

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Joe E. Snell,)	
)	
Complainant,)	
)	
v.)	Case No. 09-187-EL-CSS
)	
Ohio Edison Company,)	
)	
Respondent.)	

OPINION AND ORDER

The Commission, considering the public hearing held on October 1, 2009, issues its opinion and order in this matter.

APPEARANCES:

Joe E. Snell, 2561 Romig Road, Apt. 14, Akron, Ohio 44320, on his own behalf.

Ebony L. Miller, 76 South Main Street, Akron, Ohio 44308, on behalf of Ohio Edison Company.

OPINION:

I. History of the Proceeding:

On March 9, 2009, Joe E. Snell (Mr. Snell or complainant) filed a complaint with the Commission against Ohio Edison Company (Ohio Edison or company). In the complaint, Mr. Snell stated that Ohio Edison allowed his name to be used to order electric service without his consent. Mr. Snell stated that he was a victim of identity theft. On March 27, 2009, Ohio Edison filed an answer. It acknowledged that Mr. Snell was the customer of record at the premises in question, but denied that it permits a homeowner to order electric service in someone else's name without knowing whether the person lives at the premises.

A settlement conference was convened in this matter on June 2, 2009. The parties, however, were unable to reach a settlement agreement at the conference. The complaint then was scheduled for hearing on September 10, 2009. Thereafter, at the request of Ohio Edison, the hearing was rescheduled and convened on October 1, 2009. Mr. Snell filed his

brief in the case on November 18, 2009, and Ohio Edison filed its brief on November 23, 2009.

II. Hearing

Mr. Snell testified that, while he was unemployed in 1986, he moved in with Rita Tanner at 719 Victoria Avenue, Akron, Ohio. Subsequently, due to health problems, he moved in with his sister in 1990 or 1991. During part of this time, Mr. Snell was an out-patient at Portage Path Behavior Health Clinic. In 1995, Mr. Snell moved back to Rita Tanner's house and lived there until 2006, when Ms. Tanner passed away. Mr. Snell continued to live at 719 Victoria Avenue until three months after Ms. Tanner's death. Then, because of nonpayment on a loan, a bank took possession of the house and Mr. Snell received an eviction notice at the 719 Victoria Avenue address. Mr. Snell stated that, facing eviction, he initially was unable to lease an apartment because of a bad credit report. He stated that his credit report had been adversely affected because Ms. Tanner had stolen his identity and incurred a large amount of debt on credit cards in his name (Tr. at 5-12, 23; Complainant's Post-Hearing Brief at 1).

According to Mr. Snell, Ms. Tanner had a gambling addiction, and as a result of her addiction, she gambled away all of her assets. Mr. Snell testified that, without his knowledge, Ms. Tanner used fraudulent credit cards that appeared on his credit report and ordered electric service in his name. In an effort to have the credit card charges deleted and then be able to rent an apartment, Mr. Snell filed a police report (Company Exhibit 3) after Ms. Tanner's death (Tr. at 8-9, 11-12, 31; Complainant's Post-Hearing Brief at 1-2). The police report, filed with the Akron Police Division, on April 4, 2006, sets forth Mr. Snell's allegation that his identity was stolen by Ms. Tanner. Mr. Snell's statement in the report also states that Ms. Tanner ran up \$20,000 on gambling web sites and credit cards in his name. Mr. Snell testified that he filed the report after he discovered all of the fraudulent charges in his name, including the charges for electric service (Tr. at 31-32). However, neither Mr. Snell's statement, nor any notation in the police report, states that Ms. Tanner ordered electric service in Mr. Snell's name without his knowledge (Tr. at 36-37).

Thereafter, Mr. Snell was successful in getting the charges on his credit cards deleted. The score on his credit report improved, and he was able to rent an apartment at 2561 Romig Road, Akron, Ohio. But when Mr. Snell ordered electric service from Ohio Edison for his apartment, Ohio Edison transferred its past-due balance of \$2,788.49 from the account at 719 Victoria Avenue to his new account. Mr. Snell argued that all that is needed to order electric service is a social security number and that his social security number is the only thing tying him to this fraudulent account. He asserted that it was Ohio Edison's policy of allowing anyone to establish electric service, without first

verifying that person's identity, which permitted Ms. Tanner to order electric service in his name (Complaint at 2; Complainant's Post-Hearing Brief at 1-2, 4).

