

**VERIZON NORTH, INC., APPELLANT, v. PUBLIC UTILITIES COMMISSION OF  
OHIO ET AL., APPELLEES.**

**[Cite as *Verizon N., Inc. v. Pub. Util. Comm.*, 101 Ohio St.3d 91, 2004-Ohio-  
44.]**

*Public Utilities Commission — Telephone companies — Appeal from Public  
Utilities Commission dismissed sua sponte, when.*

(No. 2003-0568 — Submitted September 23, 2003 — Decided January 21, 2004.)

APPEAL from the Public Utilities Commission of Ohio, No. 00-127-TP-COI.

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**Per Curiam.**

{¶1} This is an appeal as of right by Verizon North, Inc. (“Verizon”) of decisions of appellee Public Utilities Commission of Ohio (“commission”).

{¶2} Ohio Consumers’ Counsel (“OCC”) filed a motion for leave to intervene as an appellee in this appeal and, as a prospective intervenor, filed a merit brief. We find that in his statutory capacity as representative of the residential customers of Verizon’s telephone service, OCC has demonstrated that he is a real party in interest in this appeal. Therefore, we grant OCC’s motion.

{¶3} Upon consideration of the briefs and the record before us, we conclude as urged by the commission that further deliberation by the court would be a vain act that this court declines to undertake. *Travis v. Pub. Util. Comm.* (1931), 123 Ohio St. 355, 175 N.E. 586. The only error claimed in the notice of appeal that is properly before this court would result in an opinion that the commission erred in finding that the renewed motion to alter access recovery charges filed by Verizon in the commission proceedings amounted to an untimely request for rehearing. Such an opinion would be of little consequence to the parties in this appeal. Moreover, there are a number of rate-review proceedings

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available to Verizon in which it can pursue its rate complaints that were improperly raised in this appeal. See, e.g., R.C. 4909.18. Hence, we dismiss Verizon's appeal.

Appeal dismissed.

MOYER, C.J., F.E. SWEENEY, PFEIFER, LUNDBERG STRATTON and O'CONNOR, JJ., concur.

RESNICK and O'DONNELL, JJ., not participating.

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Thompson Hine, L.L.P., Thomas E. Lodge and Carolyn S. Flahive, for appellant.

Jim Petro, Attorney General, Duane Luckey, Steven T. Nourse and Matthew J. Satterwhite, Assistant Attorneys General, for appellee.

Eric B. Stephens, Acting Consumers' Counsel, Joseph P. Serio and David C. Bergmann, Assistant Consumers' Counsel, for intervening appellee Ohio Consumers' Counsel.

Douglas W. Trabaris; Vorys, Sater, Seymour & Pease, L.L.P., Benita A. Kahn and Jeffrey R. Becker, urging affirmance for amicus curiae AT&T Communications of Ohio, Inc.

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