



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

BUREAU OF  
INVESTIGATION  
&  
ENFORCEMENT

January 8, 2025

**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.  
American Cell LLC  
Docket No. C-2025-  
**I&E Formal Complaint (USF)**

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's (I&E) **Formal Complaint** for the above-captioned proceeding.

Copies are being served on parties as evidenced in the attached Certificate of Service. Should you have any questions, or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'mswindler'.

Michael L. Swindler  
Deputy Chief Prosecutor  
Bureau of Investigation and Enforcement  
PA Attorney ID No. 43319  
(717) 783-6369  
[mwindler@pa.gov](mailto:mwindler@pa.gov)

MLS/ac  
Enclosures

cc: Per Certificate of Service

## NOTICE

A. **You must file an Answer within 20 days of the date of service of this Complaint.** The date of service is the mailing date as indicated at the top of the Secretarial Letter. *See* 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense, include the docket number of this Complaint, and be verified. You may file your Answer by mailing an original to:

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

Or, you may eFile your Answer using the Commission’s website at [www.puc.pa.gov](http://www.puc.pa.gov). The link to eFiling is located under the Filing & Resources tab on the homepage. If your Answer is 250 pages or less, you are not required to file a paper copy. If your Answer exceeds 250 pages, you must file a paper copy with the Secretary’s Bureau.

Additionally, a copy should either be mailed to:

Michael L. Swindler, Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Or, emailed to Mr. Swindler at: [mwindler@pa.gov](mailto:mwindler@pa.gov)

B. If you fail to answer this Complaint within 20 days, the Bureau of Investigation and Enforcement will request that the Commission issue an Order imposing the requested relief.

C. **You may elect to not contest this Complaint by paying the past due PaUSF Assessment, late fees, and civil penalty within 20 days.**

Payment of the PaUSF assessment and late fees should be made payable to the “PA Universal Service Fund” with your account number indicated. Payments must be submitted directly to M&T Bank, either via US Postal Service, overnight delivery or electronically via ACH/EFT. For payments via US Postal Service, please send to:

Commonwealth of Pennsylvania – Public Utility Commission  
P.O. Box 69479  
Baltimore, Maryland 21264-9479

For payments via overnight delivery, please send to:

M&T Bank  
c/o Commonwealth of Pennsylvania – Public Utility Commission  
Box #69479  
1800 Washington Blvd. 8<sup>th</sup> Floor  
Baltimore, Maryland 21230

If you wish to pay via electronic payment, please contact Rolka Loube directly at [pausf@rolkaloube.com](mailto:pausf@rolkaloube.com).

Payment of the civil penalty must be made by certified check or money order, made payable to the “Commonwealth of Pennsylvania,” with the docket number indicated, and mailed to:

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

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, the Bureau of Investigation and Enforcement will request the Commission to issue an Order imposing the requested relief set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. 52 Pa. Code § 1.21.

G. Alternative formats of this material are available for persons with disabilities by contacting the Commission’s ADA Coordinator at (717) 787-8714.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2025-
	:	
American Cell LLC	:	

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**FORMAL COMPLAINT**

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NOW COMES the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by its prosecuting attorney, and files this **Universal Service Fund Complaint** against American Cell LLC (“Respondent”), pursuant to Section 701 of the Public Utility Code (“Code”), 66 Pa.C.S. § 701, alleging violations of the Commission’s regulations. In support of its Complaint, I&E respectfully represents the following:

**Parties and Jurisdiction**

1. The Pennsylvania Public Utility Commission, with a principal address of Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa.C.S. §§ 101, *et seq.*

2. Complainant is the Commission’s Bureau of Investigation and Enforcement and is the entity established by statute to prosecute complaints against public utilities pursuant to 66 Pa.C.S. § 308.2(a)(11). *See also Implementation of Act 129 of 2008;*

*Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered August 11, 2011) at 5 (transferring authority to prosecute assessment cases to I&E).

