

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of John Ondrovich,

Complainant,

v.

Duke Energy Ohio,

Respondent.

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Case No. 09-917-EL-CSS

ENTRY

The attorney examiner finds:

- (1) On October 7, 2009, John Ondrovich (Mr. Ondrovich) filed a complaint against Duke Energy Ohio (Duke). Mr. Ondrovich states that he is not currently a Duke customer and that on August 17, 2009, he purchased property at 2020 Milton Street in Indian Springs, Ohio. Mr. Ondrovich asserts that on approximately August 21, 2009, while moving into the property, Duke removed electric lines from the residence, disconnected the lines from the utility pole, and left the wires hanging on the side of his home.

Mr. Ondrovich states that he contacted Duke immediately and was told that the disconnection was because the prior owner had not paid an outstanding bill. Mr. Ondrovich asserts that he faxed information to Duke to prove that he is a new owner of the home, but Duke responded by stating that service was denied because (1) the property was in foreclosure and (2) Mr. Ondrovich had lived in the residence for many years and was responsible for "past due usage and tampering fees."

- (2) Duke answered the complaint on October 27, 2009, as amended on November 20, 2009. Duke admits that the property at issue is at the address indicated by Mr. Ondrovich. However, Duke maintains, although Mr. Ondrovich advised Duke that he was the new owner of the property, the land installment contract that he faxed to Duke has no indication that it was filed with the Recorder of Butler County, Ohio.

Duke contends that electric service was disconnected for nonpayment on approximately May 15, 2008, but the service was discovered to be active in July 2009. Duke states that it then disconnected the electrical wires at the utility pole. Duke admits that it received calls from Mr. Ondrovich, "who was advised that service could not be provided until an investigation was complete."

Duke asserts that it refused service under Chapter 4901:1-18, Ohio Administrative Code, and other applicable service rules, which indicate conditions under which a utility can terminate service, including tampering with service equipment.

- (3) By entry issued on November 24, 2009, the attorney examiner scheduled a prehearing conference for December 8, 2009.
- (4) On December 8, 2009, Mr. Ondrovich contacted the attorney examiner by telephone and asked that the prehearing conference be rescheduled because he had encountered difficulties with transportation to the Commission offices that day.
- (5) Accordingly, the prehearing conference is rescheduled for January 6, 2010, at 10:00 A.M. in Hearing Room 11-D at the Commission offices, 180 East Broad Street, Columbus, Ohio 43215-3793. The purpose of the prehearing conference is to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code, any statements made while attempting to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement process. However, nothing prohibits either party from initiating negotiations prior to the prehearing conference.

The parties should bring to the prehearing conference all documents relevant to this complaint. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.

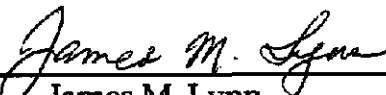
- (6) As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.* (1996), 5 Ohio St.2d 189.

It is, therefore,

ORDERED, That the prehearing conference be rescheduled as indicated in Finding (5) above, It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


By: James M. Lynn
Attorney Examiner

JPJ
/ct

Entered in the Journal

DEC 09 2009



Renee J. Jenkins
Secretary