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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**Case No(s). 15-1906-TP-CSS**

Summary: Attorney Examiner Entry scheduled February 23, 2016 settlement conference; electronically filed by Vesta R Miller on behalf of L. Douglas Jennings, Attorney Examiner, Public Utilities Commission of Ohio