

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Bill
Stamaton,

Complainant,

v.

First Communications, LLC,

Respondent.

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Case No. 08-009-TP-CSS

ENTRY

The attorney examiner finds:

- (1) On February 7, 2007, the complainant, Bill Stamaton, filed a formal complaint, docketed as Case No. 07-135-TP-CSS (07-135 complaint), against the respondent, First Communications, LLC (First Communications). The complaint alleged that in December 2006, the respondent, without the complainant's consent or authorization, released an 800 number that the complainant, as a customer of First Communications, had been using for approximately ten years. The complaint alleged that the number, once released, was then acquired by another company, MCI/Verizon, but that neither company could explain how this had happened. The only relief sought in the complaint was to have the Commission help the complainant recover his 800 number.
- (2) On September 5, 2007, the Commission issued an entry that dismissed the 07-135 complaint case without prejudice. The Commission explained its decision in finding 6 of the entry which stated:

Upon review of the record as a whole, we find it appropriate, based on the arguments made by the respondent, to dismiss this case without prejudice, at this time. The complaint, as filed, as well as the sole request for relief, is based on claims that are currently pending litigation before the FCC (Federal Communications Commission).

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If, following that litigation there are issues that are not resolved by the FCC that are within the jurisdiction of state regulatory authorities, Mr. Stamaton may refile his complaint seeking our determination on such issues at that time. Accordingly, we conclude that good cause has been shown for dismissing this case, without prejudice, at this time.

- (3) On September 27, 2007, the complainant timely filed an application for rehearing of the Commission's September 5, 2007, dismissal entry.
- (4) Upon review of Mr. Stamaton's application for rehearing, the Commission determined that the FCC has exclusive jurisdiction over toll-free numbering administration and exclusive authority to grant the relief sought by the complainant. The Commission instructed the complainant to pursue his 800-number complaint before the FCC. The Commission continued that, if, after the complainant had pursued his 800-number complaint with the FCC, there are other issues that are not resolved by the FCC that are within the jurisdiction of state regulatory authorities, Mr. Stamaton was afforded an opportunity to file a new complaint seeking our determination on such other issues at that time.
- (5) On January 2, 2008, Mr. Stamaton filed a new complaint docketed as Case No. 08-009-TP-CSS (08-009 complaint). In support of the 08-009 complaint, Mr. Stamaton attached an electronic mail message from the FCC that Mr. Stamaton avers closed his FCC complaint. The electronic mail message from the FCC attached to the 08-009 complaint advised Mr. Stamaton that he could accept the terms of the offer from First Communications or, if he did not like the offer, he could pursue this matter in small claims court.
- (6) Pursuant to Rule 4901-9-01, Ohio Administrative Code, the Commission's Docketing Division issued a letter on January 3, 2008, directing First Communications to file an answer within 20 days of the mailing of the 08-009 complaint.
- (7) The attorney examiner finds that the 08-009 complaint, as docketed, lacks any factual discussion concerning the

circumstances giving rise to this complaint. Moreover, as docketed, the 08-009 complaint does not explain how, if at all, the pending complaint is different from the 07-135 complaint and how, if the complaint is the same complaint, the Commission now has jurisdiction based upon the Commission determination in the 07-135 complaint that the FCC has "exclusive jurisdiction over toll-free number administration and exclusive authority to grant the relief sought by the complainant" (07-135 entry on rehearing, finding 7, October 24, 2007).

Mr. Stamatou will be afforded 20 days, until January 31, 2008, to file a more definitive statement explaining the factual basis for the 08-009 complaint. Additionally, Mr. Stamatou should explain how, if this is the same complaint as the 07-135 complaint, the Commission now has jurisdiction to consider this matter in light of our determination in the 07-135 complaint that the FCC has exclusive jurisdiction over toll-free number administration. Should Mr. Stamatou not file the additional information by January 31, 2008, the attorney examiner will recommend to the Commission that this matter be dismissed of record.

- (8) The attorney examiner also determines that First Communications should be relieved of the obligation to file its answer at this time. Rather, the attorney examiner determines that the answer and any responsive pleading should be filed within 20 days after January 31, 2008.

It is, therefore,

ORDERED, That Mr. Stamatou be afforded an opportunity to supplement his complaint in accordance with finding 7. It is, further,

ORDERED, That First Communications file its answer and any responsive pleading in accordance with finding 8. It is, further,

ORDERED, That a copy of this entry be served upon the complainant and the respondent, their counsel, if any, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

By: Jeffrey R. Jones
Attorney Examiner

/vrm ⁹⁵⁰

Entered in the Journal

JAN 11 2008

Renee J. Jenkins

Renee J. Jenkins
Secretary