

BEFORE

James P. Woodman,
Complainant,
v.
Ameritech Ohio
Respondent.

Complainants,
v.
Ameritech Ohio
Respondent.

Case Nos. 96-853-TP-CSS, 96-863-TP-CSS
96-876-TP-CSS, 96-900-TP-CSS, 96-901-TP-CSS,
96-902-TP-CSS, 96-903-TP-CSS, 96-904-TP-CSS,
96-905-TP-CSS, 96-906-TP-CSS, 96-907-TP-CSS,
96-908-TP-CSS, 96-909-TP-CSS

ENTRY

The Commission finds:

- (1) By filings dated May 21, 1996 (Case Nos. 96-492-TP-CSS through 96-531-TP-CSS), June 3, 1996 (Case No. 96-561-TP-CSS), July 31, 1996 (Case No. 96-751-TP-CSS), and August 6, 1996 (Case No. 96-762-TP-CSS), James P. Woodman (Mr. Woodman) has filed with this Commission 43 separate complaints against Ameritech Ohio,¹ each assigned a distinct case number, as set forth within the above caption to this entry. The essential allegations of each complaint as well as

¹ Ameritech Ohio is also known as The Ohio Bell Telephone Company.

the form of relief being sought are substantially similar in all 43 cases, as described in more detail in Finding (3) below. One of the 43 cases brought by James Woodman, namely 96-751-TP-CSS, was allegedly filed on behalf of WeShare, Inc. and its trustees, Robert P. Woodman, Carl N. Woodman, and Thomas Warholic. Each of the 42 other cases was allegedly filed on behalf of a particular governmental entity. A list of the governmental entities on whose behalf the complaint has allegedly been brought by Mr. Woodman, matched with the case number assigned to the respective case, is set forth as follows:

<u>Case No.</u>	<u>Complaint Brought by James P. Woodman Allegedly on Behalf of:</u>
96-492-TP-CSS	Ohio Department of Administrative Services (ODAS).
96-493-TP-CSS	Lake County, Ohio
96-494-TP-CSS	City of Euclid, Ohio
96-495-TP-CSS	City of Wickliffe, Ohio
96-496-TP-CSS	City of South Euclid, Ohio
96-497-TP-CSS	City of Lyndhurst, Ohio
96-498-TP-CSS	City of Highland Heights, Ohio
96-499-TP-CSS	City of Cleveland Heights, Ohio
96-500-TP-CSS	City of Willowick, Ohio
96-501-TP-CSS	City of Willoughby, Ohio
96-502-TP-CSS	City of Brecksville, Ohio
96-503-TP-CSS	City of Mentor, Ohio
96-504-TP-CSS	City of Broadview Heights, Ohio
96-505-TP-CSS	City of Willoughby Hills, Ohio
96-506-TP-CSS	City of Shaker Heights, Ohio
96-507-TP-CSS	City of University Heights, Ohio
96-508-TP-CSS	City of Beachwood, Ohio
96-509-TP-CSS	Mayfield Village, Ohio
96-510-TP-CSS	City of Richmond Heights, Ohio
96-511-TP-CSS	City of Brookpark, Ohio
96-512-TP-CSS	City of Pepperpike, Ohio
96-513-TP-CSS	City of North Randall, Ohio
96-514-TP-CSS	City of Mayfield Heights, Ohio
96-515-TP-CSS	City of North Royalton, Ohio
96-516-TP-CSS	City of Seven Hills, Ohio
96-517-TP-CSS	City of Valley View, Ohio
96-518-TP-CSS	City of Independence, Ohio
96-519-TP-CSS	City of Garfield Heights, Ohio
96-520-TP-CSS	City of Bay Village, Ohio

96-521-TP-CSS	City of Westlake, Ohio
96-522-TP-CSS	City of Strongsville, Ohio
96-523-TP-CSS	City of Middleburg Heights, Ohio
96-524-TP-CSS	City of Fairview, Ohio
96-525-TP-CSS	City of Cuyahoga Heights, Ohio
96-526-TP-CSS	City of North Olmsted, Ohio
96-527-TP-CSS	City of Maple Heights, Ohio
95-528-TP-CSS	City of Chagrin Falls, Ohio
96-529-TP-CSS	City of Cleveland, Ohio
96-530-TP-CSS	City of Solon, Ohio
96-531-TP-CSS	City of Berea, Ohio
96-561-TP-CSS	U.S. General Services Administration (GSA)
96-762-TP-CSS	Cuyahoga County, Ohio

