

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA Networks Inc. :
Complainant :
v. : Docket No. C-20016327
The United Telephone Company of :
Pennsylvania :
Respondent :

RECEIVED
2002 JAN 22 PM 11:10
SECRETARY'S BUREAU

PREHEARING ORDER

DOCUMENT FOLDER
An initial hearing in this case is scheduled for 10:00 a.m. on Thursday, April 11, 2002, at the Plaza Level, Commonwealth Keystone Building, 400 North Street, Harrisburg, Pennsylvania. Accordingly, the parties are hereby directed to comply with the following requirements:

JAN 23 2002

1. You must serve me directly with a copy of any document that you file in this proceeding at the time of filing. If you send me any correspondence or document, you must send a copy to all other parties. For your convenience, a copy of the current service list of the parties to this proceeding is enclosed with this Order.
2. A request for a change of the scheduled hearing date must be submitted in writing no later than five (5) days prior to the hearing. 52 Pa. Code §1.15(b). Requests for changes of initial or subsequent hearings must be sent to me, with copies to all parties of record (see attached service list). My address is: Administrative Law Judge Debra Paist, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. Such changes are granted only in rare situations where good cause exists.

3. **YOU MAY LOSE THIS CASE IF YOU DO NOT TAKE PART IN THIS HEARING AND PRESENT EVIDENCE ON THE ISSUES RAISED.**

4. THIS HEARING IS A FORMAL PROCEEDING AND WILL BE CONDUCTED IN ACCORDANCE WITH THE PENNSYLVANIA PUBLIC UTILITY COMMISSION'S RULES OF PRACTICE AND PROCEDURE.

5. Pursuant to 52 Pa. Code §§1.21-.22, you may represent yourself, if you are an individual, or you may have an attorney represent you. However, if you are a partnership, corporation, trust, association or governmental agency or subdivision, you must have an attorney represent you in this proceeding. Unless you are an attorney, you may not represent someone else. Any attorney representing a party in this proceeding must enter an appearance in accordance with the Pennsylvania Public Utility Commission regulations at 52 Pa. Code §§1.24-.25.

Having carefully examined the parties' pleadings in this case, I conclude that the complaint at Docket No. C-20016327 concerns business telephone service which The United Telephone Company of Pennsylvania (United) has provided to PA Networks Inc. I take official notice of the Pennsylvania Department of State's computerized records which show that PA Networks Inc. was incorporated in Pennsylvania on February 2, 2001 and that Kevin Wetzel is its Chief Executive Officer. 66 Pa. C.S. §332(e); 52 Pa. Code §5.408. This means that, under the Commission regulations, PA Networks Inc. must be represented in the case at Docket No. C-20016327 by an attorney at law admitted to practice in Pennsylvania.¹

6. The Complainant PA Networks Inc. bears the burden of proof in this proceeding and must show by a preponderance of the evidence that the Respondent has violated the Public Utility Code or a regulation or an Order of this Commission so that the Complainant is entitled to the relief requested in the complaint.

The Complainant will present its evidence first at the April 11 hearing and must prove the allegations in its complaint by a preponderance of the evidence. This means that the

¹ Representation by an attorney will prove especially helpful given the complex nature of the allegations in the complaint and the Complainant's burden of proving the allegations in the complaint.

Complainant must identify with specificity (1) the phone calls (dates, times of day, topics of calls) which the Complainant alleges were unanswered or not returned by United; (2) the payments which it allegedly made to United but which were not credited to its United account (canceled checks, credit card receipts, etc. showing payments and United bills showing a corresponding lack of crediting of payments); and (3) the dates and times of day on which downtime and excessive latency allegedly occurred.

Unless the Complainant files an amended complaint which contains the necessary specificity in its allegations, it may be necessary to schedule a second day of hearing after the initial April 11 hearing to permit United to adequately prepare a response to the Complainant's evidence presented at the April 11 hearing. **If the Complainant intends to file a more specific, amended complaint, the filing should be made no later than February 28, 2002.** This will allow United to file an amended answer, if needed, and to adequately prepare its evidence for the April 11 hearing. The original (fresh ink signature) of any amended pleading shall be filed with Secretary James J. McNulty, Pennsylvania Public Utility Commission, P.O. Box 3265, Harrisburg, PA 17105-3265. A copy of any amended pleading shall be served on the opposing party and on Administrative Law Judge Debra Paist.

7. If you intend to subpoena witnesses for the hearing, you should review the procedures established in 52 Pa. Code §5.421. You must submit your written application to me sufficiently in advance of the hearing date so the other parties will have the required ten (10) days' notice to answer or object, and so you will have enough time to receive the subpoena and serve it.

8. Any party may conduct discovery to learn the factual basis of another party's position in this case. However, 52 Pa. Code §5.331(b) provides, in relevant part, that "[a] participant shall endeavor to initiate discovery as early in the proceedings as reasonably possible." Additionally, 52 Pa. Code §5.322 provides, in relevant part, that "participants are encouraged to exchange information on an informal basis." All parties are urged to cooperate in informal information exchanges and in conducting discovery. Cooperation is preferable to disagreements, which require my participation to resolve. There are limitations on discovery (52 Pa. Code §5.361) and sanctions for abuse of the discovery process (52 Pa. Code §§5.371-.372).

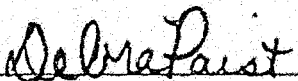
9. This Commission's policy is to encourage settlements. 52 Pa. Code §5.231(a). Therefore, you are urged to discuss informally between yourselves the possible settlement of this case at least one week before the hearing. If you are unable to settle this case, you may still resolve as many questions or issues as possible during your informal discussion.

