

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Millersville Construction,)	
)	
Complainant,)	
)	
v.)	Case No. 14-366-TP-CSS
)	
Frontier North Inc.,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) This case entails a complaint filed on March 3, 2014, by Glenn Kreaiss, owner and sole proprietor of Complainant, Millersville Construction, against Frontier North Inc. (Frontier).¹ Briefly summarized, the complaint asserts that Frontier intentionally misrepresented the pricing of a promotional offering involving business line and broadband service, which Complainant justifiably relied upon in accepting the offer, thereby leading Complainant to incur economic injury.
- (2) On March 28, 2014, Frontier filed an answer to the complaint which by attorney examiner's Entry dated April 24, 2014, was accepted as if timely filed. In its answer, Frontier denies any wrongdoing and disputes each of the substantive allegations of the complaint.
- (3) Pursuant to an Entry issued on April 24, 2014, a settlement conference was held in this matter at the Commission's offices on June 3, 2014. However, Complainant failed to attend the settlement conference.
- (4) By Entry issued on July 21, 2014, Complainant was directed to file a letter in this docket, on or before August 15, 2014,

¹ The complaint was filed against Frontier Communications, Inc. In its answer, Frontier explained that its proper corporate name is Frontier North Inc. The caption contains the proper corporate name of the respondent.

notifying the Commission as to whether Complainant intends to pursue further the complaint. The Entry directed that, if Complainant intends to proceed, the letter should include a proposed date upon which a settlement conference could be held.

- (5) On August 6, 2014, Complainant filed a letter indicating his intention to proceed with the prosecution of the complaint. Although the letter did not include a specific suggested date for holding a settlement conference, it did contain a request by the Complainant that the Commission should “grant a continuance on the settlement hearing” so as “to allow Discovery between the parties.” Elsewhere in the letter, Complainant moved that the “settlement hearing” should be continued “fourteen days after the close of Discovery.”
- (6) Because the Complainant has requested that the “settlement hearing” should be scheduled to occur only after discovery is completed, the attorney examiner takes this opportunity to point out the difference between the prehearing settlement conference, which is being scheduled by this Entry pursuant to Ohio Adm.Code 4901-1-26 and Ohio Adm.Code 4901-9-01(G), and the evidentiary hearing, which will be scheduled, if at all, pursuant to Ohio Adm.Code 4901-1-27, based upon a determination, which has not yet been made, both: (1) that reasonable grounds for complaint, as required by R.C. 4927.21 have been stated in the complaint; and (2) that the settlement process, including the settlement conference, has not resulted in a resolution of the matter by the parties themselves.
- (7) As for the timing of the discovery process in relation to the timing of the prehearing settlement conference and the evidentiary hearing, the attorney examiner takes this opportunity to explain that, by Commission rule, namely, Ohio Adm.Code 4901-1-17(A), the discovery process, although it should be completed as expeditiously as possible, may, unless otherwise ordered for good cause shown, continue up to the point immediately prior to the commencement of the evidentiary hearing. Good cause has not been shown for departing from this Commission rule. Nor is there any reason presented why a prehearing settlement conference should not proceed forthwith.

- (8) At this time, the attorney examiner finds that this matter should be scheduled for a prehearing settlement conference. The purpose of the settlement 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 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.
- (9) Accordingly, a settlement conference shall be scheduled for September 24, 2014, at 10:00 a.m. in Hearing Room 11C in the offices of the Commission, 11th 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.
- (10) Pursuant to Ohio Adm.Code 4901-1-26(F), the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference, and all parties attending 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 attending the settlement conference should bring with them all documents relevant to this matter.
- (11) 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 September 24, 2014, at 10:00 a.m. in Hearing Room 11-C in the offices of the Commission, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215.

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Daniel Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/dah

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Case No(s). 14-0366-TP-CSS

Summary: Attorney Examiner Entry schedules a prehearing settlement conference in this case; electronically filed by Debra Hight on behalf of Dan E. Fullin, Attorney Examiner.