

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Mary)	
Ann Morgan,)	
)	
Complainant,)	
)	
v.)	Case No. 11-331-TP-CSS
)	
First Communications, LLC,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On January 20, 2011, Mary Ann Morgan (Ms. Morgan, or complainant) filed a formal complaint against First Communications, LLC (First Communications or respondent). The complaint is more than 40 pages long and handwritten in a manner that makes it nearly impossible to decipher some of the words it contains. It is also rambling, often repetitive in character, and at times incoherent. The complaint makes reference, without providing supporting factual allegations, to numerous causes of action over which this Commission has no jurisdiction.
- (2) Only at page 20 of the complaint does the complainant begin making factual allegations concerning issues over which this Commission might have jurisdiction. There, the complainant alleges that, at a certain point, the respondent denied receiving her money order payments, claimed the complainant owed a past due balance of \$399.24, for five to eight months of service, and shut off or disconnected telephone service at her home. The complainant maintains that, all along, she paid by money order and never missed a payment. She further alleges that tracing the money orders reveals that the respondent cashed them. After the respondent received the money, claims the complainant, the respondent denied receiving it, refused to apply her payments to her account, claimed she was not entitled to have her payments applied to her account, and disconnected her service.

- (3) On February 14, 2011, the respondent filed its answer as well as a motion to dismiss. The respondent's answer is in the form of general denial of all allegations contained within the complaint, argues that the Commission lacks subject matter jurisdiction over some or all of the allegations comprising the complaint, and avers that the complainant has failed to set forth reasonable grounds for complaint. In its motion to dismiss, the respondent maintains that the complaint should be dismissed because it: (a) is not legibly hand-written as required under Rule 4901-1-03(B), Ohio Administrative Code (O.A.C.); (b) is devoid of any statement clearly explaining facts which constitute the basis of the complaint and, as such, violates Rule 4901-9-01(B), O.A.C.; and (c) fails to raise any subject within the Commission's subject matter jurisdiction and, as such, fails to comply with Section 4905.26, Revised Code.
- (4) The attorney examiner finds that, as described in Finding (2) of this entry, the complaint does raise, in a legible manner, certain issues over which this Commission appears to have jurisdiction, namely, whether the respondent may have: (a) wrongfully refused to acknowledge acceptance of payments made by the complainant; (b) wrongfully refused to properly apply such alleged payments to the complainant's account; and (c) wrongfully terminated service for nonpayment when, as alleged by the complainant, payments were made such that no past due balance should have accumulated. Accordingly, he finds that this matter should be scheduled for a settlement conference.
- (5) A prehearing settlement conference shall occur as a teleconference that will be conducted over the Commission's telephone bridge line on June 14, 2011, at 10:00 a.m. The parties are instructed to participate in the teleconference by calling the Commission's bridge line, namely, 614-644-1099 at 10:00 a.m., on June 14, 2011.

The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, O.A.C., any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.

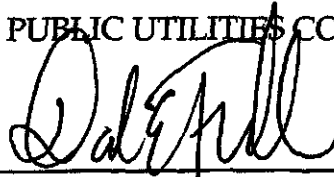
- (6) If any party is unable to participate in the teleconference scheduled for June 14, 2011, in this case, the party should contact the attorney examiner by phone or in writing prior to that date and provide dates when the party would be available. Failure of the complainant to participate in the teleconference, as scheduled for June 14, 2011, or notify the attorney examiner in advance that she will not be able to participate may result in a recommendation by the attorney examiner that the Commission should dismiss this case for lack of sufficient prosecution by the complainant.

It is, therefore,

ORDERED, That a prehearing settlement conference is hereby scheduled to occur as a teleconference that will be conducted over the Commission's telephone bridge line. The parties are instructed to participate in the teleconference by calling the Commission's bridge line, namely, 614-644-1099, at 10:00 a.m., on June 14, 2011. It is, further,

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

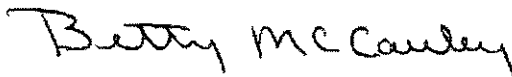
THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Daniel E. Pullin
Attorney Examiner

geg
/dah

Entered in the Journal
MAY 26 2011


Betty McCauley
Secretary