

Before
THE SUPREME COURT OF OHIO

Chester L. Simons, dba Starlink
1051 South Arlington
Akron, OH 44306

Appellant,

VS.

The Public Utilities Commission
of Ohio
180 East Broad Street
Columbus, Ohio 43215-3793

Appellee.

Supreme Court No. 98-1147

Being Before
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the matter of the complaint of)
Chet Simons dba Starlink (vs) Alltel)
Ohio, Inc. and Western Reserve Telephone)
Company, relative to the alleged unjust)
and unreasonable termination of service.)

Case No. 96-1405-TP-CSS

Volumes 1 & 2 of 4 - Pleadings
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INDEX DOCKET and ENTRIES

1996

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24-DEC-1996	In the matter of the complaint of Chet Simons dba Starlink (vs) Alltel Ohio, Inc. and Western Reserve Telephone Company relative to the alleged unjust and unreasonable termination of service. (11 pgs.)	1
24-DEC-1996	Motion as to actual and proposed termination of service filed on behalf of complainant by D. George. (2 pgs.)	2

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- 27-DEC-1996 Complaint letter and copy of complaint mailed to: Mr. Dennis McGiles, Western Reserve Telephone Co. and Alltel Ohio. (1 pg.) 3
- 31-DEC-1996 Entry ordering that Western Reserve is directed not to terminate the seven account numbers listed in its December 18 letter or, if termination has already occurred, to restore service as quickly as practicable; unless the Commission orders otherwise, the account numbers shall remain in service while this matter is pending as long as complainant timely pays its bill for the service. (AE) (2 pgs.) 4

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- 14-JAN-1997 Motion for extension of time to answer complaint and request for expedited ruling and memorandum in support filed on behalf of respondents, Alltel Ohio and Western Reserve, by T. Lodge. (4 pgs.) 5
- 17-JAN-1997 Entry ordering that respondents shall have until Tuesday, January 21, 1997, to file their answers or responsive pleadings in this matter; scheduling a settlement conference at 10:00 a.m. on February 12, 1997, at the Commission offices. (AE) (2 pgs.) 6
- 21-JAN-1997 Answer filed on behalf of respondents, Alltel Ohio and Western Reserve, by T. Lodge. (8 pgs.) 7
- 21-JAN-1997 Motion to dismiss for misjoinder and memorandum in support filed on behalf of respondents, Alltel Ohio and Western Reserve, by T. Lodge. (3 pgs.) 8
- 12-FEB-1997 Prehearing statement filed on behalf of complainant by D. George. (3 pgs.) 9
- 12-FEB-1997 Reply to motion to dismiss filed on behalf of complainant by D. George. (1 pg.) 10
- 24-FEB-1997 Motion to stay proceedings and request for expedited ruling and memorandum in support filed on behalf of respondents, Alltel Ohio and Western Reserve, by T. Lodge. (6 pgs.) 11
- 28-FEB-1997 Motion by complainant for summary judgment filed by D. George. (46 pgs.) 12
- 28-FEB-1997 Memorandum in support of motion by complainant for summary judgment filed by D. George. (4 pgs.) 13

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28-FEB-1997	Reply/objection of complainant to respondents' motion to stay proceedings pending decision by PUCO on Ohio Direct Case filed by D. George. (3 pgs.)	14
28-FEB-1997	Memorandum in support of reply/objection of complainant to respondent's motion to stay proceedings pending decision by PUCO on Ohio Direct Case filed by D. George. (2 pgs.)	15
4-MAR-1997	Entry ordering that all discovery activity in this matter should be held in abeyance at this time until further notice in order to allow the Commission additional time to further consider this matter. (AE) (2 pgs.)	16
18-MAR-1997	Memorandum in response to motion for summary judgment of February 28, 1997, filed on behalf of respondents, Alltel Ohio and Western Reserve Telephone, by T. Lodge. (18 pgs.)	17
25-MAR-1997	Reply of complainant to respondents' memorandum in opposition to complainant's motion for summary judgment, filed by D. George. (7 pgs.)	18
16-JUN-1997	Motion for hearing in definition of "Clubs" in respondents' tariff filed on behalf of complainant by D. George. (2 pgs.)	19
16-JUN-1997	Motion to compel answers to interrogatories to respondents filed on behalf of complainant by D. George. (5 pgs.)	20
16-JUN-1997	Motion to have request for admissions deemed admitted filed on behalf of complainant by D. George. (6 pgs.)	21
23-JUN-1997	Motion to join Darryl Matthews individually and as representative of a class of consumers filed on behalf of complainant by D. George. (1 pg.)	22
30-JUN-1997	Memorandum of The Alltel Companies (Western Reserve and Alltel Ohio) in opposition to motion to have admissions deemed admitted and in opposition to motion to compel answers to interrogatories, and memorandum of Alltel Companies to motion for hearing on definition of clubs, filed by T. Lodge. (11 pgs.)	23
8-JUL-1997	Memorandum of the Alltel Companies (Alltel Ohio and Western Reserve Telephone Co.) in response to motion to join Darryl Matthews individually and as a representative of A Class Of Consumers filed by T. Lodge. (6 pgs.)	24
17-JUL-1997	Entry scheduling a prehearing conference at 1:30 p.m. on August 4, 1997, at the Commission; that these cases are not being consolidated by virtue of this entry. (AE) (3 pgs.)	25