- (2) On August 21, 1996 (Case No. 96-853-TP-CSS), August 22, 1996 (Case No. 96-863-TP-CSS), August 26, 1996 (Case No. 96-876-TP-CSS), and August 29, 1996 (Case Nos. 96-900-TP-CSS through 96-909-TP-CSS), Robert P. Woodman, Carl N. Woodman, and Thomas Warholic, as the trustees of WeShare, Inc., filed with this Commission 13 separate complaints against Ameritech Ohio. Each complaint has been assigned a distinct case number as set forth in the above caption to this entry. The essential allegations of each complaint as well as the form of relief being sought are substantially similar in all 13 cases, as described in more detail in Finding (4) below. Each complaint has allegedly been brought by the trustees of WeShare, Inc. on behalf of a particular governmental entity, officer, or group of entities or officers. A list of the governmental entities and/or officers on whose behalf the complaint has allegedly been brought by the trustees of WeShare, Inc., matched with the case number assigned to the respective case, is set forth as follows:

<u>Case No.</u>	<u>Complaint Brought by Trustees of WeShare, Inc. Allegedly on Behalf of :</u>
96-853-TP-CSS	U. S. General Services Administration Region 5.
96-863-TP-CSS	State of Ohio Departments and Agencies including, but not limited to, the following: Ohio Department of Administrative Services, Public Utilities Commission of Ohio, Ohio Consumers Counsel, Bureau of Employment Services, Civil Rights Commission, Auto & Driver's License Bureaus, Lottery Commission, Department of Mental Health, State Information

- Center, Department of Taxation, Bureau of Workers Compensation, Adult Parole Board, Department of Rehabilitation & Correction, Department of Transportation, Department of Youth Services, Building Authority, Department of Commerce, Department of Education, Environmental Protection Agency, State Highway Patrol, Department of Human Services, Industrial Commission of Ohio, Liquor Control Department, Bureau of Motor Vehicles, National Guard, Department of Natural Resources, Rehabilitation Services Division, and Turnpike Commission.
- 96-876-TP-CSS Community Service Organizations, as listed on an Information Page of an Ohio Bell Directory dated May 1996, apparently including: the Epilepsy Foundation of Northeastern Ohio, Free Clinic, Center for Families & Children, Empowering People with Disabilities, Cleveland Bar Association, Cuyahoga Bar Association, Legal Aid Society of Cleveland, Cleveland Public Library, and Cuyahoga County Public Library.
- 96-900-TP-CSS William Perry, as U.S. Secretary of Defense, and all U.S. Defense Department Offices in Ohio which appear in Ohio Bell's Local Exchange Directories.
- 96-901-TP-CSS Elected State Officials of Ohio, including: George Voinovich, Governor; Bob Taft, Secretary of State; J. Kenneth Blackwell, Treasurer of State; James Petro, Auditor of State; Betty Montgomery, State Attorney General.
- 96-902-TP-CSS Ohio State Senators, including: Honorable M. Ben Gaeth, 1st District; Honorable Stephen A. Yarbrough, 2nd District; Honorable Bruce E. Johnson, 3rd District; Honorable Scott R. Nein, 4th District; Honorable Rhine McLin, 5th District; Honorable Charles F. Horn, 6th District; Honorable Richard H. Finan, 7th District; Honorable Stanley J. Aranoff, 8th District; Honorable Janet C. Howard, 9th District; Honorable Merle Grace Kearns, 10th District; Honorable Linda Furney, 11th District; Honorable Robert R. Cupp, 12th District; Honorable Alan J. Zaleski, 13th District; Honorable H. Cooper Snyder [Doug White], 14th District; Honorable Ben Espy, 15th District; Honorable Eugene Watts, 16th District; Honorable Jan Michael Long, 17th District; Honorable Robert J. Boggs, Jr., 18th District; Honorable Dick Schafrath, 19th District; Honorable Jeffrey D. Johnson, 20th District; Honorable Grace L. Drake, 21st

