

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Bizcorp,)
LLC,)
)
Complainant,)
)
v.) Case No. 14-372-TP-CSS
)
Windstream Communications, Inc.,)
)
Respondent.)

ENTRY

The attorney examiner finds:

- (1) On March 5, 2014, Bizcorp, LLC (Bizcorp or Complainant) filed a complaint against Windstream Communications, Inc. (Windstream or Respondent). Bizcorp states that it is the parent company of National Check Cashers, Always Payday, Prestige Eurocars, Always Approved Auto, Posin Fine Diamonds and Jewelry, and Superior Petroleum Equipment. Bizcorp alleges that it had signed a Memorandum of Understanding with Paetec Communications Inc. (Paetec) for telecommunications services. Shortly after signing the agreement, Bizcorp alleges that Paetec transferred the business to Windstream. Since the transfer, Bizcorp alleges that it has experienced chronic delays and service interruptions in its telecommunication services. In addition, Bizcorp claims that there are problems involving missing fax lines, inaccurate billings, back billings, connectivity, and failure to respond adequately to service inquiries.
- (2) Windstream filed an answer to the complaint on March 26, 2014. Windstream admits that Bizcorp is a customer but denies the remaining allegations in the complaint.
- (3) On the same day, Windstream filed a motion to dismiss the complaint. The basis for Windstream's motion is that the Complainant is a limited liability corporation and, in accordance with Ohio Adm.Code 4901-1-08(A), must be represented by counsel. Moreover, Windstream argues that the

preparation of a formal complaint for consideration by the Commission constitutes the practice of law. Because the complaint was prepared by a corporate officer who is not an attorney licensed to practice in Ohio, Windstream concludes that the Commission should dismiss the complaint.

- (4) At this time, the attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Ohio Adm.Code 4901-1-26, any statement made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible in future proceedings in this case or be admissible to prove liability or invalidity of a claim. Nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference. An attorney examiner with the Commission's Legal Department will facilitate the settlement process. Windstream's motion to dismiss the complaint shall be held in abeyance until the conclusion of any negotiations.
- (5) Accordingly, a settlement conference shall be scheduled for May 23, 2014, at 10:00 a.m., in Room 1246, at the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner may conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.
- (6) Pursuant to Ohio Adm.Code 4901-1-26(F), the representatives of the Respondent shall investigate the issues raised in the complaint prior to the settlement conference, and all parties participating in the conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties participating in the settlement conference should have with them all documents relevant to this matter.
- (7) As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

It is, therefore,

ORDERED, That a settlement conference be held on May 23, 2014, at 10:00 a.m. in Room 1246 in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ L. Douglas Jennings

By: L. Douglas Jennings
Attorney Examiner

jrj/vrm

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Commission of Ohio Docketing Information System on

4/23/2014 10:29:37 AM

in

Case No(s). 14-0372-TP-CSS

Summary: Attorney Examiner Entry scheduling a settlement conference for May 23, 2014 at 10:00 a.m.; electronically filed by Vesta R Miller on behalf of L. Douglas Jennings, Attorney Examiner, Public Utilities Commission of Ohio