- 22-JUL-1997 Memorandum in opposition to motion to reinstitute discovery filed on behalf of respondents, Alltel Ohio and Western Reserve Telephone, by T. Lodge. (6 pgs.) 26
- 17-OCT-1997 Entry ordering that Starlink's motion for summary judgment, motion to have its request for admissions deemed admitted, and motion for joinder are denied; that Starlink's motion to compel answers to interrogatories is granted in part and denied in part; that Alltel's motion to dismiss for misjoinder is granted; Alltel is no longer a party to this proceeding; that Western Reserve serve responses to Starlink's February 12, 1997 request for admissions and interrogatories by October 24, 1997; that Starlink's motion to reinstate discovery and motion for a hearing are granted; that responses to all future discovery efforts made by the parties be served within seven calendar days of service of the requests; scheduling a public hearing at 10:00 a.m. on December 9, 1997, at the Commission offices. (AE) (8 pgs.) 27
- 7-NOV-1997 Entry ordering that the parties' joint request to continue the hearing is granted; that the evidentiary hearing shall now begin at 10:00 a.m. on December 15, 1997, at the Commission offices. (AE) (2 pgs.) 28
- 7-NOV-1997 Letter regarding hearing information, filed on behalf of respondents, Alltel Ohio and Western Reserve, by T. Lodge. (1 pg.) 29
- 8-DEC-1997 Testimony of Dennis D. McGiles filed on behalf of Alltel Ohio, Inc. and Western Reserve Telephone by T. Lodge. (29 pgs.) 30
- 10-DEC-1997 Submission of depositions filed on behalf of respondent, Western Reserve Telephone Co., by T. Lodge. (121 pgs.) 31
- 11-DEC-1997 Motion to strike testimony of Dennis D. McGiles filed on behalf of complainant by D. George. (3 pgs.) 32
- 12-DEC-1997 Memorandum in opposition to motion to strike testimony, filed on behalf of respondent, Western Reserve, by T. Lodge. (4 pgs.) 33
- 12-DEC-1997 Corrected testimony of Dennis D. McGiles filed on behalf of respondent, Western Reserve, by T. Lodge. (30 pgs.) 34
- 15-DEC-1997 Objection to and motion to strike corrected testimony of Dennis McGiles filed on behalf of complainant by D. George. (4 pgs.) 35

29-DEC-1997 Transcript filed for hearing held 12/15/97, (GP), 223 pgs.,
Submitted. (PUCO-Columbus, OH) (See Transcript)

1998

13-JAN-1998 Initial post-hearing brief filed on behalf of respondent,
Western Reserve, by T. Lodge. (18 pgs.) 36

16-JAN-1998 Affidavit of Chester L. Simons filed by C. Simons. (2 pgs.) 37

16-JAN-1998 Brief in lieu of final argument of complainant filed by D.
George. (24 pgs.) 38

30-JAN-1998 Reply to respondent's brief for final argument filed on
behalf of complainant by D. George. (29 pgs.) 39

30-JAN-1998 Reply brief filed on behalf of respondent, Western Reserve
Telephone, by T. Lodge. (12 pgs.) 40

12-MAR-1998 Opinion and order denying this complaint. Ordered that if
Starlink wishes to continue its operations in the State of
Ohio, Starlink shall file an application for a certificate
of public convenience and necessity by April 10, 1998. If
Starlink does not file an application, it shall file a
proposed plan to notify its customers that it is no longer
in operation, and to refund to its customers any funds due
them. Ordered that Western Reserve shall not serve a notice
of termination or terminate the service of Starlink during
the pendency of the application for rehearing, application
for certificate, or Commission review. (21 pgs) 41

8-APR-1998 Motion to suspend time for application by complainant for
certificate of public convenience pending application for
rehearing, filed by D. George. (3 pgs.) 42

8-APR-1998 Application for rehearing and memorandum filed on behalf
of complainant by D. George. (11 pgs.) 43

17-APR-1998 Memorandum in opposition to application for rehearing and in
opposition to motion to suspend time, filed on behalf of
respondent, Western Reserve, by T. Lodge. (10 pgs.) 44

30-APR-1998 Entry denying Starlink's application for rehearing; that
Starlink's motion to suspend the time for filing for a
certificate of public convenience is moot in accordance
with Finding 11. (7 pgs.) 45

9-JUN-1998 Notice of appeal filed by D. George on behalf of the appell-
ant. (2 pgs) 46

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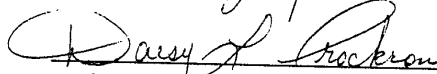
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C E R T I F I C A T I O N

I, Gary E. Vigorito, the duly appointed and qualified Secretary of The Public Utilities Commission of Ohio, in whose custody the books, records, and files of said Commission are kept, do hereby certify there is transmitted herewith the docket entries of the Commission, ICN No. 1 - 46, the **Opinion & Order dated March 12, 1998 and the Entry on Rehearing dated April 30, 1998** inclusive; and the Certification of the record in Case No. 96-1405-TP-CSS.

IN WITNESS THEREOF, I have thereunto set my hand and affixed the official seal of The Public Utilities Commission of Ohio this 9th day of July, 1998.



Gary E. Vigorito, Secretary
Daisy L Crockron, Acting Secretary
Ronald D. Rose, Acting Secretary

THE PUBLIC UTILITIES COMMISSION OF OHIO