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June 10, 2009

Kristina D. Frost, Clerk
Supreme Court of Ohio
65 South Front Street
Columbus, OH 43215-3431

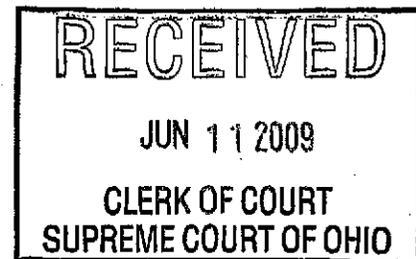
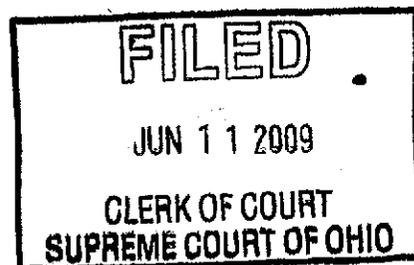
Re: 2008-0873; In the Matter of the Complaint of Communications Options,
Inc. v. ValTech Communications LLC

Dear Ms. Frost:

On May 11, 2009, the Chief Justice on behalf of the Court invited the United States to participate as an amicus in this case. The order referred in particular to the views of the United States on issues that might be the subject of preemption under federal law or candidates for referral to the Federal Communications Commission under the doctrine of primary jurisdiction. The order did not specify a time for the filing of an amicus brief by the United States.

This letter, which is being filed within the time for the parties to file their opening briefs, as set forth in the Court's order of May 11, is to advise the Court that the United States accepts the Court's invitation to file an amicus brief. In that brief, the United States intends to present its views on the proper forum for reviewing ValTech's challenges to the decision by the Ohio Public Utilities Commission finding that an unauthorized change of certain telephone customers' service occurred.

Unless otherwise requested by the Court, the United States intends to file its amicus brief within forty five days of the filing of the parties' opening briefs. Because July 25 is a Saturday, absent an extension of the time for filing those briefs, the proposed date for the amicus brief would be July 27, 2009.



Sincerely,



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The Supreme Court of Ohio

FILED

MAY 11 2009

CLERK OF COURT
SUPREME COURT OF OHIO

In the Matter of the Complaint of
Communication Options, Inc.

Case No. 2008-0873

ENTRY

v.

ValTech Communications LLC

This cause is pending before the court as an appeal from the Public Utilities Commission of Ohio ("PUCO"). Merit briefing was completed on September 4, 2008, and oral argument was held on April 21, 2009. Upon further consideration thereof,

The court notes that the Federal Communications Commission ("FCC"), in an order implementing its slamming rules, stated that "[c]hallenges to whether a state commission's process for resolving slamming complaints is consistent with this order must be brought to the FCC in the form of a petition for declaratory ruling." *In re Implementation of Subscriber Carrier Selection Changes Provisions of the Telecom. Act of 1996*, First Order on Reconsideration, CC Docket No. 94-129, 15 F.C.C.R. 8158, ¶ 37 (May 3, 2000). See also *id.* ¶ 28 ("[T]hese rules do not preclude the filing of a petition for declaratory ruling alleging that a state has improperly implemented our verification or liability rules."). It is further noted that appellant may be challenging whether the PUCO complied with federal requirements in resolving the slamming complaint against it, in particular in its first and second propositions of law.

It is therefore ordered that the parties file briefs addressing the following issues:

(1) Is any aspect of this appeal preempted by federal law, in particular as a challenge to whether PUCO's process for resolving the complaint was consistent with federal requirements?

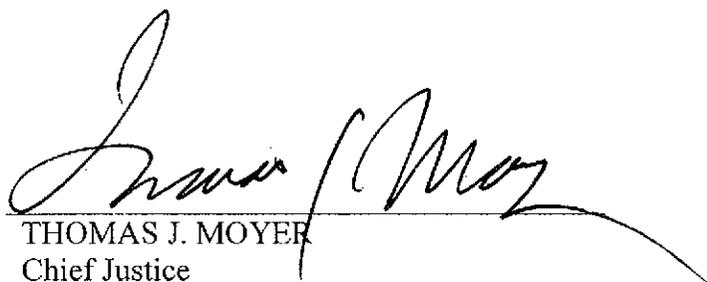
(2) Under the doctrine of primary jurisdiction, what issues in this appeal, if any, would be appropriate to refer to the FCC? For any such issues, should the court so refer them?

(3) If the court finds that any issue in this appeal is preempted or should be referred to the FCC under the doctrine of primary jurisdiction, what procedures should be followed by this court? What effect would such preemption or transfer have on this case and any related cases?

Appellant and appellee shall each file briefs addressing the above issues within 30 days of the date of this order. Both parties may then file a response within 15 days of the filing of the initial briefs.

The court also invites the United States to present its views on these questions through the filing of an amicus brief. If the United States files an amicus brief, the parties may file a response within 15 days of its filing.

(P.U.C.O; No. 04658TPCSS)



THOMAS J. MOYER
Chief Justice