



1077 Celestial Street • Rookwood Bldg. • Suite 110  
Cincinnati, Ohio 45202-1629  
(513) 621-1113  
(800) 598-2046  
(513) 621-3773 Fax

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RECEIVED-DOCKETING DIV

2008 JUN 30 PM 1:43

PUCO

June 27, 2008

**VIA UPS NEXT DAY AIR SAVER**

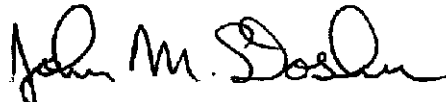
Public Utilities Commission of Ohio  
Docketing Division  
13th Floor  
180 East Broad Street  
Columbus, OH 43215-3793

Re: Case No. 08- 813 -TP-CSS

Ladies and Gentlemen:

Enclosed for filing are an original and ten copies of Stand Energy Corporation's Complaint against Telecommunications Provider OPEX Communications, Inc.

Sincerely,



John M. Dosker  
General Counsel

Enclosures

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.  
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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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PUCO

In the Matter of the Complaint of: )

**Stand Energy Corporation** )  
1077 Celestial Street, Suite 110 )  
Cincinnati, Ohio 45202-1629 )

Complainant )

v. )

Case No. 08- 813 TP-CSS

**OPEX Communications, Inc.** )  
707 Wilshire Blvd. )  
12th Floor )  
Los Angeles, CA 90017 )

**Serve: CT Corporation System** )  
1300 E. 9th Street )  
Cleveland, OH 44114 )

Respondent )

**Complaint**

Stand Energy Corporation, by and through the undersigned counsel, brings the following Complaint against OPEX Communications, Inc. (hereinafter "Respondent") an approved telecommunications provider in Ohio.

1. Stand Energy Corporation (hereinafter "Complainant") is a Kentucky corporation, registered to do business in the State of Ohio as a foreign corporation and partially regulated by the Public Utilities Commission of Ohio as a natural gas marketing company. Complainant's principal place of business is 1077 Celestial Street, Suite 110, Cincinnati, Ohio 45202-1629.

2. Respondent is authorized to do business in Ohio as a foreign corporation by the Ohio Secretary of State. Respondent is authorized to provide 800 telecommunications services pursuant to proceedings in PUCO Case No. 90-5843-CT-TRF. Respondent's address on file with the Ohio Secretary of State is that set forth in the original application for Premiercom, Inc. (d.b.a. Premiercom Management Company), to wit: 500 Higgins Road, Suite 200, Elk Grove Village, Illinois 60007. The Ohio Secretary of State's records show that Premiercom, Inc. changed its name to OPEX Communications on February 23, 2000.

3. Complainant received telecommunications services from Respondent pursuant to contract from May 31, 2007 to February 29, 2008 when Complainant switched to a new 800 carrier. The last paragraph of the Respondent's Terms and Conditions is "Notices" which requires notice to Respondent to be accomplished by contacting Respondent at 500 E. Higgins Rd., Elk Grove Village IL 60007.

4. Due to an over cite, Complainant did not provide Respondent with any advance notice of the cancellation of service. However, Complainant would submit that switching 800 carriers should have been a pretty clear signal to Respondent of Complainant's intent to cancel. Impossibility of performance is but one contract defense that is available to Complainant.

5. When Complainant received an invoice from Respondent with "recurring charges" dated **April 1, 2008** (after having switched carriers in February), Complainant sent a written letter to OPEX Communications at the address listed on the contract, 500 E. Higgins Road, Elk Grove, Illinois 60007 Attn: Contract Administrator. This letter was mailed April 9,

2008 and returned to Complainant several days later marked "undeliverable forwarding order expired" by the U.S. Post Office. In the April 9, 2008 letter Complainant requested any proof from Respondent (under the "Terms and Conditions" of the contract between the parties) that Complainant had entered into a term agreement - because otherwise the contract term was month-to-month at the time of cancellation. Therefore, Complainant's obligations to Respondent should not be significantly more than one month (March which charges Complainant paid in the ordinary course before the due date). Respondent has never replied to any letter, voice-mail or e-mail from Complainant. Respondent has however continued to send Complainant repeated invoices.

6. Upon return of the April 9, 2008 letter described above, Complainant obtained Respondent's address from the Internet and sent a certified mail letter dated April 15, 2008 to Respondent addressed to "Opex Communications 707 Wilshire Blvd, 12th Floor, Los Angeles, CA 90017".

7. Numerous additional e-mails and phone calls were sent to or left with Respondent. Respondent never had any substantive response to Complainant's issues, questions or requests. Even e-mails to the company received "auto responses" promising replies that never came.

8. For the reasons set forth herein and as will be more specifically proven at the hearing on this Complaint, Respondent has provided inadequate telecommunications service to Complainant by, *inter alia*, violation of ORC 4901:1-5-03. Respondent has failed to furnish

Complainant with "reasonable access" to company representatives for purposes of responding to it's complaint herein even after repeated written requests (via e-mail and certified U.S. Mail) and verbal requests (via telephone conversations and messages) by Complainant.

9. Respondent has provided inadequate service by engaging in post-termination "cramming" of charges for services Complainant is no longer receiving or obligated to receive onto post-termination invoices to Complainant and other violations of OAC 4901:1-5-07 all of which are unconscionable and in violation of Ohio law.

10. Respondent has engaged in unfair and deceptive acts or practices relative to the actions giving rise to the Complaint herein as described in the attached Exhibits and as will be more fully proven at hearing.

**WHEREFORE**, Complainant requests the following relief:

- a. Complainant requests a hearing be held before a Hearing Examiner of the PUCO to determine that Respondent has provided inadequate service and has engaged in a variety of activities in violation of Ohio law;
- b. An Order be issued that all improper invoices submitted by Respondent to Complainant be withdrawn and cancelled and such other and further punitive measures against Respondent as the Commission deems appropriate to protect Ohio residents.
- c. All other relief legal, equitable and otherwise to which Complainant may be entitled.

Respectfully Submitted,

STAND ENERGY CORPORATION

BY: John M. Dosker  
John M. Dosker, TA  
Its General Counsel  
1077 Celestial Street, Suite 110  
Cincinnati, Ohio 45202-1629  
(513) 621-1113 (Phone)  
(513) 621-3773 (Fax)  
jdosker@stand-energy.com (e-mail)

STATE OF OHIO  
COUNTY OF HAMILTON

Signed and sworn to before me, a Notary Public in the State of Ohio, this 27<sup>th</sup> day of  
June, 2008 by John M. Dosker, personally known to me. My Commission Expires: 2-7-2011

Kathy L. Kellem  
NOTARY PUBLIC  
KATHY L. KELLEMS  
Notary Public, State of Ohio  
My Commission Expires  
February 7, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Affidavit was served upon the following  
parties of record via ordinary U.S. Mail postage prepaid on June 25, 2008.

PUCO Docketing Division  
13th Floor  
180 East Broad Street  
Columbus, Ohio 43215-3793

OPEX Communications, Inc.  
707 Wilshire Blvd., 12th Floor  
Los Angeles, CA 90017

John M. Dosker  
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