

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Teresa )  
Malmquist, )  
 )  
Complainant, )  
 )  
v. ) Case No. 03-1304-TP-CSS  
 )  
AT&T Communications of Ohio, Inc., )  
 )  
Respondent. )

In the Matter of the Complaint of Teresa )  
Malmquist, )  
 )  
Complainant, )  
 )  
v. ) Case No. 03-1305-TP-CSS  
 ) Case No. 03-1744-TP-CSS  
Alltel, Inc., )  
 )  
Respondent. )

ENTRY

The attorney examiner, pursuant to the authority granted in Rule 4901-1-14, Ohio Administrative Code, finds:

- (1) On June 6, 2003, Teresa Malmquist (complainant) filed identical formal complaints with the Commission against AT&T Communications, Inc. (AT&T) in Case No. 03-1304-TP-CSS, and against Alltel, Inc. (Alltel) in Case No. 03-1305-TP-CSS. The complaints allege that between August 17, 2002 and September 4, 2002, AT&T and Alltel allowed charges in the amount of \$5,900 to accumulate without notice to her. Further, complainant states that the respondents have provided inadequate service by failing to prevent or otherwise stop calls that result in excessive charges, or otherwise allow complainant to adequately and properly control the use of her phone service.

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- (2) On June 23, 2003, AT&T filed its answer admitting and denying various portions of the complaint. AT&T admits that it billed complainant \$5,917.12 in long distance service on her September bill, but asserts that the charges resulted from the fact that complainant apparently did not change her WorldNet internet access number after moving. AT&T agreed to provide a credit for these charges and requests that the complaint be dismissed.
- (3) On July 1, 2003, complainant submitted a letter to the Commission advising that AT&T's proposed resolution is inadequate and unsatisfactory. She further requested that the matter be scheduled for hearing.
- (4) On June 16, 2003, AT&T filed a motion to dismiss. AT&T asserts that the credit provided complainant leaves her with a zero balance and resolves the issues presented. Further, AT&T notes that the dial-up internet access service involved here is provided by AT&T WorldNet, not AT&T Communications of Ohio, Inc. AT&T asserts that the Federal Communications Commission has preempted the PUCO's jurisdiction over dial-up internet access services to end users and cites a recent PUCO case affirming such lack of jurisdiction.
- (5) On August 5, 2003, Alltel filed an answer to the complaint in 03-1305-TP-CSS, admitting and denying various portions of the complaint. On the same date, complainant filed a request for summary judgment due to Alltel's failure to respond to the allegations of the complaint. Additionally, on August 5, 2003, complainant filed a complaint in Case No. 03-1744-TP-CSS asserting that Alltel had failed to issue a check in the amount of \$24.93 owed to her as a credit balance on a previous bill.
- (6) On August 6, 2003, counsel for Alltel submitted a letter requesting that its answer of August 5, 2003 also be considered as its response to the request for summary judgment.
- (7) The attorney examiner finds that these matters should be set for a settlement conference on August 27, 2003, at 10:00 a.m., in Hearing Room 11-E, 11th floor of the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793. The purpose of the settlement conference will be to determine whether these matters can be informally resolved.

03-1304-TP-CSS  
03-1305-TP-CSS  
03-1744-TP-CSS

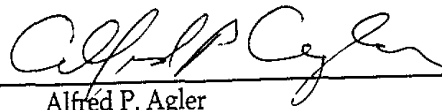
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It is, therefore,

ORDERED, That these cases be set for a settlement conference in accordance with Finding (7). It is, further,

ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Alfred P. Agler  
Attorney Examiner

/vrm 

Entered in the Journal  
**AUG 14 2003**



Renee J. Jenkins  
Secretary

**CASE NUMBER:** 03-1304-TP-CSS  
**CASE DESCRIPTION:** TERESA MALMQUIST VS AT & T LONG DISTANCE  
**DOCUMENT SIGNED ON:** 8/15/2003  
**DATE OF SERVICE:** 8.15.2003

FILE

**PARTIES SERVED**

**PARTIES OF RECORD**

**ATTORNEYS**

**COMPLAINANTS**

TERESA WHITE  
1432 MOLOVISTE AVENUE  
NEWARK, OH 43055-3113

**RESPONDENTS**

AT&T COMMUNICATIONS OF OHIO, INC.  
ELIZABETH FINNERTY, ASST. VICE PRESIDENT  
65 EAST STATE STREET  
SUITE 700  
COLUMBUS, OH 43215-4213  
Phone: (614) 228-7959

DOUGLAS W. TRABARIS  
SENIOR ATTORNEY  
AT&T  
222 W. ADAMS STREET SUITE 1500  
CHICAGO, IL 60606

ELIZABETH FINNERTY  
AT&T COMMUNICATIONS OF OHIO, INC.  
65 E. STATE ST  
SUITE 1500  
COLUMBUS, OH 43215

**CASE NUMBER:** 03-1744-TP-CSS  
**CASE DESCRIPTION:** TERESA MALMQUIST VS ALLTEL OHIO, INC.  
**DOCUMENT SIGNED ON:** 8/15/2003  
**DATE OF SERVICE:** 8.15.2003

**FILE**

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**PARTIES OF RECORD**

**ATTORNEYS**

**APPLICANTS**

TERESA MALMQUIST  
1432 MOLOVISTE AVE  
NEWARK, OH 43055-3113

**RESPONDENTS**

ALLTEL OHIO, INC.  
KATHY HOBBS, MANAGER REGULATORY  
21 EAST STATE STREET  
SUITE 1900  
COLUMBUS, OH 43215  
Phone: (614) 228-9484

HOBBS, KATHY E.  
ALLTEL OHIO, INC.  
FIFTH THIRD CENTER  
21 E. STATE ST.  
COLUMBUS, OH 43215

**CASE NUMBER:** 03-1305-TP-CSS  
**CASE DESCRIPTION:** TERESA MALMQUIST VS ALLTELL  
**DOCUMENT SIGNED ON:** 8/15/2003  
**DATE OF SERVICE:** 8.15.2003

FILE

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TERESA MALMQUIST  
1432 MOLOVISTE AVE  
NEWARK, OH 43055-3113

**RESPONDENTS**

ALLTEL OHIO, INC.  
KATHY HOBBS, MANAGER REGULATORY  
21 EAST STATE STREET  
SUITE 1900  
COLUMBUS, OH 43215  
Phone: (614) 228-9484

HOBBS, KATHY E.  
ALLTEL OHIO, INC.  
FIFTH THIRD CENTER  
21 E. STATE ST.  
COLUMBUS, OH 43215