Mr. Rick Tobias, a supervisor in the Revenue Operations Department at First Energy Service Company, testified that Mr. Snell was the customer of record at the 719 Victoria Avenue property. He testified that the company's electric service invoices, which bore Mr. Snell's name as the addressee and account holder, were sent to 719 Victoria Avenue on a monthly basis since the account was opened in Mr. Snell's name in 1986 (Company Exhibit 1 at 1-3; Tr. at 44).

With regard to the company's procedure for assigning a customer of record, Mr. Tobias testified that a consumer must contact Ohio Edison and request that the electric service be put into his or her name and that the consumer becomes Ohio Edison's customer of record. Mr. Tobias testified that the customer of record is required to provide Ohio Edison with the address of the property at which the customer wishes electric service, certain purchase or rental agreements, if applicable, and certain personal information that is placed on the account. Mr. Tobias noted that this personal information includes the customer's name, mailing address, social security number, contact number, and the name of any individual the customer would like to have added as a contact person (Company Exhibit 1 at 2-3).

Mr. Tobias testified that Mr. Snell has never informed Ohio Edison that he no longer wanted service in his name. He also did not believe Ms. Tanner could have put service in Mr. Snell's name for the following reasons: (a) Ohio Edison does not permit an individual to put electric service in a name other than his or her own, (b) the operator that took the call would have distinguished the difference between a female caller (Ms. Tanner) from a male caller (Mr. Snell), and (c) Ohio Edison requires the caller to verify the caller's identity by providing home address, phone number, and social security number. In addition, Mr. Tobias noted that Mr. Snell admits that he lived at the property at the time that he was receiving electric service and the electric service invoices for such service (Company Exhibit 1 at 3).

On cross examination, Mr. Tobias testified that a customer ordering electric service from Ohio Edison needs to call the company's telephone center. The operators in the telephone center ask the customer to provide the service address and his or her name, birth date, and social security number. The operators then check to see if the customer has an outstanding debt with the company. If there is an outstanding debt, the customer is asked to provide a lease agreement for the address at which service is being requested. He noted that this process is something that is done by every utility throughout the state, not just Ohio Edison. Mr. Tobias stated that if the company's operators can confirm that they are talking to the person requesting service, and there is no outstanding debt from a

previous account, Ohio Edison does not require a signed document to establish service (Tr. at 48-52).

Mr. Tobias testified that Ohio Edison does a credit check to confirm a customer's identity, and the company verifies the particular social security number to confirm that it matches the individual. Mr. Tobias noted that Ohio Edison's invoice is sent to the service address, unless the customer requests that it be mailed to another address. He noted that, with the 719 Victoria Avenue account, the invoice was sent every month from 1986 to 2006, well over 200 invoices (Tr. at 54-55).

Mr. Tobias testified that, when Ohio Edison has collected and verified all of the personal information from the caller who is applying for service, the company believes the customer is the person placing the call. Mr. Tobias stated that the company has hundreds to thousands of such contacts daily and, like the other utilities in the state, Ohio Edison tries to work with customers in a timely manner. Mr. Tobias testified that, if the company required everyone to provide a written document to confirm his or her identity, the process of obtaining electric service, instead of taking one or two days, could take seven to 14 days and would be a nightmare (Tr. at 55-57).

III. The Law

Ohio Edison is an electric light company as defined by Section 4905.03(A)(4), Revised Code, and a public utility by virtue of Section 4905.02, Revised Code. Ohio Edison is, therefore, subject to the jurisdiction of the Commission pursuant to Sections 4905.04 and 4905.05, Revised Code.

Section 4905.26, Revised Code, requires that the Commission set for hearing a complaint against a public utility whenever reasonable grounds appear that any rate charged or demanded is in any respect unjust, unreasonable, or in violation of law or that any practice affecting or relating to any service furnished is unjust or unreasonable.

In complaint proceedings, the burden of proof lies with the complainant. *Grossman v. Pub. Util. Comm.* (1966), 5 Ohio St.2d 189. Therefore, it is the responsibility of a complainant to present evidence in support of the allegations made in a complaint.

IV. Discussion and Conclusion:

After reviewing the record, the Commission initially observes that there were some inconsistencies in the testimony and information offered by Mr. Snell at hearing. We note that Mr. Snell's allegation that Ms. Tanner listed the electric service account at 719 Victoria Avenue in his name without his permission is not mentioned in the report that Mr. Snell filed with the Akron police. Mr. Snell testified that his statement in the police report is

accurate (Tr. at 36). However, in that statement to the police regarding his claim of identity theft, he mentioned only credit incurred in his name on gambling websites and credit cards. There is nothing in the record of this case to suggest that Mr. Snell informed the police about an unauthorized use of his name on the electric service account. Mr. Snell's statement in the police report also lists a time frame during which the alleged identity theft occurred, from January 1, 2000 to February 2, 2006. Yet, at hearing, Mr. Snell denied telling the police that the theft of his identity took place during that time period (Tr. at 34). In addition, the Commission notes that company witness Tobias testified that the company's records reveal that the electric service account at 719 Victoria Avenue was opened in Mr. Snell's name in May 1986 (Company Exhibit 1 at 3; Tr. at 44).