96-903-TP-CSS District; Honorable Dennis Kucinich, 22nd District;
 96-904-TP-CSS Honorable James E. Carnes, 23rd District; Honorable
 Gary C. Suhadolnik, 24th District; Honorable Judy B.
 Sheerer, 25th District; Honorable Karen L. Gilmor, 26th
 District; Honorable Roy L. Ray, 27th District; Honorable
 Leigh E. Herington, 28th District; Honorable W. Scott
 Oeslager, 29th District; Honorable Robert L. Burch, 30th
 District; Honorable Nancy S. Dix, 31st District;
 Honorable Anthony Latell, 32nd District; and
 Honorable Joseph J. Vukovich, 33rd District.
 Ohio Department of Administrative Services.
 U.S. Attorney General Janet Reno and various offices of
 the U.S. Department of Justice, including: Antitrust
 Division; Federal Bureau of Investigation; Immigration
 and Naturalization; Drug Enforcement
 Administration; U.S. Attorney; U.S. Marshall Service --
 Criminal and Civil Divisions; and the U.S. Trustee --
 Districts of Ohio & Michigan.
 96-905-TP-CSS Lake County, Ohio.
 96-906-TP-CSS U.S. Senators Mike DeWine and John H. Glenn.
 96-907-TP-CSS U. S. Congressmen Martin R. Hoke, Steve
 LaTourette, and Louis Stokes.
 96-908-TP-CSS U.S. Federal Court Judges of the Northern
 District of Ohio -- Eastern Division,
 including: Chief Judge George W. White,
 Judge Ann Aldrich, Judge Frank J. Battisti,
 Judge Thomas D. Lambros, Judge John M.
 Manos, Judge Paul R. Matia, Judge
 Solomon Oliver, Judge Kathleen M.
 O'Malley, Judge William K. Thomas,
 Judge Lesley Brooks Wells, Magistrate
 Judge Joseph W. Bartunek, Magistrate
 Judge Patricia Heman, Magistrate Judge
 David S. Perelman, and Magistrate Judge
 Jack B. Streepy.
 96 909-TP-CSS City of Cleveland, Ohio; City of Shaker
 Heights, Ohio; City of Mentor, Ohio; City
 of Cleveland Heights, Ohio; and the City
 of Euclid, Ohio.

- (3) The gravamen of the complaint is the same in each of the 43 cases, as originally filed, brought by Mr. Woodman. In each, Mr. Woodman asserts that, as an "informed citizen and taxpayer", he is bringing a complaint "on behalf of" the respective person or entity named in the complaint, as listed

above in Finding (1) (each, respectively, referred to hereinafter as "the alleged real party of interest"). In each case, an allegation is made that Ameritech illegally failed to give notice of its tariff to the alleged real party of interest and, as a result, denied each an opportunity to select from the tariff that service which would have been in the best interest of both the alleged real party of interest and of all Ohio taxpayers. The further claim is made that, as a result, Ameritech has been billing unreasonable and unjust charges to the alleged real party of interest over an extended period of time.

Each of the 43 complaints then specifies the nature of relief being sought. Among other things, Mr. Woodman requests that the Commission should determine "the annual amount of unreasonable and unjust charges which...[Ameritech] has been billing over the time period" and should order Ameritech to pay that amount, plus interest as determined by the Commission, to the alleged real party of interest. Finally, Mr. Woodman moves that the Commission should, in consideration of Mr. Woodman's time and effort spent on each complaint, order the alleged real party of interest to pay Mr. Woodman, from funds awarded to it by the Commission, an amount which the Commission deems appropriate, not to be less than an amount as specified in each respective case by Mr. Woodman.

- (4) The gravamen of the complaint is the same in each of the 13 cases, as originally filed, brought by the trustees of WeShare, Inc. In each, the trustees assert that they have filed the complaint against Ameritech "on behalf of" the respective person or entity named in the complaint, as listed above in Finding (2) (each, respectively, referred to hereinafter as "the alleged real party of interest"). In each case, an allegation is made that, since 1985, Ameritech has been providing the alleged real party of interest with local exchange telephone service and has been knowingly charging for said service at a message service rate rather than at a flat rate service rate which the alleged real party of interest is entitled to. The claim is made that the alleged real party of interest is entitled to flat rate service for two reasons: both because its usage of the service "could only be described as being primarily social [societal] in nature" and because the alleged real party of interest should be properly classified as a residential service customer despite the fact that Ameritech has arbitrarily classified it as a business service customer. A further claim is

made that Ameritech has illegally failed to provide the alleged real party of interest the information and assistance necessary to enable said party to obtain the most economical service conforming to its needs.

Each of the 13 complaints then specifies the nature of relief being sought. Among other things, the trustees request that the Commission should declare the alleged real party of interest to be a residential service customer. They also request that the Commission should "find and identify each and every failure of...[Ameritech] ... to comply with any order direction or requirement of" the Commission "relative the allegations" of the complaint. They request that Ameritech be ordered to forfeit to the state not more than \$1,000 "for each such failure"; and that the Commission should recommend to the Ohio General Assembly that appropriate legislation be enacted to provide the trustees with a percentage of forfeiture amounts recovered, in consideration of their "efforts to discover and to report violations of law and regulations by ...[Ameritech] resulting in forfeiture."

