

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Covista)	
Communications, Inc.)	
)	
Complainant,)	
)	
v.)	Case No. 12-2574-TP-CSS
)	
Victory Telecom, Inc. and Xtension Services,)	
Inc.)	
)	
Respondent.)	

**XTENSION SERVICES, INC'S
RENEWED MOTION TO DISMISS**

Xtension Services, Inc. ("Xtension") hereby renews its Motion to Dismiss the complaint of Covista Communications, Inc. ("Covista") filed on November 19, 2012, along with the *unopposed* Joint Motion to Dismiss the amended complaint, filed on February 28, 2013. In each of the prior motions to dismiss filed herein, the Public Utilities Commission of Ohio ("Commission") has been urged to dismiss the complaint with prejudice because the Commission lacked jurisdiction and because the Complaint (and Amended Complaint) failed to state reasonable grounds as required by Ohio Revised Code Section ("R.C.") 4905.26. This Motion incorporates by reference the arguments made in the motions to dismiss this Complaint.

On January 4, 2013, Birch Telecom of the Great Lakes, Inc. ("Birch") and Covista filed an application with the Commission for approval of the transfer of all of Covista's telecommunications assets and Ohio customer base to Birch (Case No. 13-41-TP-ATR). As stated in the application, Covista agreed that upon completion of the transaction and the migration of customers to Birch, Covista will no longer offer telecommunications services in

Ohio, and will surrender its authorizations. The application was automatically approved on February 3, 2013, and on April 25, 2013, the Applicants notified the Commission that the transaction was consummated on March 25, 2013.

In light of the fact that there appears to be no forthcoming action to move this case forward, and the fact that Complainant is no longer operating in the state of Ohio, the Commission should issue an entry dismissing the Complaint.

WHEREFORE, Xtension renews its motion to dismiss, and Covista's Complaint must be denied because the Commission lacks jurisdiction. Even if the Commission asserts jurisdiction, the Complaint must be denied because Covista failed to set forth reasonable grounds in its Complaint as required by R.C. 4905.26.

Respectfully submitted on behalf of,
XTENSION SERVICES, INC.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the forgoing Motion to Dismiss has been served upon the following parties listed below by electronic mail and/or regular U.S. mail, postage prepaid, this 31st day of May 2013.



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Case No(s). 12-2574-TP-CSS

Summary: Text Xtension Services, Inc.'s Renewed Motion to Dismiss electronically filed by
Teresa Orahod on behalf of Thomas O'Brien