

AC 4

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

MOTION TO AMEND, MOTION TO STRIKE, & MOTION TO RESCIND
MEMORANDUM IN SUPPORT

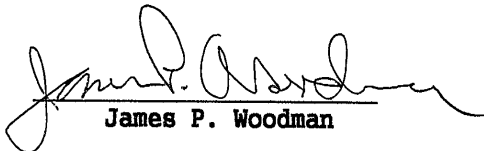
9-11-96

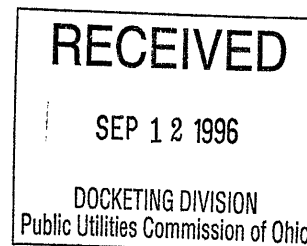
Daisy Crockron
Chief of Docketing
The Public Utilities Commission of Ohio
180 Broad Street
Columbus, OH 43266-0573

Dear Ms. Crockron:

Enclosed is an original and 10 copies of subject MOTIONS & MEMORANDUM IN SUPPORT. Please file in accordance with Commission rules. Please time stamp the enclosed extra copy and return it to me in the enclosed self-addressed stamped envelope. Thank you.

Sincerely,


James P. Woodman



This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician Ann M. Mc Date Processed Sept 13, 1996

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

James P. Woodman	)	Case Nos. 96-492-TP-CSS
	)	96-493-TP-CSS, 96-494-TP-CSS,
Complainant	)	96-495-TP-CSS, 96-496-TP-CSS,
	)	96-497-TP-CSS, 96-498-TP-CSS,
v.	)	96-499-TP-CSS, 96-500-TP-CSS,
	)	96-501-TP-CSS, 96-502-TP-CSS,
The Ohio Bell Telephone	)	96-503-TP-CSS, 96-504-TP-CSS,
Company	)	96-505-TP-CSS, 96-506-TP-CSS,
	)	96-507-TP-CSS, 96-508-TP-CSS,
Respondent	)	96-509-TP-CSS, 96-510-TP-CSS,
	)	96-511-TP-CSS, 96-512-TP-CSS,
	)	96-513-TP-CSS, 96-514-TP-CSS,
	)	96-515-TP-CSS, 96-516-TP-CSS,
	)	96-517-TP-CSS, 96-518-TP-CSS,
	)	96-519-TP-CSS, 96-520-TP-CSS,
	)	96-521-TP-CSS, 96-522-TP-CSS,
	)	96-523-TP-CSS, 96-524-TP-CSS,
	)	96-525-TP-CSS, 96-526-TP-CSS,
	)	96-527-TP-CSS, 96-528-TP-CSS,
	)	96-529-TP-CSS, 96-530-TP-CSS,
	)	96-531-TP-CSS, 96-561-TP-CSS,
	)	96-762-TP-CSS

RECEIVED

SEP 12 1996

DOCKETING DIVISION
Public Utilities Commission of Ohio

MOTION TO AMEND, MOTION TO STRIKE, & MOTION TO RESCIND

The above captioned Case numbers have been assigned to Complaints filed with the PUCO by James P. Woodman pursuant to Section 4905.26 of the Ohio Revised Code (ORC). All Complaints allege violations by Respondent of Section 4901:1-5-23 (A)&(B) of the Ohio Administrative Code (OAC) which state:

4901:1-5-23 (A): Each local exchange company shall provide the information and assistance necessary to enable any applicant or subscriber to obtain the most economical local exchange company provided services conforming to his or her stated needs

4901:1-5-23 (B): Upon request, each local exchange company shall provide all applicants and current subscribers with the following information:

- (1) The types and grades of service available;
- (2) The rates, charges, and provisions applicable to all services furnished or available.
- (3) Any service connection charge.
- (4) An estimate of the initial billing for basic monthly service (including any fractional monthly amounts); and
- (5) Any other applicable charges.

and, further, that {1}, Respondent OHIO BELL has been, and is, using deceptive advertising and/or trade practices in its directories and, that {2}, Respondent OHIO BELL has not provided proper notice to its customers [including political entities] of optional tariff rates available to them.

As a direct consequence of these violations of law, Respondent OHIO BELL has been billing certain public bodies unjust and unreasonable rates a practice which is prohibited by Section 4905.22 of the Ohio Revised Code and, which is the basis or substance of the Complaints filed against OHIO BELL by Complainant James P. Woodman.

Upon reviewing his complaints in the captioned cases, Complainant finds a need TO AMEND all complaints.

MOTION TO AMEND

Complainant hereby moves the Commission to add at the end of each and every complaint on page 2 and prior to the section headed with the word MOTIONS, the following words:

"Upon a finding that OHIO BELL, an Ohio public utility does, in fact, unlawfully, unjustly, unreasonably, and discriminately charge the named customer in this Complaint for its local exchange telephone service, then Complainant asks for that relief which is provided by law."

FIVE MOTIONS were filed by Complainant concurrently and incorporated therein with each and every complaint listed in the captioned cases.