10. You must bring to the hearing 5 copies of any exhibit to be presented at the hearing: 1 copy for your own use, 2 copies for the court reporter, 1 copy for the opposing party, and 1 copy for the Administrative Law Judge.

11. The Pennsylvania Public Utility Commission is NOT empowered to award damages (monetary compensation), attorney's fees or costs. Terminato v. Pennsylvania National Insurance Co., 538 Pa. 60, 645 A.2d 1287 (1994); Elkin v. Bell Telephone Co. of Pennsylvania, 491 Pa. 123, 420 A.2d 371 (1980); Poorbaugh v. Pennsylvania Public Utility Commission, 666 A.2d 744 (Pa. Cmwlth. Ct. 1995), *allocatur denied*, 544 Pa. 678, 678 A.2d 367 (1996); Info Connections, Inc. v. Pennsylvania Public Utility Commission, 157 Pa. Cmwlth. Ct. 463, 630 A.2d 498 (1993); Ostrov v. I.F.T., Inc., 402 Pa. Super. Ct. 87, 586 A.2d 409 (1991); Goodman v. Bell Atlantic-Pennsylvania, Inc., C-00946116 (order entered March 24, 1995); Re Philadelphia Electric Co., 80 Pa. P.U.C. 589 (1993); Pennsylvania Public Utility Commission v. Duquesne Light Co., 63 Pa. P.U.C. 521 (1987); Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corp., 63 Pa. P.U.C. 68 (1987); Robbins v. Bell Telephone Co. of Pennsylvania, 53 Pa. P.U.C. 1 (1979). This means that the Commission cannot order United to compensate the Complainant for any proven lost revenues stemming from United's actions or inaction.

If, after a hearing, it is determined that United violated the Public Utility Code, a Commission regulation or a Commission order, United may be ordered to pay a civil, monetary penalty up to \$1,000.00 for each violation, but the penalty is payable to Pennsylvania's State Treasury and NOT to the Complainant or to the Pennsylvania Public Utility Commission. 66 Pa. C.S. §§3301 and 3315.

Dated: January 21, 2002


DEBRA PAIST
Administrative Law Judge

THE LAW FIRM OF

MALATESTA HAWKE & MCKEON LLP

JOSEPH J. MALATESTA, JR.
WILLIAM T. HAWKE
KEVIN J. MCKEON
LOUISE A. KNIGHT
THOMAS J. SNISCAK
NORMAN JAMES KENNARD
LILLIAN SMITH HARRIS
SCOTT T. WYLAND
TODD S. STEWART

HARRISBURG ENERGY CENTER
100 NORTH TENTH STREET
HARRISBURG, PENNSYLVANIA 17101

(717) 236-1300

FAX (717) 236-4841

<http://www.mhm-law.com>

CRAIG R. BURGRAFF
JANET L. MILLER
SUSAN J. SMITH
WILLIAM E. LEHMAN
STEVEN K. HAAS
ANDREW S. TUBBS

MAILING ADDRESS
P.O. BOX 1778
HARRISBURG, PA 17105

DOCUMENT
FOLDER

March 29, 2002

Honorable Debra Paist
Administrative Law Judge
Pennsylvania Public Utility Commission
Second Floor - Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

MAY 07 2002

RECEIVED
2002 APR -3 PM 12:20
SECRETARY'S BUREAU
PA PUC

RE: PA Networks Inc. v. The United Telephone Company of Pennsylvania; Docket No. C-20016327; COMPLIANCE WITH PREHEARING ORDER

Dear Judge Paist:

As Your Honor is aware, there is an Initial Hearing scheduled in the above-captioned matter on Thursday, April 11, 2002. PA Networks Inc. ("PA Networks"), however, has not yet performed certain activities identified in Your Honor's January 21, 2002 Prehearing Order.

First, as Your Honor noted in the Prehearing Order, PA Networks must be represented in this proceeding by an attorney. To date, I have not been served with a Notice of Appearance, nor do the Commission's records indicate that a Notice of Appearance has been filed. The United Telephone Company of Pennsylvania ("United") requests that, if a Notice of Appearance has not been filed on or before Monday, April 8, 2002, the April 11, 2002 Initial Hearing be continued indefinitely, until such time as a Notice of Appearance has been filed with the Commission.

Second, PA Networks has not filed an amended complaint that sets forth those items identified on Page 3 of Your Honor's Prehearing Order. United therefore requests that only the Complainant be required to present testimony at the April 11, 2002 Initial Hearing and that United be permitted to present testimony at a later date so that it can properly respond to the Complainant's allegations.

RECEIVED

MAR 29 2002

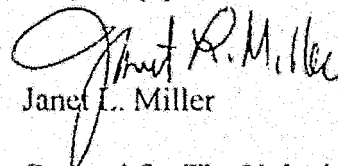
OFFICE OF CALL
UTILITY COMMISSION

Honorable Debra Pais
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
March 29, 2002
Page Two

Finally, I am advising by this letter that I intend to make a request on the record at the April 11, 2002 Initial Hearing that Your Honor direct PA Networks to begin making payments on its telephone account. No payments are being made on this account and the current outstanding balance is in excess of \$10,000. PA Networks should be required to pay at least some portion of its monthly service charges if the company wishes to continue receiving service.

Thank you for your attention to these requests. If you have any questions, please feel free to call.

Very truly yours,



Janet L. Miller

Counsel for The United Telephone
Company of Pennsylvania

JLM/kmg

cc: Kevin Wetzel