

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of)	
SEAWAY PAINTING, L.L.C., against)	
MCI WORLDCOM COMMUNICATIONS, INC.)	Case No. U-12863
_____)	

At the June 5, 2001 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

ORDER

On March 8, 2001, Seaway Painting, L.L.C. (Seaway), filed a complaint against MCI WorldCom Communications, Inc., regarding a billing dispute. On April 20, 2001, the complainant filed a request to withdraw the complaint without prejudice. As discussed at the hearing on April 20, 2001, the decision to withdraw the complaint was based on a decision to reexamine the scope of the complaint and a belief that it was necessary to obtain the assistance of counsel. The Commission does not wish to interfere with the complainant's decision to reevaluate the complaint, but takes this opportunity to state that it does not agree that the complainant must be represented by counsel.

Rule 309 of the Commission's Rules of Practice and Procedure, 1992 AACCS, R 460.17309, provides that "all parties shall be represented by licensed attorneys, except that individuals who are

not licensed attorneys may represent themselves or other parties as permitted by law.” Seaway, a business organization, is not an individual, and therefore cannot represent itself. It must be represented by a licensed attorney unless there is a statute that permits someone other than an attorney to represent it.

Subsection 506(1)(a) of the Michigan Telecommunications Act, MCL 484.2506(1)(a); MSA 22.1469(506)(1)(a), provides:

Hearings shall be conducted in a manner as to optimize expediency, convenience, and the ability of end-users to bring and prosecute, without the assistance of counsel, complaints alleging violations of section 505 [which prohibits unauthorized switches in service providers] or 507 [which prohibits adding unrequested services], while preserving the rights of the parties.

The Commission concludes that this provision authorizes, and was intended by the Legislature to authorize, customers such as Seaway to rely upon the assistance of a person other than an attorney when bringing a complaint alleging slamming or cramming. Further, the statute provides no basis for distinguishing between the ability of an officer or employee of the business and any other person to assist with the complaint. As a result, upon dismissal of this complaint without prejudice, Seaway may refile its complaint and proceed with the assistance of a person of its choice, who need not be a licensed attorney.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission’s Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.
- b. The complaint should be dismissed without prejudice.

THEREFORE, IT IS ORDERED that the complaint of Seaway Painting, L.L.C., against MCI WorldCom Communications, Inc., is dismissed without prejudice.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of June 5, 2001.

/s/ Dorothy Wideman
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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By its action of June 5, 2001.

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Suggested Minute:

“Adopt and issue order dated June 5, 2001 dismissing without prejudice the complaint of Seaway Painting, L.L.C., against MCI WorldCom Communications, Inc., as set forth in the order.”