Mr. Snell stated that he resided at 719 Victoria Avenue from 1986 to 1990 or 1991 and from 1995 to 2006 (Complaint at 2; Tr. at 23; Complainant's Post-Hearing Brief at 1). Therefore, Mr. Snell would have been living at 719 Victoria Avenue in 1996, the year he started receiving Workers' Compensation payments in the mail (Tr. at 22). At that time, presumably, he was aware of the arrival of those payments from the Bureau of Workers' Compensation at his residence. With regard to the electric service account at 719 Victoria Avenue, Mr. Snell stated that he discovered the electric bill was in his name only after Ms. Tanner had passed away (Complaint at 2; Tr. at 8, 31; Complainant's Post-Hearing Brief at 2). However, company witness Tobias testified that over 200 electric service invoices were mailed to Mr. Snell at the same service address, bills bearing his name as the customer of record on the electric service account (Company Exhibit 1 at 2-3; Tr. at 54-55).

There is insufficient evidence in the case to support a conclusion that Mr. Snell's name on the electric service account at 719 Victoria Avenue was not authorized by him or occurred without his knowledge. Even assuming that Mr. Snell's identity was stolen by Rita Tanner, the evidence offered at hearing concerning identity theft, the police report, and the letter and identification card from the Attorney General's Office, do not mention anything about Mr. Snell's identity being used by another person to obtain electric service. As noted previously, Mr. Snell's statement in the police report states only that gambling web sites and credit cards were used in his name.

The record in this proceeding reveals no evidence that Ohio Edison failed to comply with any statutory or regulatory requirements pertaining to the supply of electricity at Mr. Snell's former address, 719 Victoria Avenue, Akron, Ohio. Moreover, we find nothing in this record to indicate that Ohio Edison failed to have reasonable measures in place to verify the identity of a customer ordering electric service from the company. The record does indicate that Mr. Snell should have had some knowledge during the approximately 15 years that he lived at 719 Victoria Avenue that the electric bill was in his name.

Accordingly, lacking evidence demonstrating that Ohio Edison did not conform its operations to lawful requirements, or that it acted unreasonably, the Commission finds

that Mr. Snell should be held accountable for the charges from 719 Victoria Avenue that were transferred to his present account. The Commission, therefore, finds that this matter should be dismissed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Joe E. Snell filed a complaint against Ohio Edison on March 9, 2009, alleging that Ohio Edison's policy of allowing anyone to establish electric service, without first verifying that person's identity, permitted Rita Tanner to order electric service in his name.
- (2) Ohio Edison is a public utility and an electric company pursuant to Sections 4905.02 and 4905.03, Revised Code. Thus, Ohio Edison is subject to the jurisdiction of this Commission under the authority of Sections 4905.04 through 4905.06, Revised Code.
- (3) In a complaint case, such as this one, the burden of proof is on the complainant. *Grossman v. Pub. Util. Comm.* (1966), 5 Ohio St.2d 189, 214 N.E. 2d 666.
- (4) There is insufficient evidence to support a finding that Mr. Snell should not be held accountable for the charges from 719 Victoria Avenue that were transferred to his present account.
- (5) Based on the record in this proceeding, the complainant has failed to sustain his burden of proof and the complaint should be dismissed.

ORDER:

It is, therefore,

ORDERED, That this complaint be dismissed. It is, further,

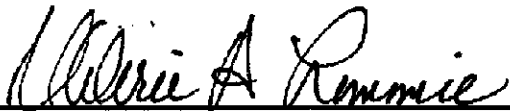
ORDERED, That a copy of this order be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman

Paul A. Centolella



Valerie A. Lemmie



Ronda Hartman Fergus

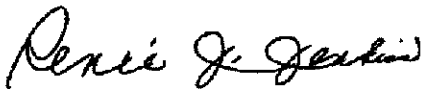


Cheryl L. Roberto

KKS/vrm

Entered in the Journal

JAN 27 2010



Renee J. Jenkins
Secretary