

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Frank Bankowski	:	
	:	
v.	:	C-2024-3049217
	:	
Comcast Phone of Pennsylvania, LLC	:	

INTERIM ORDER

On or about May 10, 2024, Complainant filed a Formal Complaint (Complaint) alleging that in September 2023. The Complaint appears to identify the complained of utility as Consolidated Communications (Compliance) Regulatory Specialist. A line was placed through this designation on the Complaint with a notation “Per Rosemary Chiavetta, serve on Comcast mm – SEC BUR.”

Complainant averred Consolidated/Fidium was installing their new fiber internet cable into his in-ground services. Complainant also averred, during their installation, they severed his cable for Exfinity/Comcast. Complainant further averred over the past eight months, they have been giving him the run around as to who is at fault for the replacement or reinstallation. Complainant averred he gave them an option to reinstall, which was explained to several people and Consolidated has not taken the responsibility for their action.

As relief, Complainant explains he wants his cable reinstalled in original underground service before it was severed or the option to have the service reinstalled underground from the street 12 inches under his lawn and connect to his service mounted on his outside wall, provided they compensate him for theft of service and the use of his property for the reinstallation. Complainant also averred he wants the alternate connection to be guaranteed for any future problems.

After a deadline extension, on July 15, 2024, Comcast Phone of Pennsylvania, LLC (Comcast) filed an Answer to the Complaint. Comcast admitted that its corporate parent's name is Comcast Corporation and denied that it is the utility or company about which Mr. Bankowski complained. Comcast averred that on June 15, 2024, Mr. Bankowski e-mailed the Commission, writing, "My formal complaint was filed against Consolidated Communications (Compliance) Regulatory Specialist 321 N. First Street Lufkin, Texas 75901. . . . I am attaching page 2 of my formal complaint that indicates Consolidated / Fidium was [sic] the ones responsible for my damages and loss." Comcast further avers that two days later, Secretary Chivetta responded to Mr. Bankowski, writing, "The company you complained about appears to be owned by Comcast of Pennsylvania."

Comcast denied that it owns Consolidated/Fidium and that Comcast is the appropriate respondent in this case and avers Comcast does not provide telephone/telecommunications services to Complainant. Instead, Comcast avers, it provided Complainant with Xfinity video services only, services over which the PUC does not have jurisdiction. To the extent that Complainant alleges that Consolidated/Fidium severed his service cable for Xfinity and that an undefined "they" have been "giving [him] the run-around as to who is at fault for the replacement or reinstallation, if "they" means Comcast, Comcast denied that it ever gave Complainant the runaround.

Comcast avers that Complainant first reported the severed line to Comcast on September 26, 2023, and on three occasions after the call, Comcast sent repair crews to Complainant's home to fix the severed line and bury it underground. Each time, Comcast avers, Complainant refused Comcast's repair attempts and kicked the crew off his property. Comcast further avers it sent Complainant a letter on May 2, 2024, asking him to contact Comcast to schedule a time for Comcast's agents to repair the line and the failure of Complainant to schedule the appointment by May 15, 2024, would result in a termination of Complainant's Xfinity services. Comcast avers Complainant did not respond to its May 15 letter.

Comcast requested that the Complaint be dismissed for lack of jurisdiction.

On July 31, 2024, an Interim Order was entered setting a litigation schedule, providing for discovery between the Parties and setting a deadline of October 18, 2024 to the Parties shall file any dispositive motions in this proceeding and October 28, 2024 for the filing of Status Reports by the Parties.¹

On October 14, 2024, Comcast filed a Motion for Extension of Time to File Dispositive Motions. The Motion included a Notice to Plead advising Complainant that he may file a response within 20 days or before November 4, 2024. In its Motion, Comcast states there is potential to resolve this proceeding following a preliminary phone call with the Administrative Law Judge and requests a 30 day extension of time to file dispositive motions.

On October 28, 2024, Comcast filed a Status Report in this proceeding. Complainant did not file a Status Report.

