



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH KEYSTONE BUILDING  
400 NORTH STREET, HARRISBURG, PA 17120

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

April 6, 2023

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement v.  
Opex Communications, Inc.  
Docket No. C-2023-3037708  
**I&E Motion for Default Judgment**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Motion for Default Judgment in the above-referenced proceeding. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Alphonso Arnold III'.

Alphonso Arnold III  
Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 318487  
(717) 787-3836  
[alphonarno@pa.gov](mailto:alphonarno@pa.gov)

AA/ac  
Enclosures

cc: Per Certificate of Service  
Administrative Law Judge Chad L. Allensworth (via email - [callenswor@pa.gov](mailto:callenswor@pa.gov))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3037708
	:	
Opex Communications, Inc.,	:	
Respondent	:	

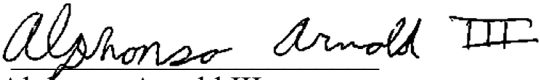
**NOTICE TO PLEAD**

The Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) has filed a Motion for Default Judgment in the above-captioned matter, pursuant to the Commission’s regulations at 52 Pa. Code § 5.103. You are hereby notified to file a written response within twenty (20) days of the service of the Motion, consistent with 52 Pa. Code § 5.61.

Your Answer must be verified, pursuant to 52 Pa. Code § 1.36, and the original sent to:

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Additionally, you must serve a copy on the undersigned prosecutor.

  
Alphonso Arnold III  
Prosecutor  
PA Attorney ID No. 318487

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 787-3836  
[alphonarno@pa.gov](mailto:alphonarno@pa.gov)

Dated: April 6, 2023

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3037708
	:	
Opex Communications, Inc.,	:	
Respondent	:	

**MOTION FOR DEFAULT JUDGMENT**

NOW COMES the Pennsylvania Public Utility Commission’s (“Commission”) Bureau of Investigation and Enforcement (“I&E”), by its prosecuting attorney, and files this Motion for Default Judgment against Opex Communications, Inc., (“Respondent”) pursuant to Section 5.103 of the Commission’s regulations, 52 Pa. Code § 5.103. In support thereof, I&E respectfully represents as follows:

1. I&E commenced this action on January 19, 2023, by filing an assessment-related Complaint.
2. The Complaint alleged that Respondent violated Section 510(c) of the Code, 66 Pa.C.S. § 510(c), by failing to satisfy its 2021-2022 Fiscal Year assessment in that it did not pay the amount due within thirty (30) days of receipt of the assessment invoice.
3. On January 19, 2023, I&E filed an Amended Complaint.
4. The Amended Complaint amended the outstanding assessment balance in the request for relief to \$177 and the requested total civil penalty to \$50.
5. On February 24, 2023, I&E filed a Second Amended Complaint.
6. The Second Amended Complaint amended the Amended Complaint to add a second violation of Section 510(c) of Code, by alleging that Respondent failed to satisfy its 2022-2023 Fiscal Year assessment in that it did not pay the amount due within thirty (30) days of receipt of the assessment invoice.

7. On February 24, 2023, the Second Amended Complaint was served by electronic mail to Respondent at [markl@opexld.com](mailto:markl@opexld.com). See *Waiver of Regulations Regarding Service Requirements*, Docket No. M-2021-3028321 (Order entered September 15, 2022) (service by the Commission on parties will be exclusively electronic).

8. Also on February 24, 2023, the Second Amended Complaint was e-served to Respondent at [adamz@opexID.com](mailto:adamz@opexID.com).

9. Attached to the Second Amended Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days of service of the Amended Complaint.

10. The Notice also advised Respondent that if it failed to answer the Second Amended Complaint, I&E would request that the Commission issue an Order imposing the penalty set forth in the Amended Complaint.

11. The twenty (20) days to file an Answer to the Second Amended Complaint expired on March 16, 2023.

12. Respondent did not file an Answer to the Second Amended Complaint.

13. Pursuant to Section 5.61(c) of the Commission's regulations, a Respondent who fails to file an Answer to a Complaint within the 20-day response period may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted. 52 Pa. Code § 5.61(c).

14. The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within twenty days. See *Fusaro v. Pa. Pub. Util. Comm'n*, 382 A.2d 794, 797 (Pa. Cmwlth. 1978).

15. Respondent did not pay its cumulative outstanding assessment balance of \$281 (\$177 for the 2021-2022 Fiscal Year and \$104 for the 2022-2023 Fiscal Year) or the civil penalty

of \$100<sup>1</sup> that was sought in the Second Amended Complaint for Respondent's failure to pay its 2021-2022 and 2022-2023 Fiscal Year assessments.

16. I&E respectfully requests that the Commission sustain the Second Amended Complaint and enter an Order against Respondent that:

- a. Directs Respondent to pay a total of \$381, which consists of its outstanding 2021-2022 and 2022-2023 Fiscal Year assessment balance of \$281 and the requested civil penalty of \$100, within thirty (30) days of the entry date of the Commission's Order;
- b. Directs the Bureau of Technical Utility Services to cancel Respondent's Certificates of Public Convenience at A-310741, if Respondent fails to pay the total set forth in subparagraph (a), above, within thirty (30) days of the entry date of the Commission's Order;
- c. Directs the Bureau of Administration, Assessment Section, to refer the matter to the Pennsylvania Office of Attorney General for collection of the total set forth in subparagraph (a), above, if Respondent fails to pay that total within thirty (30) days of the entry date of the Commission's Order.

Respectfully submitted,



Alphonso Arnold III  
Prosecutor  
PA Attorney ID No. 318487

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 787-3836  
[alphonarno@pa.gov](mailto:alphonarno@pa.gov)

Date: April 6, 2023

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<sup>1</sup> This civil penalty is based on a review of Respondent's history of compliance with the Public Utility Code and Commission regulations and orders for three years prior to the date that I&E filed its Complaint in this matter, the need to deter future violations, the amount of Respondent's outstanding assessment balance for the 2021-2022 and 2022-2023 Fiscal Years, and prior Commission decisions in similar situations pursuant to 52 Pa. Code §§ 69.1201(c)(6), (8), and (9).

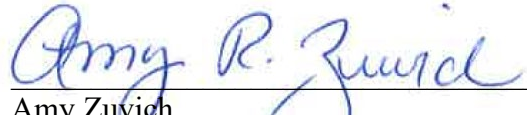
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3037708
	:	
Opex Communications, Inc.,	:	
Respondent	:	

**VERIFICATION**

I, Amy Zuvich, Chief of Finance and Assessments, Bureau of Administration, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau of Investigation and Enforcement will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: April 6, 2023

  
\_\_\_\_\_  
Amy Zuvich  
Chief of Finance and Assessments  
Bureau of Administration  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

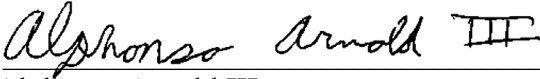
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Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2023-3037708
	:	
Opex Communications, Inc.,	:	
Respondent	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing Motion for Default Judgment, in the manner and upon the parties listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**Served via Electronic Mail**

Opex Communications Inc.  
Attn: Mark Leafstedt  
1677 East 28th Street  
Signal Hill, CA 90755-1922  
[adamz@opexld.com](mailto:adamz@opexld.com)

  
\_\_\_\_\_  
Alphonso Arnold III  
Prosecutor  
PA Attorney ID No. 318487

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
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Dated: April 6, 2023