

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Craig A.)
 Panetti,)

Complainant,)

v.)

Case No. 07-445-TP-CSS

AT&T Ohio,)

Respondent.)

ENTRY

The attorney examiner finds:

- (1) On April 19, 2007, the complainant, Craig A Panetti, filed a complaint in this case against the respondent, AT&T Ohio. The complaint alleges that the respondent has billed the complainant for damages, in the amount of \$2,052.56, for damages to its facilities that the respondent alleges to have occurred on August 16, 2007 when, in the in the process of turning his tractor trailer around in the driveway of the Franklin County school bus barn on Advance Avenue, the complainant hit a telephone wire. The complainant alleges that the wire in question was not "up to code" but rather was hanging too low. As a consequence, asserts the complainant, the damage to the telephone line in question was not due to any negligence on the complainant's part; but rather was due to the failure of the respondent to properly install and/or maintain its lines as required by law. The complainant alleges that police, fire, and the respondent's crew itself all responded at the time of the incident and that "[a]ll three agreed that the line was too low." The complainant asserts both that his trailer is only 13 feet six inches in height and that applicable federal law requires that the line is question "should be at least 18 feet high in areas subject to truck traffic and commercial driveways." According to the complaint, the incident occurred on a 45-foot wide driveway within an industrial/commercial area that includes no residential buildings and that features many companies with truck docks.
- (2) On May 9, 2007, the respondent filed both an answer to the complaint as well as a motion to dismiss. In its answer, the respondent alleges,

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among other things, that: (a) it has not breached any legal duty it owes to the complainant; (b) its services and practices at all times have been in full accordance with all applicable provisions of law and accepted standards within the telephone industry; (c) the complaint fails to state reasonable grounds for proceeding to hearing as required by Section 4905.26, Revised Code; and (d) the complaint should be dismissed based on the respondent's motion to dismiss. In its motion to dismiss, the respondent asserts that the question of whether the complainant is monetarily liable for the replacement of the company's property is not within the concept of "telephone service" and, as such, is beyond the Commission's jurisdiction. Further, says the respondent, the Commission is without authority to settle disputes relating to tort liability. If the Commission heard this complaint, says the respondent, the company's rights to pursue property damages in a local court case would be compromised.

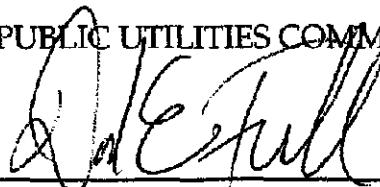
- (3) This case should be set for a prehearing settlement conference on April 17, 2008, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-D, Columbus, Ohio 43215-3793. The purpose of the settlement conference is to determine whether this matter can be resolved informally.

It is, therefore,

ORDERED, That a prehearing settlement conference be held in accordance with Finding (3). It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Daniel E. Fullin
Attorney Examiner

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geb

Entered in the Journal

MAR 17 2008



Renee J. Jenkins
Secretary