

DOCUMENT  
FOLDER

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA Networks Inc. :  
Complainant :  
v. :  
The United Telephone Company of :  
Pennsylvania :  
Respondent :

MAY 03 2002  
Docket No. C-20016327

PA PUC  
SECRETARY'S BUREAU

2002 APR -3 PM 12: 20

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ORDER REQUIRING PAYMENT;  
ORDER ON PRESENTING EVIDENCE

On January 21, 2002, I issued a Prehearing Order which, among other matters, discussed the need for Complainant PA Networks Inc. to be represented by a lawyer at the hearing scheduled on its complaint; urged the filing of an amended, more specific complaint; and stated that Complainant's failure to file an amended, more specific complaint would necessitate a second day of hearing at which Respondent The United Telephone Company of Pennsylvania could present its case-in-chief in response to any evidence offered by Complainant at the initial hearing.

**I. Legal Representation**

By a letter dated March 29, 2002, Respondent observes that no attorney at law has to date entered an appearance on behalf of Complainant.

In LeStat Corp. v. Pennsylvania Power and Light Co., C-00946284 (opinion and order adopted July 20, 1995, entered August 30, 1995), the Pennsylvania Public Utility Commission held that the failure of a corporation to be represented by a lawyer at a

scheduled hearing was tantamount to the corporation's having relinquished the opportunity to participate in the hearing. Accord The Spirit of the Avenger Ministries v. Commonwealth of Pennsylvania, 767 A.2d 1130 (Pa. Cmwlth. Ct. 2001); Walacavage v. Excell 2000, Inc., 331 Pa. Super. Ct. 137, 480 A.2d 281 (1984); Objection of MJG Enterprises, Inc. to the Fiscal Year July 1, 2000 through June 30, 2001 General Assessment, M-00001390 (opinion and order adopted March 14, 2002, entered March 15, 2002); Simon v. Franklin Water Co., C-00956589 (opinion and order adopted January 25, 1996, entered January 29, 1996). In addition, the Commission noted that a non-lawyer's representation of a corporation before the Commission "could appropriately be construed as the illegal practice of law." LeStat Corp. at 9. Finally, the Commission concluded that the failure of a corporation to be represented by a lawyer at a scheduled hearing could constitute a proper basis for dismissing a complaint filed on the corporation's behalf. *Id.* at 11.

Numbered paragraph 5 on page 2 of the January 21, 2002 Prehearing Order at Docket No. C-20016327 declares in underlined boldface: "**PA Networks Inc. must be represented in the case at Docket No. C-20016327 by an attorney at law admitted to practice in Pennsylvania.**" Furthermore, numbered paragraph 5 also asserts: "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."

Consequently, if Complainant PA Networks Inc. is not represented by a lawyer at the scheduled April 11, 2002 hearing on its complaint, its complaint shall be dismissed without a hearing.

## II. Presenting Evidence

By a letter dated March 29, 2002, Respondent observes that Complainant has not filed an amended, more specific complaint which would enable Respondent to prepare

its case. In conformity with the January 21 Prehearing Order, Respondent requests that it be permitted to present its evidence at a second hearing.

Given the complex and somewhat disjointed allegations in the complaint at Docket No. C-20016327 and the lack of an amended, more specific complaint as urged by the January 21 Prehearing Order, I hereby deem Respondent excused from presenting evidence at the initial hearing at Docket No. C-20016327. If Complainant is represented by a lawyer at the initial hearing and presents its case-in-chief, Respondent shall be given an opportunity to present its case-in-chief at a subsequent hearing at Docket No. C-20016327 after Complainant has presented its case-in-chief.

At the subsequent hearing, both parties may present rebuttal evidence as long as both are represented at that hearing by lawyers, but neither party shall be permitted to present as rebuttal any evidence which should have been previously presented in the party's case-in-chief or which varies substantially from the party's case-in-chief. 52 Pa. Code §5.243(e).

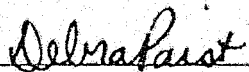
### **III. Payment Obligation**

Utility customers are not permitted to withhold utility service payments as a self-help remedy. LTV Steel Co. v. Duquesne Light Co., 61 Pa. PUC 21 (1986). Even when a customer is encountering utility service problems, the customer must pay for the utility service actually received. Kanarr Processing Specialties v. UGI Corp., 68 Pa. PUC 153 (1988); Scaccia v. West Penn Power Co., 55 Pa. PUC 637 (1982); Asturi v. Equitable Gas Co., 51 Pa. PUC 482 (1978). The Commission has reasoned that holding otherwise

"would simply augment the responsibility of other [customers] to replace the deficiency."  
Asturi, 51 Pa. PUC at 484.

A failure to make payments for utility service may result in a termination of service in conformity with 52 Pa. Code Chapter 55.

Dated: April 2, 2002

  
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DEBRA PAIST  
Administrative Law Judge

**OALJ Hearing Report**

Docket No.:	C-20016327		YES	NO
Case Name:	PA Networks Inc. v. The United Telephone Company of Pennsylvania	Prehearing Held:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Location:	Harrisburg	Hearing Held:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Date:	4/11/02	Testimony Taken:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ALJ:	Debra Paist	Transcript Due:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Reporting Firm:	Commonwealth Reporting	Hearing Concluded:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Further Hearing Needed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Estimated Add'l Days:	/	

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RECORD CLOSED:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DATE:	5/2/02	
Briefs to be Filed:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DATE:	/	
Bench Decision:	<input type="checkbox"/>	<input checked="" type="checkbox"/>
REMARKS:	Neither Mr. Wetzel nor anybody representing Complainant PA Networks Inc came to the hearing Mr. Wetzel	

*signed PA networks inc's complaint at C-20016327 is PA networks inc's CEO according to PA Dept of State Corporations Bureau records.*

**REP**

PLEASE PRINT CLEARLY - Incomplete Information may result in delay of processing.

Name and Telephone Number	Address	Who are you representing?
TODD S. STEWART Malesha Hancock & McKeon LLP	PO Box 1778, 100 N. 10th St. Harrisburg PA 17101	Un. Tel Telephone
Telephone: 717 236 1300	E-mail Address: tssstewart@mhmlaw.com	Fax Number: 717 236 4841

City	State	Zip

Telephone:	E-mail Address:	Fax Number:
City	State	Zip
Telephone:	E-mail Address:	Fax Number:

Check this box if additional parties or attendees appear on back of form.

*[Signature]*  
Reporter's Signature

Note: Completion of this form does not constitute an entry of appearance, see 52 Pa. Code §§1.24 and 1.25.