

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Edgar S. Vitek,)	
)	
Complainant,)	
)	
v.)	Case No. 10-2436-EL-CSS
)	
Columbus Southern Power Company,)	
)	
Respondent.)	

OPINION AND ORDER

The Commission, considering the public hearing held on May 5, 2011, issues its opinion and order in this matter.

APPEARANCES:

Edgar S. Vitek, 5330 Sinclair Road, Columbus, Ohio 43229, on his own behalf.

Anne M. Vogel and Matthew M. Satterwhite, 1 Riverside Plaza, 29th Floor, Columbus, Ohio 43215, on behalf of Columbus Southern Power Company.

OPINION:

I. History of the Proceeding

On October 27, 2010, Edgar S. Vitek (Mr. Vitek or complainant) filed a complaint with the Commission against Columbus Southern Power Company (AEP or company). In the complaint, Mr. Vitek stated that AEP mistakenly sent the electric bills for his recently purchased property to an incorrect address. Mr. Vitek stated that he did not receive the bills, and, as a result, AEP discontinued service to his property for non-payment without any prior notice.

On November 15, 2010, AEP filed an answer admitting that the company had an incorrect billing address for Mr. Vitek and that the company did disconnect power to Mr. Vitek's property, as a result of non-payment. AEP stated that the error was immediately recognized and resolved, and AEP's meter was re-energized the same day. AEP also stated that the company compensated Mr. Vitek for lost food items in the amount of \$62.00. AEP stated that the company has complied with Commission rules and

regulations, that complainant has not identified any Commission rule or regulation that AEP has violated, and that the company has breached no legal duty owed to complainant.

A settlement conference was convened in this matter on March 8, 2011. The parties, however, were unable to reach a settlement agreement at the conference. Thereafter, a hearing was convened on May 10, 2011. Briefs in the case were filed by Mr. Vitek and AEP on June 28, 2011, and July 8, 2011, respectively.

II. The Law

Columbus Southern Power Company is an electric light company as defined by Section 4905.03(A)(3), Revised Code, and a public utility by virtue of Section 4905.02, Revised Code. AEP is, therefore, subject to the jurisdiction of the Commission pursuant to Sections 4905.04 and 4905.05, Revised Code.

Section 4905.22, Revised Code, requires, in part, that a public utility furnish necessary and adequate service and facilities. 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.

III. Hearing

At the hearing, Mr. Vitek testified on his own behalf, and Michele Jeunelot, Manager of Regulatory Operations for AEP, presented testimony on behalf of the company.

Edgar S. Vitek

Mr. Vitek purchased property at 5342 Crawford Drive, Columbus, Ohio (5342 Crawford Drive) on April 27, 2010, and began renovating the property. Mr. Vitek, however, did not receive any bills for electric service at 5342 Crawford Drive, or at his requested billing address, his office at 5330 Sinclair Road, Columbus, Ohio (5330 Sinclair Road). On September 14, 2010, the power at 5342 Crawford Drive was disconnected for non-payment. (Tr. at 6-7.)

After telephoning AEP, Mr. Vitek learned that the bills for 5342 Crawford Drive, April 2010 to September 2010, had been sent to 5530 Sinclair Road, Columbus, Ohio (5530 Sinclair Road), a non-existent street address. Mr. Vitek argued that since there is no 5530 Sinclair Road, the Post Office would have returned all of the bills for 5342 Crawford Drive to AEP stamped "Return to Sender," but no AEP employee did anything about the returned mail. Further, Mr. Vitek noted that he was inconvenienced by the company and was obliged to remove a number of items from his refrigerator, because the power to his property was off for some six hours. (Tr. at 9, 11-13.)

On cross-examination, Mr. Vitek agreed that his power was out for about an hour.¹ He also testified that AEP compensated him in the amount of \$62.00 for lost food items from his refrigerator and that he wants money from the company. (Tr. at 23-26.)