3. Complainant is represented by:

Michael L. Swindler  
Deputy Chief Prosecutor  
Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 783-6369  
[mwindler@pa.gov](mailto:mwindler@pa.gov)

4. Respondent is American Cell LLC with a mailing address of 3003 Etna Pkwy Pataskala, OH 43062, Attn: Tim Luden, CEO.

5. Respondent is a “public utility” as that term is defined at 66 Pa.C.S. § 102, as it is engaged in conveying or transmitting messages or communications by telephone in the Commonwealth of Pennsylvania for compensation.

6. The Commission issued Respondent a Certificate of Public Convenience on or about September 8, 2015, at A-2015-2502822, for authority as a competitive access provider.

7. Section 501(a) of the Code authorizes and obligates the Commission to execute and enforce the provisions of the Code. 66 Pa.C.S. § 501(a).

8. Section 701 of the Code authorizes the Commission to, *inter alia*, hear and determine complaints against public utilities for a violation of any law or regulation that the Commission has jurisdiction to administer.

9. Section 63.171 of the Commission’s regulations, 52 Pa. Code § 63.171, authorizes the Commission to initiate enforcement actions against telecommunications service providers that fail to pay, in a timely manner, any contributions required under the

Commission's Universal Service regulations.

10. Section 3301 of the Code, 66 Pa.C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility, or any other person or corporation subject to the Commission's authority, for violation(s) of the Public Utility Code and/or Commission regulations. Section 3301(a)-(b) of the Code, 66 Pa.C.S. § 3301(a)-(b), allows for the imposition of a separate civil penalty for each violation and each day's continuance of such violation(s).

11. Respondent, in conveying or transmitting messages or communications by telephone, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Code, 66 Pa.C.S. § 501(c), which requires a public utility to comply with Commission regulations.

12. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter of this complaint and the actions of Respondent related thereto.

### **Background**

13. Section 3011 of the Code, 66 Pa.C.S. § 3011, authorizes the Commission to establish a Universal Service Fund ("PaUSF" or "USF") to ensure the availability of basic telecommunications services to all Pennsylvania residents.

14. The Universal Service Fund Regulations were established at Sections 63.161 to 63.171 of the Commission's regulations, 52 Pa. Code §§ 63.161- 63.171.

15. Pursuant to 52 Pa. Code § 63.164, the Commission establishes the size of the PaUSF and the assessment rate for contributing telecommunications providers for each calendar year. *Pennsylvania Universal Service Fund Annual Rate Adjustment*, Docket No.

M-00001337 (Order entered December 8, 2022).

16. The Commission's third-party USF administrator Rolka Loube Saltzer, LLC ("Rolka") determined that Respondent's outstanding amount due consisting of PaUSF assessments and late fees as of the date of this complaint is \$47.34.

17. Rolka emailed invoices and statements to Respondent every month from December 2023 to December 2024. Each invoice is for the amount due the following month. Each statement shows invoices, payments and year-to-date balance information. Payments are due by the 15<sup>th</sup> of each month.

18. Since October 2024, Respondent has not paid its 2024 invoices by the applicable due dates.

19. To date, Respondent has not submitted payment regarding its outstanding PaUSF assessment balance since October 2024.

20. In summary, Respondent currently has a past due PaUSF assessment balance including interest and/or late fees of \$47.34. *See* I&E Exhibit 1.

### **Violations**

21. Respondent failed to satisfy its PaUSF assessments for the 2024 calendar year in full by not making payments on invoices sent to Respondent since October 2024. If proven, this is a violation of Section 63.169(a) of the Commission's regulations, 52 Pa. Code § 63.169(a). The Bureau of Investigation and Enforcement's proposed civil penalty for this violation is 15% of the outstanding PaUSF assessment balance. Thus, the Bureau of Investigation and Enforcement's proposed civil penalty is \$50.<sup>1</sup> This civil penalty,

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<sup>1</sup> I&E anticipates that this level of penalty will provide a sufficient deterrent against future violations by Respondent.

consistent with past Commission decisions,<sup>2</sup> is based on the following factors: (1) the type of violation involved; (2) the assessment amount in question; and (3) Respondent's compliance history with the Public Utility Code and Commission's regulations for three (3) years prior to the filing of this Complaint.<sup>3</sup>

**WHEREFORE**, for all the foregoing reasons, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement respectfully requests that:

- (a) Respondent be ordered to pay a total of \$97.34, which consists of Respondent's outstanding PaUSF assessment balance and late fees of \$47.34, and a total civil penalty of \$50.00 for the above-described violations.