MOTION TO STRIKE

Complainant hereby moves the Commission TO STRIKE the FIVE MOTIONS from each and every complaint in the captioned cases.

MOTION TO RESCIND

Complainant hereby moves the Commission TO RESCIND ORDER contained in ENTRY docketed September 6, 1996, 96-492-TP-ACE et. al.

MEMORANDUM OF SUPPORT for granting MOTION TO AMEND, MOTION TO STRIKE, and MOTION TO RESCIND, is attached hereto.

MEMORANDUM OF SUPPORT

for granting

MOTION TO AMEND, MOTION TO STRIKE, & MOTION TO RESCIND,

MOTION TO AMEND

Section 4901-9-01{A} [OAC] [Complaint Proceedings] reads in part as follows:

"All complaints filed under section 4905.26 of the Revised Code, except complaints filed by a public utility concerning a matter affecting its own product or service, shall be in writing and shall contain the name of the public utility complained against, a brief statement of the facts which constitute the basis of the complaint, and a statement of the relief sought....."

Noting that his complaints did not include a "statement of the relief sought," Complainant filed the attached MOTION TO AMEND to conform with the requirement of 4901-9-01[OAC].

MOTION TO STRIKE

The Commission's Attorney Examiner, Legal Director, or Assistant Legal Director apparently failed to DISTINGUISH the violations of law by OHIO BELL [contained in the Complaints] FROM the accompanying MOTIONS therein.

"Pursuant to RC 4905.26, the commission may find a rate or tariff provision unlawful, unjust, unreasonable, or discriminatory, whether that issue is raised by the Complainant or sua sponte by the Commission.

Consumers' Counsel v. Public Utilities Commission of Ohio (Ohio 1991) 61 Ohio St.3d 396, 575 N.E.2d 157.

MEMORANDUM OF SUPPORT [continued]

The **INTENT** of Complainant for filing his complaints was to notify the commission that OHIO BELL, an Ohio Public Utility, was unlawfully, unjustly, unreasonably, and discriminately charging the customers named in the captioned cases for their usage of OHIO BELL's local exchange telephone service.

The **PURPOSE** for giving the Commission such notification was for enabling the Commission, pursuant to RC 4905.26 [ORC], to exercise its statutory responsibility of determining and making a finding of fact that the Complainant's charges or allegations were true and, if so, to provide any and all relief as provided for by law.

Wishing to be constructive and helpful, Complainant filed a number of Motions with his complaints...five in number. Complainant now realizes all five motions were extraneous and irrelevant and NOT REQUIRED pursuant to 4901-9-01 [OAC]. As a consequence, Complainant has filed the attached **MOTION TO STRIKE**.

MOTION TO RESCIND

Under the date of September 9, 1996, by facsimile transmission, PUCO Attorney Examiner Dan Fullin sent 10 pages of mostly illegible text to Complainant. The first three pages containing the captioned case numbers were decipherable. On Page Two [2] of the FAX, a Case Number was noted, namely, 96-492--TP-ACE et. al.

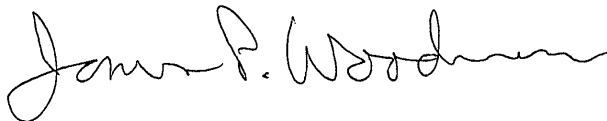
Attorney Fullin called Complainants office later in the day [9-9-96] to advise that Complainant had until Friday, September 13, 1996, to comply with an ORDER having to do with proving Complainant had some kind of legal or representative authority to file the complaints on behalf of the OHIO BELL customers named in the captioned cases.

Complainant did not know what Attorney Fullin was talking about, but it became apparent that the Attorney Examiner, the Legal Director, or the Assistant Legal Director had wrongly presumed from a reading of the MOTIONS contained in the Complaints, that the Complainant was acting in BEHALF OF or as a REPRESENTATIVE of OHIO BELL customers named in the captioned cases.

MEMORANDUM OF SUPPORT [continued]

Any such false presumption could only have been made by a misreading of MOTION V in the complaints filed. Inasmuch as a Motion has been made to strike all motions from said complaints, no basis whatsoever exists for Complainant to prove anything respecting any representative or legal authority to act on behalf of named OHIO BELL customers in the captioned cases. It is for this reason that Complainant's MOTION TO RESCIND ORDER contained in ENTRY docketed September 6, 1996, namely, 96-492-TP-ACE et. al., should be granted.

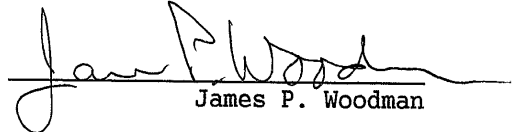
Respectfully submitted,

A handwritten signature in cursive script, reading "James P. Woodman".

James P. Woodman, Complainant

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Motions has been served upon MICHAEL MULCAHY, COUNSEL for THE OHIO BELL TELEPHONE COMPANY at 45 Erieview Plaza, Cleveland, Ohio 44114, this third day of July, 1996 by regular United States Mail, postage prepaid.


James P. Woodman