

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Dennis E. Sands,)	
)	
Complainant,)	
)	
v.)	Case No. 10-853-EL-CSS
)	
American Electric Power Company,)	
)	
Respondent.)	

ENTRY

The Commission finds:

- (1) The above-referenced complaint was filed on June 18, 2010. In the complaint, Dennis E. Sands (complainant) alleged that American Electric Power Company (AEP or company) wrongfully billed him for electric service.
- (2) On July 8, 2010, AEP filed an answer denying the allegations in the complaint. Further, in the same filing, AEP included a motion requesting that the complaint be dismissed. In its motion, AEP argued that complainant did not file a complaint under Section 4905.26, Revised Code, but instead filed a request for the Commission to investigate the billing practices of AEP. AEP also argued that the company has breached no legal duty owed to the complainant and that the complainant has failed to state reasonable grounds upon which relief may be granted.
- (3) By entry dated September 21, 2010, the attorney examiner scheduled a prehearing conference in this case for October 28, 2010. The prehearing conference was convened as scheduled. However, the complainant did not attend the conference.
- (4) On October 29, 2010, AEP filed a motion to dismiss. In the motion, AEP stated that it was renewing its July 8, 2010, motion to dismiss and that the Commission should dismiss the complaint filed by complainant for the additional reason that he has failed to prosecute this matter.

- (5) By entry dated November 5, 2010, the prehearing conference was rescheduled on December 3, 2010, and a ruling on AEP's motion to dismiss was deferred until after the date of the rescheduled conference. Further, complainant was advised that failure to attend the settlement conference might result in dismissal of the complaint for lack of prosecution.
- (6) On December 2, 2010, complainant contacted the attorney examiner and requested a continuance of the settlement conference. In support of the request, complainant indicated that he had a conflict with his work schedule and was unable to attend the conference.
- (7) By entry dated December 9, 2010, the prehearing conference was rescheduled on January 21, 2011. On January 21, 2011, the prehearing conference was convened as scheduled. However, the complainant again did not attend the conference.
- (8) A service notice, which listed the complainant as being served with the entry scheduling the January 21, 2011, settlement conference, was filed on December 9, 2010. An inquiry to the Commission's Docketing Department revealed that the entry scheduling the settlement conference was not included in mail returned to the Commission. Further, the inquiry revealed that, had the entry been returned, the return would be indicated on the service notice of the docket card for the case. No such indication appears on the service notice for the entry scheduling the January 21, 2011, settlement conference.
- (9) The attorney examiner has not received any explanation from the complainant regarding the complainant's failure to attend the January 21, 2011, settlement conference.
- (10) The Commission finds that AEP's motion to dismiss should be granted. This case should be dismissed, without prejudice, for lack of prosecution.

It is, therefore,

ORDERED, That AEP's motion to dismiss be granted. It is, further,

ORDERED, That Case No. 10-853-EL-CSS be dismissed, without prejudice, for lack of prosecution. It is, further,

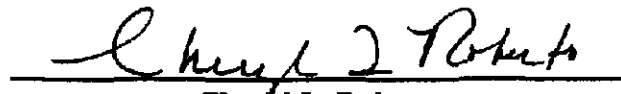
ORDERED, That a copy of this entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Steven D. Lesser, Chairman


Paul A. Centolella

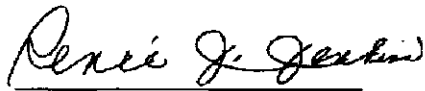

Valerie A. Lemmie


Cheryl L. Roberto

KKS/vrm

Entered in the Journal

FEB 09 2011



Renee J. Jenkins
Secretary