

WITNESS INDEX

WITNESSES

DIRECT

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None

EXHIBIT INDEXNUMBERFOR IDENTIFICATION IN EVIDENCE

None

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P R O C E E D I N G S

(Brief recess)

ADMINISTRATIVE LAW JUDGE DEBRA PAIST: We're here on the record for what was supposed to be a hearing at Docket Number C-20016327. I'm Debra Paist, the Administrative Law Judge assigned to this case.

I am present in the courtroom this morning with United Telephone Company of Pennsylvania attorney, Todd Stewart. I do not have present in the courtroom this morning anyone representing the Complainant. The Complainant is PA Networks, Inc. and I established that in two Orders I issued in this case: a prehearing Order dated January 21, 2002 and an Order requiring payment and explaining the presentation of evidence dated April 2, 2002.

The Pleadings of the parties make it clear that the telephone line in question is associated with PA Networks, Inc., and I have looked at the Department of State's records of incorporations that I explained in my Orders that I just referenced, and the Department of State's records show that PA Networks, Inc. is an incorporated entity and that the person associated with that entity is Kevin Wetzel. And Kevin Wetzel is the person who filed the Complaint at Docket Number C-20016327 on behalf of PA Networks, Inc. According to the Department of State records, Mr. Wetzel is the chief executive officer of PA Networks,

1 Inc.

2 As explained in my two prior Orders, PA
3 Networks, Inc. is a separate legal person because it is a
4 corporation and requires representation by an attorney at
5 law. Mr. Wetzel cannot represent it in this proceeding.

6 I also explained that the Pleadings seemed to
7 indicate this is a fairly complicated case involving legal
8 issues as to whether or not the Commission regulates some of
9 the activities complained about.

10 I can't tell from the Pleadings and I won't
11 ask for information this morning because we have no one here
12 for the Complainant, which has the burden of proof, but we
13 don't regulate at the Commission non-voice grade
14 communications. We regulate voice grade communications, but
15 not data transmission communications. I cannot tell exactly
16 what's going on in this case, but PA Networks, Inc. is
17 apparently, from the Pleadings, as both sides have pled, an
18 Internet service provider. So it may be that we're talking
19 about data transmissions and not voice grade communications,
20 and that is something the Commission doesn't regulate.

21 So there are some problems here that would
22 necessitate the assistance of an attorney for the Complainant
23 to help me understand what's going on here, both factually
24 and as a matter of law, the Pleading and the Complaint. I'm
25 somewhat confused. I don't fault the person who filed the

1 Complaint because he is a non-attorney, but I just indicate
2 as a factual matter that there are references to requesting
3 credits for billings and the billing credits are not too well
4 explained. It might have to do with allegations of slow
5 hookups or something of that sort, but that's hard to tell.
6 It's very vague. Everything is lumped together from reports
7 to be potential exhibits in the case is incorporated with
8 other matters so that allegations are on the same page of
9 what seems to be exhibits. So it's very hard to segregate
10 anything to understand what is actually exhibits, something
11 received from the third-party source, and what is an
12 allegation on behalf of the Complainant.

13 This morning, we've been waiting for Mr.
14 Wetzel and someone else to appear on behalf of PA Networks,
15 Inc., hopefully an attorney. It is now 24 minutes after
16 10:00 and no one has appeared on behalf of PA Networks, Inc.
17 Mr. Wetzel is not here, we do not have an attorney present or
18 anyone else present for PA Networks, Inc. I received no
19 communications from Mr. Wetzel or anyone else on behalf of PA
20 Networks, Inc.

21 Therefore, it's an unexcused non-
22 participation in this scheduled hearing and the Complainant,
23 as I said, does have the burden of proof; therefore, I'm not
24 going require evidence from United Telephone Company since it
25 doesn't have anything to which to respond this morning, hence

1 we have no evidence on behalf of the Complainant.

2 At this point, I would like to ask Mr.
3 Stewart if he would like to make any motions or present
4 anything for the record.

5 Mr. Stewart.

6 MR. STEWART: Yes, your Honor. On behalf of
7 United Telephone Company, I'd like to move to dismiss the
8 Complaint on the basis the Complainant has failed to appear
9 this morning, and also failed to carry his burden of proof,
10 and failed to prosecute his Complaint.

11 JUDGE PAIST: Thank you for your motion, Mr.
12 Stewart. I'm going to grant it. That is completely
13 consistent with the Commission rulings that the person with
14 the burden of proof has to present evidence. The person with
15 the burden of proof also has to explain how the evidence
16 would allow recovery under the Public Utility Code or a
17 Commission Regulation. There are no Commission Orders that
18 apply to this case of which I'm aware. So we have no
19 information on behalf of the Complainant.

20 Moreover, the Commission has repeatedly ruled
21 that when the Complainant does not appear for a scheduled
22 hearing and has not requested a continuance or asked for any
23 other type of consideration with respect to the hearing date,
24 and has not offered a valid excuse for failure to appear, the
25 Complaint should be dismissed with prejudice. Consequently,

1 that's what I'm going to do.

2 I grant the Motion and dismiss the Complaint
3 with prejudice, which means that PA Networks, Inc. cannot
4 file a separate Complaint on the same issue.

5 Thank you very much for coming in this
6 morning. Sorry we weren't able to do more, but I appreciate
7 your efforts. And thank you to your potential witnesses.

8 This concludes the hearing.

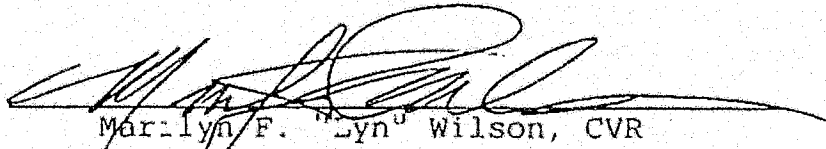
9 (Whereupon, at 10:20 a.m., the hearing was
10 adjourned.)

11 * * *

12 C E R T I F I C A T E

13 I hereby certify, as the stenographic
14 reporter, that the foregoing proceedings were taken
15 stenographically by me, and thereafter reduced to typewriting
16 by me or under my direction; and that this transcript is a
17 true and accurate record to the best of my ability.

18 COMMONWEALTH REPORTING COMPANY, INC.

19 By: 
20 Marilyn F. "Lyn" Wilson, CVR

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