

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Thomas)	
E. Merchant,)	
)	
Complainant,)	
)	
v.)	Case No. 08-428-EL-CSS
)	
Ohio Edison Company,)	
)	
Respondent.)	

ENTRY

The Attorney Examiner finds:

- (1) On April 2, 2008, Thomas E. Merchant (complainant) filed a complaint with the Commission against Ohio Edison Company (OhioEd). Mr. Merchant states, among other things, that he resides at 808 Brookfield Avenue, Masury, Ohio. According to the complaint, the property at 808 Brookfield Avenue was formerly commercial and now has a five room apartment located on the second floor. However, heating and cooling service to the property is three-phase service and OhioEd does not have a three-phase residential tariff rate. Mr. Merchant states that he contacted OhioEd in November 2007, after receiving a disconnection notice, to explain that the property is now residential and to request a payment plan for the outstanding bill. According to the complainant, OhioEd sent a service representative to investigate and verify that the property was being used as a residence. Mr. Merchant states that the representative informed him that as of the date of the representative's verification that the property was occupied for residential use that he would be billed for residential service. Further, the complainant states that on or about February 14, 2008, an OhioEd representative demanded payment of \$2,042.21 to avoid the disconnection of his service. Mr. Merchant states that he was subsequently informed that the payment plan was revoked but he contends that he was not informed of any such cancellation of the plan. The complainant also states that as a result of OhioEd listing his service under a

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commercial rate, he is not eligible for a medical certification or other energy assistance.

Further, Mr. Merchant alleges that he is being charged for service to a floodlight for his neighbor's commercial building across the street at 8236 Ulp Street. The complainant contends that the floodlight only works when he has electric service to his building. Mr. Merchant requests that OhioEd be prohibited from disconnecting his service while his complaint is pending before the Commission.

- (2) On April 10, 2008, OhioEd filed its answer to the complaint. OhioEd admits that the company does not offer a three-phase residential service. The company contends that three-phase service qualifies for OhioEd's General Service Rate Schedules 21 and 23. OhioEd states that Mr. Merchant initiated service in June 2007 and that his service has not been disconnected although his outstanding bill totals \$9,231.35. Further, OhioEd admits that a representative inspected the property and found that there was a bedroom and a kitchen on the premises. In regards to the floodlight, OhioEd states that the floodlight attached to 808 Brookfield Avenue and connected to Mr. Merchant's meter was not installed by and is not owned by Ohio Ed. Accordingly, OhioEd admits that Mr. Merchant is charged for the electric service to the floodlight at his property. As for the floodlights to 8236 Ulp Street, OhioEd states that such service was offered through the company's unmetered lighting service and, therefore, the electric service for such floodlights could not have been associated with Mr. Merchant's utility service. Further, OhioEd admits that on February 14, 2008, Mr. Merchant contacted the company through its call center and that twice his call was disconnected or lost for unknown reasons. OhioEd denies, or denies for lack information or belief, the remaining allegations set forth in the complaint.
- (3) Mr. Merchant requests that his service not be disconnected during the pendency of this complaint. Based on the information presented in the complaint and the answer, it appears that Mr. Merchant's service has not been disconnected. Rules 4901-9-01(E), and 4901:1-10-19, Ohio Administrative Code (O.A.C.), permit the Attorney Examiner to prevent the disconnection of service provided the customer pays either the

undisputed portion of the bill or the amount paid for the same billing period in the previous year. In this instance, however, the complainant is disputing service pursuant to commercial tariff rates rather than residential tariff rates and, according to OhioEd, service was initiated in June 2007. Therefore, it is difficult to determine "the undisputed portion of the bill or the amount paid for the same billing period in the previous year" in accordance with the above referenced rules. Further, according to OhioEd, the outstanding bill is in excess of \$9,200. To protect the complainant from the disconnection of his service and also prevent the complainant from being faced with unwieldy utility charges if he does not prevail at the conclusion of this proceeding, it is necessary to develop a reasonable monthly payment due during the pendency of this matter. To do so however, the Attorney Examiner concludes that additional information is required to allow the Attorney Examiner to develop a reasonable interim payment during the pendency of this complaint. Accordingly, the Attorney Examiner will forestall OhioEd from terminating service to the complainant until a prehearing conference is held.

- (4) In accordance with the Commission's goal of reducing the number of adversarial proceedings before it, the Attorney Examiner finds that this matter should be scheduled for a conference. The purpose of the conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 408 of the Ohio Rules of Evidence, any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible in future proceedings in this case or be admissible to prove liability or invalidity of a claim. Nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference. An Attorney Examiner from the Commission's Legal Department, Kim Bojko, will facilitate the settlement discussion.
- (5) Accordingly, the conference shall be scheduled for Tuesday, June 3, 2008, at 1:00 p.m., at the offices of the Commission, 180 East Broad Street, Conference Room 11-F, Columbus, Ohio 43215-3793. The parties should bring all relevant documents with them to the conference. At a minimum, OhioEd should bring copies of Mr. Merchant's bills since June 2007, payment

history and documentation of any contact with Mr. Merchant regarding his account, as well as any other documents OhioEd believes appropriate. Mr. Merchant should bring copies of the lease agreement or other documents, pictures or other information that he believes support his complaint.

- (6) If the parties are unable to resolve the dispute at the settlement conference, the assigned Attorney Examiner will discuss with the parties an interim payment plan during the pendency of this case, address procedural issues, including discovery dates and possible stipulations of facts, and potential hearing dates.

It is, therefore,

ORDERED, That this matter be scheduled for a conference on June 3, 2008, at 1:00 p.m., at the offices of the Commission, 180 East Broad Street, 11th floor, Conference Room 11-F, Columbus, Ohio. It is, further,

ORDERED, That a copy of this entry be served upon Thomas Merchant, OhioEd and its counsel, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

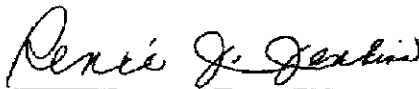


By: Greta See
Attorney Examiner

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Renee J. Jenkins
Secretary