

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of )	
Milton Heinberg, )	
Complainant, )	
v. )	Case No. 14-2141-TP-CSS
AT&T Corp., )	
Respondent. )	

ENTRY

The attorney examiner finds:

- (1) On November 24, 2014, Milton Heinberg (Mr. Heinberg) filed a complaint against AT&T Corp. (AT&T). Mr. Heinberg is seeking full reimbursement of charges for services, which he alleges, AT&T billed without authorization.
- (2) Mr. Heinberg states he was a customer of AT&T while he lived at the residence located at 655 Shinnecock Lane, Aurora, Ohio 44202, but alleges that he cancelled service with AT&T at this residence in September 2008. Mr. Heinberg alleges in his complaint that he moved to Solon, Ohio in October 2010 and AT&T continued to charge him for service at his prior residence in Aurora, Ohio until April 2011. On April 10, 2011, Mr. Heinberg asserts he discovered that AT&T was still billing him for services at his prior residence, even though he had disconnected service in September 2008. At that time, Mr. Heinberg states that he contacted AT&T for a refund and received no response. After contacting the Public Utilities Commission of Ohio regarding his complaint, Mr. Heinberg alleges that AT&T sent him a check for \$507.00 as a final settlement for the 32-month duration of overbilling, amounting to approximately \$1,560.00. Mr. Heinberg states in his complaint that he did not cash the check sent to him. Mr. Heinberg requests the Commission order AT&T to refund all overpayments to him, amounting to approximately \$1,560.00.

- (3) On December 15, 2014, AT&T filed its response to the allegations contained in Mr. Heinberg's complaint. Apart from admitting that Mr. Heinberg was a long-distance service customer until his service was disconnected and that AT&T previously offered a billing adjustment to resolve the pending dispute, AT&T disputes all other allegations made by Mr. Heinberg. Specifically, AT&T avers that Mr. Heinberg accepted the offer when he cashed the check issued to him, thus, creating an accord and satisfaction and barring him from pursuing this complaint over two years later. Moreover, AT&T alleges that it discontinued service to Mr. Heinberg after it had been requested to do so and was not previously requested to disconnect service by Mr. Heinberg or anyone acting on his behalf. Furthermore, AT&T contends that the billing adjustment offered to Mr. Heinberg was reasonable and consistent with AT&T's usual business practices. In addition to contesting several statements alleged by Mr. Heinberg, AT&T argues that the matters raised in the complaint are beyond the Commission's jurisdiction. AT&T requests an order from the Commission dismissing the complaint.
- (4) At this time, the attorney examiner finds that this matter should be scheduled for a 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(E), 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 schedule settlement conference.
- (5) Accordingly, a settlement conference shall be scheduled for January 27, 2015, at 10:00 a.m. in Conference Room 1247 of the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. If the conference does not result in a settlement, the attorney examiner will 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 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.
- (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 prehearing settlement conference be held in accordance with Finding (5). It is, further,

ORDERED, That a copy of this Entry be served on all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Jeffrey Jones

By: Jeffrey R. Jones  
Attorney Examiner

SEF/sc

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**Case No(s). 14-2141-TP-CSS**

Summary: Attorney Examiner Entry scheduling a prehearing settlement conference in accordance with Finding (5). - electronically filed by Sandra Coffey on behalf of Jeffrey R. Jones, Attorney Examiner, Public Utilities Commission of Ohio