- (5) In each of the 43 complaints brought by Mr. Woodman Ameritech filed both an answer and a motion to dismiss. These pleadings were filed on June 11, 1996 in Case Nos. 96-492-TP-CSS through 96-531-TP-CSS, as well as in Case No. 96-561-TP-CSS; on August 20, 1996 in Case No. 96-751-TP-CSS; and on August 29, 1996 in Case No. 96-762-TP-CSS. In each answer, Ameritech generally denies that it has violated its tariffs or any statute, rule, or regulation. In its motions to dismiss, Ameritech alleges that Mr. Woodman is not a proper party to the complaints and has no standing, interest, or right to bring the complaints he has brought.
- (6) Generally, any party to a Commission proceeding must either appear on his or her own behalf or else be represented by a licensed Ohio attorney. In pertinent part, Rule 4901-1-08(A), O.A.C., provides:

Except as otherwise provided...in paragraph...(B) of this rule, each party not appearing *in propria persona* shall be represented by an attorney at law authorized to practice before the courts of this state. Corporations must be represented by an attorney at law."

Thus, only under certain circumstances will the Commission consider a party's request to be represented by a non-attorney. In pertinent part, Rule 4901-1-08(B), O.A.C., provides:

Notwithstanding the requirements of paragraph (A) of this rule, any party not represented by counsel..may request that the Commission, the legal director, the deputy legal director, or the attorney examiner assigned to the case permit or require the designation of a spokesperson, who may examine witnesses, enter objections, and file pleadings or papers on behalf of the unrepresented party. In the case of a corporation, the request must be filed by an officer of the corporation with acceptable proof that such officer or his or her designee has the requisite corporate authority to represent and bind the corporation in the Commission proceedings or in settlement negotiations with Commission staff or other parties. The burden shall be on the party petitioning for permission to be represented by a non-attorney to prove to the satisfaction of the Commission that the case or controversy is of such a nature, in terms of complexity or monetary value, that non-attorney representation is appropriate.

- (7) On September 6, 1996, the attorney examiner issued an entry which found that a common issue is presented in all 56 cases which must be resolved before the cases can proceed. The issue is whether the complainant(s) legitimately hold the requisite legal authority to represent the interests of those persons or entities on whose behalf the complaints allegedly have been brought. Further, the deadline was suspended for an indefinite period until further notice is given in a subsequent entry for Ameritech to file any responsive pleadings not already submitted as of that date in any cases brought, either now or in the future, by Mr. Woodman or by the trustees of WeShare, Inc. The entry indicated that the suspension will continue pending a determination of the issue of whether Mr. Woodman and the trustees of WeShare, Inc. hold proper authorization to represent the parties on whose behalf complaints have been filed.

- (8) The September 6, 1996 entry directed Mr. Woodman and the trustees of WeShare, Inc. to file, on or before September 13, 1996, a verified statement indicating whether and, if so, how they hold the requisite legal authority, either as Ohio licensed attorneys or otherwise, to represent the interests of those persons or entities on whose respective behalf they have filed complaints. The entry specified that if neither Mr. Woodman nor any of the trustees of WeShare, Inc. is an Ohio-licensed attorney, the verified information should be submitted in the form of a signed non-attorney representation request by the actual person or entity on whose behalf the respective complaint has been brought, which would meet the requirements of Rule 4901-1-08(B), O.A.C.
- (9) On September 12, 1996, Mr. Woodman filed in each of his 43 cases a pleading which is entitled "Motion to Amend, Motion to Strike, and Motion to Rescind". On September 13, 1996, the trustees of WeShare, Inc. filed, in each of their 13 cases, a pleading which is entitled "Motions to Amend, and Motion to Rescind". It is clear that the purpose of each of these two pleadings is to request that the Commission alter the original language in the 43 complaints filed by Mr. Woodman, and the 13 complaints filed by the trustees of WeShare, Inc., both by deleting and also by adding certain words, as spelled out in the respective pleadings. Nevertheless, based on the confusing manner in which the two pleadings are written, it is difficult, at best, to ascertain exactly where the textual revisions contemplated by the pleadings should actually occur or how the complainants intend for the 56 complaints, once fully revised, to actually read.
- (10) On September 19, 1996, Ameritech filed a motion to dismiss each of the cases set forth in the caption to this entry, based on the complainants' alleged failure to comply with the September 6, 1996 entry which was issued in all 56 cases.
- (11) One relevant thing is clear concerning the September 12, 1996 and September 13, 1996 pleadings: neither pleading meets the requirements of the September 6, 1996 Entry. Neither Mr. Woodman nor the trustees of WeShare, Inc. have complied with the entry's directive to file verified statements. In addition, none of the complainants have shown, in any way, that they hold the requisite legal authority to represent the persons and entities, other than themselves, who have been named in the complaints. They have not shown that they are

