

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF PERCY SQUIRE CO.,
INC.,**

COMPLAINANT,

v.

CASE NO. 16-2140-TP-CSS

LEVEL 3 COMMUNICATIONS, LLC,

RESPONDENT.

ENTRY

Entered in the Journal on December 2, 2016

{¶ 1} Pursuant to R.C. 4927.21, the Commission has authority to consider written complaints filed against a telephone company by any person or corporation regarding any rate, service, regulation, or practice relating to any service furnished by the telephone company that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory.

{¶ 2} Level 3 Communications, LLC (Level 3 or Respondent) is a telephone company as defined in R.C. 4905.03 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On October 28, 2016, Percy Squire Co., LLC (Complainant) filed a complaint against Level 3. Briefly summarized, the complaint alleges that, in June of 2011, Respondent, despite knowing that Complainant was moving his office, failed to disconnect Complainant's service at the address he was leaving, and also failed to port all of his lines over to Complainant's new address. Complainant avers that, because Respondent falsely lead him he to believe that it had accomplished these two things which, he alleges, Respondent actually had failed to do, Complainant paid Respondent's invoices, totaling \$29,923.08, for the period June 2011 through January 9, 2016, for service he had requested to have disconnected at an address he had, with

Respondent's knowledge, left. In bringing this complaint, Complainant seeks a full refund of \$29,923.08, plus interest.

{¶ 4} Level 3 filed its answer on November 17, 2016. In its answer, Respondent admits some and denies other of the allegations of the complaint and sets forth several affirmative defenses.

{¶ 5} 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 in lieu of an evidentiary hearing. In accordance with Ohio Adm.Code 4901-1-26, 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 any party from initiating settlement negotiations prior to the scheduled settlement conference.

{¶ 6} Accordingly, a settlement conference shall be scheduled for December 14, 2016, at 11:00 a.m. at the Commission offices, 180 East Broad Street, 7th floor, Conference Room 761, Columbus, Ohio 43215-3793. The parties should bring with them all documents relevant to this matter. If a settlement is not reached at the conference, 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. While at least one person authorized to represent each party, respectively, is expected to appear in person at the settlement conference, nevertheless, a teleconference bridge line will be made available for persons affiliated with either of the two parties, who wish to participate but are unable to attend the settlement conference in person. In order to participate, such persons shall dial the following number, (866) 209-2820, and then, as prompted, enter the conference code number 7585920846, followed by the pound or hash tag button.

{¶ 7} Pursuant to Ohio Adm.Code 4901-1-26(F) the representatives of the public utility shall investigate the issues raised on 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 authority to settle those issues.

{¶ 8} 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).

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That a settlement conference be scheduled for December 14, 2016, at 11:00 a.m. at the Commission offices, 180 East Broad Street, 7th floor, Conference Room 761, Columbus, Ohio 43215-3793. It is, further,

{¶ 11} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Daniel E. Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/dah

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in

Case No(s). 16-2140-TP-CSS

Summary: Attorney Examiner Entry ordering a settlement conference be scheduled for December 14, 2016, at 11:00 a.m. at the Commission offices, 180 East Broad Street, 7th floor, Conference Room 761, Columbus, Ohio 43215-3793. Entry electronically filed by Debra Hight on behalf of Daniel E. Fullin, Attorney Examiner.