In its Status Report, Comcast stated Complainant has reiterated that he did not intend to name Comcast in this case and does not wish to pursue any case against Comcast but has been unsuccessful in his effort either to remove Comcast from this case or to proceed against Consolidated/Fidium. The undersigned presiding officer has not received any such indication from Complainant and Complainant has not filed a request to withdraw his complaint

In its Status Report, Comcast has also stated that it attempted to send a letter dated August 2, 2024, to the undersigned, which was attached to its Motion, requesting a preliminary conference to both streamline the case and clarify Comcast's role moving forward.² Comcast continued, when it did not hear back by the dispositive motion deadline, on October 14, 2024, Comcast moved the Court for an extension of the October 18 deadline to file dispositive motions. In its Status Report filed on October 28, 2024, Comcast stated that the undersigned had not yet ruled on Comcast's motion for an extension of time filed on October 14, 2024, nor was

¹ The Motion states, in part that Comcast unsuccessfully attempted to contact the Office of the Administrative Law Judge and attempted to send a letter to the undersigned presiding officer dated August 2, 2024, attached to the Motion, that was not filed with the Commission Secretary nor received by the undersigned presiding officer. Motion for Extension of Time to File Dispositive Motions, ¶¶ 8-9.

² The undersigned presiding officer did not receive a letter from Comcast dated August 2, 2024, no such letter was filed with the Commission and no certificate of service was filed.

Comcast's request for a preliminary conference ruled on. Comcast failed to explain that no request for a preliminary conference was filed or served upon the undersigned and the Motion filed by Comcast on October 14, 2024, included a Notice to Plead giving Complainant until November 4, 2024, to file a response to Comcast's Motion. Accordingly, the undersigned was not able to rule on the Motion until Complainant's November 4, 2024, deadline had passed.

In addition, Comcast failed to indicate whether it has reached out to Complainant to address its issues or to attempt to resolve this matter or if the Parties have engaged in any discovery prior to the discovery deadline. The Parties are reminded it is the Commission's policy to encourage settlements. 52 Pa.Code § 5.231(a). The Parties are urged to seriously explore this possibility. If settlement is not feasible, the Parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all Parties and conserve administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234. All stipulations entered by the Parties must be reduced to writing, signed by the Parties to be bound thereby, and accepted into the record during the hearings in this case or prior to the hearing by interim order. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation may be permissible, if accepted and as directed by the Presiding Officer.

Given the difficulty of counsel for Comcast to contact the office of the undersigned, the Parties are directed to file and serve all pleadings and requests for relief, consistent with the Pennsylvania Public Utility Code and Commission regulations.

In addition, given the representations set forth in the Motion of Comcast that Complainant has expressed that he does not wish to pursue any case against Comcast and that Comcast believes there is potential to resolve this proceeding, the following Interim Order will be entered.

THEREFORE,

IT IS ORDERED:

1. That the Parties shall confer on or before December 30, 2024, and shall explore the possibility of settlement of this proceeding. If a Settlement is reached, an appropriate filing shall be made with the Commission Secretary consistent with the Pennsylvania Public Utility Code and the Commission regulations. If settlement is not feasible, the Parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all Parties and conserve administrative hearing resources.

2. On or before January 31, 2025, the Parties shall file any dispositive motions or other appropriate requests for relief in this proceeding. All dispositive motions or appropriate requests for relief shall also be provided to the undersigned Presiding Officer in written and electronic form. The electronic form shall be submitted to the undersigned Presiding Officer in WORD format. In addition, any such dispositive motions shall include proposed findings of fact, conclusions of law or proposed ordering paragraphs. The motions and/or accompanying briefs shall include a discussion of the legal argument of the parties as well as any legal authority and citations to support such argument or discussion.

3. The parties are hereby directed to file any requests for relief with the Commission Secretary and to serve the undersigned Administrative Law Judge and the opposing party or counsel, if represented, directly with a copy of any pleading filed in this proceeding with the Commission's Secretary and any communication provided to the undersigned presiding officer.

4. The parties are hereby directed to file all pleadings with the Commission Secretary and to provide a copy of the filed documents to the undersigned Administrative Law Judge and the opposing party or counsel, if represented.

5. In addition to the requirements set forth in the ordering paragraphs above, the Parties are directed to serve all pleadings and requests for relief to the undersigned presiding officer by first class mail.

Date: November 12, 2024

_____/s/

Jeffrey A. Watson

Administrative Law Judge

C-2024-3049217 - FRANK BANKOWSKI v. COMCAST PHONE OF PENNA. LLC

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