licensed Ohio attorneys. Moreover, the Commission has not received a signed non-attorney representation request by the actual person or entity on whose behalf the respective complaint has been brought, which would meet the requirements of Rule 4901-1-08(B), O.A.C. Indeed, in two cases, the Commission has received letters from the alleged real parties of interest who deny that they have ever sought or authorized such representation, demand that such attempted representation stop, and seek immediate dismissal of these cases on such grounds.²

Our review of the September 12, 1996 and September 13, 1996 pleadings leads us to conclude that both Mr. Woodman and the trustees of WeShare, Inc. are apparently seeking to avoid the issue of whether they are properly authorized to represent other persons and entities by now requesting that the Commission expunge the clear language, found in all 56 complaints, as originally filed, which would otherwise serve to indicate that these complaints have been brought on behalf of the numerous Ameritech customers named in the complaints, as listed in Findings (1) and (2), above. No good cause has been shown for expunging such language. To do so would clarify nothing and render each of the 56 complaints totally incomprehensible and meaningless. Therefore, the request will be denied.

- (12) Neither Mr. Woodman nor the trustees of WeShare, Inc. have demonstrated, or even alleged, that their own individual or collective interests are at stake in these 56 complaint cases. The allegations of the complaint in each respective case cannot be interpreted in a manner which infers that Ameritech has breached any legal duty owing to either Mr. Woodman, individually, or to the trustees of WeShare, Inc., either collectively or individually. If either Mr. Woodman or the trustees of WeShare, Inc. wish to bring a complaint on their own behalf, they are free to do so.
- (13) Each of the 56 complaint cases now before us should be dismissed, forthwith, because those persons who have brought the complaints, Mr. Woodman and the trustees of WeShare, Inc., respectively, have failed to establish that their own individual or collective interests are at stake in these 56

² See the letter from Congressman Steven C. LaTourette filed September 3, 1996 in Case No. 96-907-TP-CSS and the letter from Assistant U.S. Attorney James L. Bickett on behalf of the U.S. Department of Justice filed on September 6, 1996 in Case No. 96-904-TP-CSS.

complaint cases. Further, dismissal is appropriate because they have also failed to show that they have the requisite legal authority to represent the Ameritech customers on whose behalf the complaints, as originally submitted, have been filed.

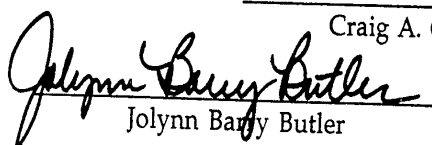
- (14) Section 4903.24, Revised Code, authorizes the Commission to impose the costs of any hearing or investigation upon any party. While the Commission has not yet determined that assignment of costs shall be made in these proceedings, Commission employees are instructed to determine their costs incurred thus far and to record any additional costs and to report such costs promptly to the Commission.

It is, therefore,

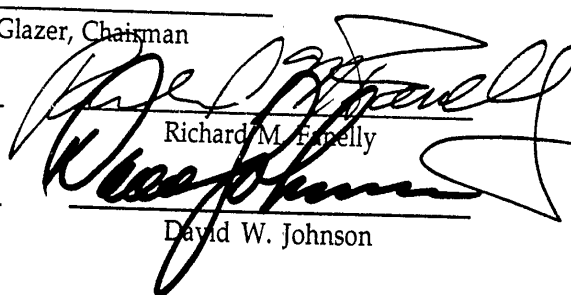
ORDERED, That, in accordance with the above findings, each of these 56 complaint cases is hereby dismissed. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record in each of the cases set forth in the caption to this entry.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Jolynn Barry Butler

Craig A. Glazer, Chairman


Richard M. Emelly

Ronda Hartman Fergus

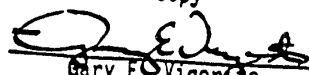
David W. Johnson

DEF/gm

Entered in the Journal

SEP 26 1996

A True Copy


Gary E. Vigor
Secretary