

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF CAR PARTS
WAREHOUSE, INC.**

COMPLAINANT,

CASE NO. 17-31-TP-CSS

V.

AIRESPRING, INC.,

RESPONDENT.

ENTRY

Entered in the Journal on September 27, 2017

I. SUMMARY

{¶ 1} The Commission grants the joint motion to dismiss with prejudice, as the parties have settled all issues in the complaint.

II. DISCUSSION

{¶ 2} 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.

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

{¶ 4} On January 4, 2017, Car Parts Warehouse, Inc. (CPW or Complainant) filed a complaint against Airespring, alleging that Respondent has not used reasonable efforts to provide reliable, high quality service on its multiprotocol label

switching (MPLS) network. As a result of poor service, CPW asserts, it suffered considerable down time during a 17-month period just before it filed the complaint, resulting in lower productivity and loss of revenue and customers.

{¶ 5} Airespring filed its answer and a motion to dismiss on January 24, 2017. Respondent admits that, during the time period noted by Complainant, CPW experienced outages in Airespring's MPLS service. Respondent contends, however, that the Commission lacks subject matter jurisdiction over the complaint, because R.C. 4905.02(A)(5) does not define a "public utility" to include "advance services, broadband service, information service, and internet protocol-enabled services."

{¶ 6} By Entry issued March 16, 2017, the attorney examiner scheduled a settlement conference for April 13, 2017. The parties participated as scheduled, and in subsequent conferences on May 16, 2017, and May 31, 2017.

{¶ 7} On June 19, 2017, the parties filed a joint motion to dismiss the complaint with prejudice. In the joint motion, the parties indicate that the matter has been settled and a settlement agreement executed.

{¶ 8} The Commission finds that the parties' joint motion to dismiss the complaint with prejudice is reasonable and should be granted.

III. ORDER

{¶ 9} It is, therefore,

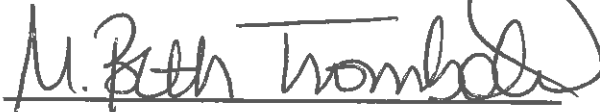
{¶ 10} ORDERED, That the parties' joint motion to dismiss the complaint with prejudice be granted. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO



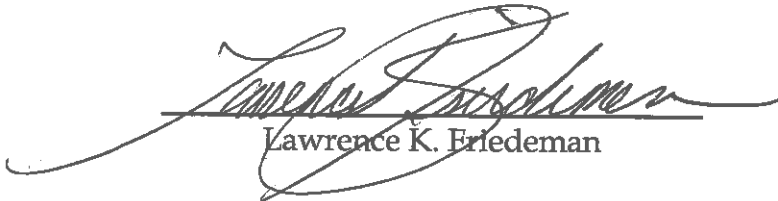
Asim Z. Haque, Chairman



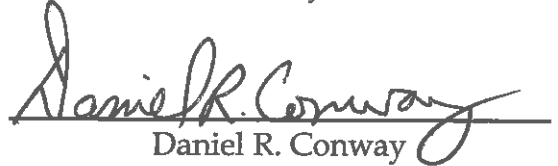
M. Beth Trombold



Thomas W. Johnson



Lawrence K. Friedeman



Daniel R. Conway

JML/sc

Entered in the Journal

SEP 27 2017



Barcy F. McNeal
Secretary

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in

Case No(s). 17-0031-TP-CSS

Summary: Entry ordering that the parties' joint motion to dismiss the complaint with prejudice be granted electronically filed by Docketing Staff on behalf of Docketing