

THE PUBLIC UTILITIES COMMISSION OF OHIO

Respondent.

Case No. 11-834-GA-CSS

The attorney examiner finds:

- (1) On February 14, 2011, Debora and Robert Clark (complainants) filed a complaint against Duke Energy Ohio, Inc. (Duke), stating that Duke failed to properly notify complainants of its intent to disconnect the gas service at complainants' part-time residence in Cincinnati, Ohio. Complainants explain that they are permanent residents of Pennsylvania and that they spend a few months of each year in Cincinnati. When complainants arrived at their residence in Cincinnati on November 24, 2010, they discovered that Duke had disconnected the gas service. Complainants allege that the only notice provided by Duke was a note attached to the door knob at their residence in Cincinnati. Complainants maintain that, if they had not decided to travel to Cincinnati when they did, their pipes would have frozen due to the cold temperatures in December 2010. Complainants state that, according to Duke, Duke may disconnect gas service between April 1 and November 22, without an appointment, and that the only notice provided is a note attached to the door knob in advance of the disconnection and another note left when the gas service has actually been disconnected. Complainants seek a determination that Duke should be required to notify its customers, particularly those who are part-time residents, of its intent to disconnect the gas service, as well as the actual disconnection, by U.S. mail, telephone, or electronic mail.

- (2) On March 7, 2011, Duke filed its answer to the complaint and a motion to dismiss the complaint. In its answer, Duke denies all of the allegations contained in the complaint. Duke asserts that complainants have failed to state a claim upon which relief may be granted, have failed to state reasonable grounds for complaint, and have not stated any request for relief. Duke also asserts that it has complied with all applicable rules, regulations, and tariffs. In its motion to dismiss, Duke states that complainants admit that Duke provided advance notice of its intent to disconnect their gas service and, therefore, complainants have failed to set forth reasonable grounds for complaint.
- (3) At this time, the attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the settlement 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 4901-1-26, Ohio Administrative Code (O.A.C.), any statements made in an attempt 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 discussion. However, nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference.
- (4) Accordingly, a settlement conference shall be scheduled for May 24, 2011, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Room 1247, Columbus, Ohio 43215-3793. If it becomes apparent that the parties are not likely to settle this matter, the parties should be prepared to discuss a procedural schedule to facilitate the timely and efficient processing of this complaint.
- (5) All parties attending the settlement conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.

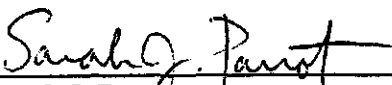
- (6) As is the case in all Commission complaint proceedings, complainants have the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.* (1996), 5 Ohio St.2d 189.

It is, therefore,

ORDERED, That a settlement conference be scheduled for May 24, 2011, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Room 1247, Columbus, Ohio 43215-3793. It is, further,

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

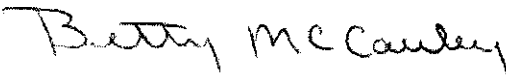
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By: Sarah J. Parrot
Attorney Examiner


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Entered in the Journal

APR 29 2011


Betty McCauley
Secretary