Payment of the **PaUSF assessment and late fees totaling \$47.34** should be made payable to the "PA Universal Service Fund" with the Respondent's account number indicated. Payments must be submitted directly to M&T Bank, either via US Postal Service, overnight delivery or electronically via ACH/EFT. For payments via US Postal Service, please send to:

Commonwealth of Pennsylvania – Public Utility Commission  
P.O. Box 69479  
Baltimore, Maryland 21264-9479

For payments via overnight delivery, please send to:

M&T Bank  
c/o Commonwealth of Pennsylvania – Public Utility Commission  
Box #69479  
1800 Washington Blvd. 8<sup>th</sup> Floor  
Baltimore, Maryland 21230

If you wish to pay via electronic payment, please contact Rolka Loube directly at [pausf@rolkaloube.com](mailto:pausf@rolkaloube.com).

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<sup>2</sup> See *Pa. Pub. Util. Comm'n v. Moore Family Holdings, LLC*, Docket No. C-2021-3029489 (Order entered April 14, 2022); *Pa. Pub. Util. Comm'n v. Safety 1<sup>st</sup> Paratransit Inc.*, Docket No. C-2021-3029522 (Order entered April 14, 2022); *Pa. Pub. Util. Comm'n v. JB Jr. Trucking LLC*, Docket No. C-2021-3029458 (Order entered February 24, 2022).

<sup>3</sup> A review of the Commission's records for a period of three (3) years prior to the date of the filing of this Complaint demonstrates that Respondent has an acceptable compliance history with the Commission.

Payment of the **civil penalty totaling \$50.00** should be made by certified check or money order, made payable to the “Commonwealth of Pennsylvania” with the docket number of this proceeding listed on the check, and mailed to the Secretary’s Bureau of the Commission:

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

- (b) If the requested payments are not made, that:
1. The Bureau of Technical Utility Services cancel the Certificate of Public Convenience held by American Cell LLC without further action by the Commission; and
  2. The Bureau of Administrative Services, Assessment Section, refer this matter to the Pennsylvania Office of Attorney General for collection of the total set forth above and any other appropriate action.

Respectfully submitted,



Michael L. Swindler  
Deputy Chief Prosecutor  
PA Attorney ID No. 43319

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
(717) 783-6369  
[mwindler@pa.gov](mailto:mwindler@pa.gov)

Date: January 8, 2025

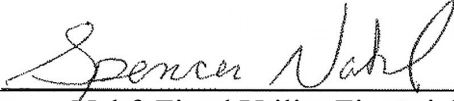
**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2025-
	:	
American Cell LLC	:	

**VERIFICATION**

I, Spencer Nahf, Fixed Utility Financial Analyst, Bureau of Technical Utility Services, 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 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: January 8, 2025

  
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Spencer Nahf, Fixed Utility Financial Analyst  
Bureau of Technical Utility Services  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

# **I&E Exhibit 1**



**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2025-
	:	
American Cell LLC	:	

**CERTIFICATE OF SERVICE**

I hereby certify that I am serving the foregoing **Formal Complaint** in the manner and upon the persons listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by party):

**Served via Certified Mail**

American Cell LLC  
Attn: Tim Luden, CEO  
3003 Etna Pkwy  
Pataskala, OH 43062



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Michael L. Swindler  
Deputy Chief Prosecutor  
PA Attorney ID No. 43319

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
Commonwealth Keystone Building  
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Harrisburg, PA 17120  
(717) 783-6369  
[mwindler@pa.gov](mailto:mwindler@pa.gov)

Dated: January 8, 2025