

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RECEIVED
03 OCT 10 AM 10:46
P.A.P.U.C.
SECRETARY'S BUREAU

KEVIN POVICH

v.

COMCAST PHONE OF PENNSYLVANIA LLC

C-20031022

INTERIM ORDER
SETTING CONFERENCE BETWEEN PARTIES

DOCUMENT
FOLDER

On or about August 8, 2003, Kevin Povich ("Complainant") filed a complaint against Comcast Phone of Pennsylvania LLC ("Respondent"), at the above-captioned docket number. On or about September 23, 2003, Respondent filed an answer to the complaint.

Based upon a review of the information contained in this material, the parties are hereby directed to discuss this matter to determine whether such discussion can result in a resolution of the complaint and, if so, whether Complainant wants to withdraw the complaint. Respondent shall contact Complainant, on or before October 22, 2003 concerning a mutually convenient time, date and place for Respondent and Complainant to hold a conference. The conference shall take place on or before November 5, 2003 unless this is not possible.

Within ten (10) days following the conference, Respondent shall file a short report with Herbert R. Nurick, Mediator ("Mediator"), setting forth:

- (a) The time, date and place of the conference;
- (b) Who participated for each party; and
- (c) A statement on the results of the conference.

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OCT 1 2003

If it is not possible to have the conference by the date set for that purpose, Respondent shall file a report with the Mediator, on or before ten (10) days following the conference due date, giving the reason(s) why the due date could not be met.

In either situation, a report must be filed with the Mediator by the applicable due date set forth above.

If you have any questions, you should contact the Mediator. His address and phone number are:

Mediator Herbert R. Nurick
P. O. Box 3265
Harrisburg, PA 17105-3265
(717) 783-5428
Email: hnurick@state.pa.us

Date: October 8, 2003

Robert A. Christianson
ROBERT A. CHRISTIANSON
Chief Administrative Law Judge

#387254

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

DOCKETED
DEC 16 2003

DATE: December 4, 2003

SUBJECT: Kevin Povich v. Comcast Phone of Pennsylvania, LLC;
C-20031022

TO: Commission Document Folder

FROM: Herbert R. Nurick *HAN*
Mediation Coordinator

DOCUMENT

Pursuant to Chief Administrative Law Judge Christianson's Interim Order dated October 8, 2003, a report has been submitted to the Mediation Unit.

Please include this memo in the official Commission document folder.

pc: OALJ File

212 Locust Street, Suite 300, Harrisburg, Pennsylvania 17101
Tel. (717) 237-7160 □ Fax (717) 237-7161 □ www.WolfBlock.com

Alan C. Kohler
Direct Dial: (717) 237-7172
Direct Fax: (717) 237-2752
E-mail: akohler@wolfblock.com

DOCUMENT
FOLDER

December 10, 2003

VIA HAND DELIVERY

James McNulty, Secretary
PA Public Utility Commission
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
2003 DEC 10 PM 3:15
SECRETARY'S BUREAU

Re: Donald A Barnot v. Comcast Phone of Pennsylvania;
Docket No. C-20030986; Karen Gauden v. Comcast
Phone of Pennsylvania, C-20030938; Kevin Povich v
Comcast Phone of Pennsylvania, C-20031022

Dear Secretary McNulty:

On behalf of Comcast Phone of Pennsylvania, LLC, enclosed for filing is an original and three copies of its Motion to Consolidate Complaints in the above referenced matters. As evidenced by the attached Certificate of Service, the parties of record have been served in the manner indicated.

Respectfully submitted,

Alan C. Kohler
For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

ACK/smw
Enclosure

cc: Donal A. Barnot (w/enc.)
Karen Gauden (w/encl.)
Kevin Povich (w/encl.)

LSH39122.1

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the persons listed below via first class mail in accordance with the requirements of 52 Pa. Code Section 1.54 of the Commission's rules:

Donald A. Barnot
55 Florence Drive
Charleroi, PA 15022

Kim Gauden
143 Cross Ridge Rd.
Charleroi, PA 15022

Kevin Povich
56 Florence Drive
Charleroi, PA 15022

SECRETARY'S BUREAU

2003 DEC 10 PM 3:15

RECEIVED



Alan Kohler, Esquire

Date: December 10, 2003

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Donald A. Barnot
Complainant

Docket Nos.
C-20030986

v.

Comcast Phone of PA
Respondent

Karen Gauden
Complainant

C-20030938

v.

Comcast Phone of PA
Respondent

Kevin Povich
Complainant

C-20031022

v.

Comcast Phone of PA

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2003 DEC 10 PM 3:15
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SECRETARY'S BUREAU

DOCUMENT
FOLDER

DOCKETED
JAN 07 2004

**COMCAST PHONE OF PENNSYLVANIA LLC'S
MOTION TO CONSOLIDATE**

Comcast Phone of Pennsylvania, LLC ("Comcast") submits this Motion seeking consolidation of the three above-captioned matters which share common issues of fact and law. In specific support of its Motion, Comcast states as follows:

1. On August 6, 2003, August 8, 2003 and August 15, 2003 respectively, Kevin Povich, Kim Gauden and Donald Barnot filed complaints with the Commission against Comcast as captioned above. Each of the three complaints alleges that the complainant resides in the service territory of Bentleyville Telephone Company ("Bentleyville"), was solicited by Comcast's predecessor, AT&T Broadband of Pennsylvania, LLC ("AT&T Broadband"), to switch from Bentleyville to AT&T Broadband and switched their telephone service to AT&T Broadband in 2001. Each of the three complainants further allege that Comcast is attempting to force them to

switch back to Bentleyville against their will and request the Commission to allow them to continue to be served by Comcast.

2. Comcast, as the successor to AT&T Broadband, submitted answers to the respective complaints. In each case, Comcast submitted an identical defense -- that at the time, AT&T Broadband subscribed each of the these customers, the company was unaware that it was not authorized to provide local service in Bentleyville's service territory and that upon discussion with Commission staff, Comcast has determined that it was legally required to default the customers back to Bentleyville.

3. Commission regulations at 52 Pa Code § 5.81 authorizes the Commission or a presiding officer to consolidate proceedings which involve common questions of law and fact and for which consolidation would avoid unnecessary costs or delays.

4. Here, consolidation is clearly justified. All three complaints involve virtually identical facts and legal issues. Furthermore, it is beyond doubt that conducting a consolidated proceeding will be more efficient and will avoid unnecessary costs and delays.

5. Based on the foregoing, Comcast's motion should be granted and the three above-captioned cases should be consolidated.

WHEREFORE, for all the foregoing reasons, Comcast requests the its motion to consolidate be granted.

Respectfully submitted,



Alan Kohler
WOLF, BLOCK, SCHORR and
SOLIS-COHEN, LLP
212 Locust Street, Suite 300
Harrisburg, PA 17101
(717) 237-7160

Date: December 10, 2003

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Donald A. Barnot Complainant	:	Docket Nos. C-20030986
v.	:	
Comcast Phone of PA Respondent	:	
Karen Gauden Complainant	:	C-20030938
v.	:	
Comcast Phone of PA Respondent	:	
Kevin Povich Complainant	:	C-20031022
v.	:	
Comcast Phone of PA	:	

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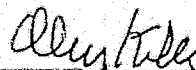
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Respectfully submitted,



Alan Kohler
WOLF, BLOCK, SCHORR and
SOLIS-COHEN, LLP
212 Locust Street, Suite 300
Harrisburg, PA 17101
(717) 237-7160

Date: December 10, 2003



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Office Of Administrative Law Judge
P.O. Box 3265, Harrisburg, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

December 15, 2003

In Re: C-20031022

(See attached list)

Kevin Povich v. Comcast Phone of Pennsylvania

Service dispute.

Telephone Hearing Notice

DOCUMENT

This is to inform you that a hearing by telephone on the above-captioned case will be held as follows:

Type: Initial

Date: Friday, February 6, 2004

Time: 10:00 a.m.

Presiding: Administrative Law Judge James D. Porterfield
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
Telephone: (412) 565-3550
Fax: (412) 565-5692

DOCKETED
JAN 16 2004

If you have not provided a current telephone number where you can be reached for participation in the hearing OR YOUR AREA CODE HAS CHANGED, then you must contact the presiding officer at least 7 days before the actual hearing and provide the necessary information.

At the above date and time, the Presiding Officer will contact the parties as follows:

Kevin Povich (724) 565-4824
Alan Kohler, Esquire (717) 237-7160

If you have any hearing exhibits to which you will refer during the hearing, 3 copies must be sent to the Administrative Law Judge and 1 copy each must be sent to every other party. All copies must be received at least 3 days before the hearing.

Attention: You may lose the case if you do not take part in this hearing and present facts on the issues raised.

Except for those individuals representing themselves, the Commission's rules require that all parties have an attorney; therefore, you should have an attorney of your choice file an entry of appearance before the scheduled hearing.

If you are a person with a disability, and you wish to attend the hearing, we may be able to make arrangements for your special needs. Please call the scheduling office at the Public Utility Commission:

- Scheduling Office: (717) 787-1399.
- AT&T Relay Service number for persons who are deaf or hearing-impaired: 1-800-654-5988.

pc: Judge Porterfield
Steve Springer, Scheduling Officer
Beth Plantz
Docket Section
Calendar File