Attached to Mr. Vitek's brief in this matter was a letter from the United States Postal Service (USPS). In the letter, a USPS representative sets forth information on mail that may be returned or handled as undeliverable. Further, the letter states that the address of 5530 Sinclair Road is not an address served by the USPS and that mail sent to this address may be returned, or handled as undeliverable, i.e., the mail could not be returned to the sender from the last office of address. In his brief, Mr. Vitek maintained that the mail sent to 5530 Sinclair Road was returned by the post service as undeliverable. (Vitek Post-hearing Brief at 1-2).

Michele Jeunelot

After complainant notified AEP that his power at 5342 Crawford Drive had been disconnected, AEP Customer Service discovered that two numbers had been transposed in the address to which AEP was sending bills for the 5342 Crawford Drive account. For a period of approximately six months, bills for electricity usage at 5342 Crawford Drive were addressed to 5530 Sinclair Road, rather than 5330 Sinclair Road. Ms. Jeunelot testified that AEP has no record that any of these bills were returned by the USPS as undeliverable. So, because power was being provided to 5342 Crawford Drive and bills

¹ At hearing, Mr. Vitek first testified that the power to his property was off for some six hours (Tr. at 9), but then, on cross-examination, testified that the power was out for about an hour (Tr. at 23). There is no explanation in the record from Mr. Vitek for this difference in his testimony as to the amount of time the power to 5342 Crawford Drive was actually off. With regard to this discrepancy, we note that both the account notes of summarized telephone conversations with Mr. Vitek (Respondent's Exhibit B), and Mr. Vitek's testimony (Tr. at 8), contain statements about the company's advisory to Mr. Vitek that the circuit breakers at 5342 Crawford Drive had to be turned off in order for power to be restored, and Mr. Vitek's response that he had turned the breakers off as AEP advised. Respondent's Exhibit F, further account notes for 5342 Crawford Drive, also contains a notation, dated April 23, 2011, "Did not reset breakers." We would merely observe that whether or not the breakers were indeed in the "off" position when the meter was re-energized, or some hours had passed before the breakers were thrown, may explain the difference in Mr. Vitek's statements about the length of time his power was out.

were being sent out but not paid or returned, the disconnection process was put into place. After providing personal notice to 5342 Crawford Drive that power would be disconnected for non-payment, AEP disconnected the power on September 14, 2010, at 11:40 a.m. (Pre-filed testimony of Michele Jeunelot at 3-4; Tr. at 31, 33, 38-39.)

Ms. Jeunelot testified that the property at 5342 Crawford Drive is served by an advanced metering device and that the meter was re-energized remotely immediately upon discovery of the address error by AEP Customer Service. AEP's account notes (Respondent's Exhibit B) indicate that the meter was re-energized at or around 12:47 p.m., approximately one hour after complainant contacted customer service. Complainant was also contacted by AEP at 1:16 p.m. and 4:15 p.m. on September 14, 2010, to notify him that the reconnection order had been completed and that his mailing address was updated in AEP's billing system. Thereafter, complainant submitted a claim dated October 22, 2010, for lost food items in the amount of \$62.00, which AEP paid. Ms. Jeunelot testified that AEP acted reasonably and immediately to rectify an unfortunate human error. (Pre-filed testimony of Michele Jeunelot at 4-5.)

Ms. Jeunelot noted that, from initiation of service in February 2010, through disconnection in September 2010, complainant did not pay for electric service to 5342 Crawford Drive or contact AEP to ask why he was not receiving a bill for electric service at that address. At the time of disconnection, complainant's account was approximately \$60.00 in arrears, plus deferred deposits that were past due. Further, Ms. Jeunelot noted that her review of Mr. Vitek's account history lead her to believe that 5342 Crawford Drive was being renovated by Mr. Vitek and that the property was vacant at the time of disconnection on September 14, 2010. (Pre-filed testimony of Michele Jeunelot at 5-6.)

IV. Discussion and Conclusion

This complaint at first appeared to be a settled case. Complainant's power was disconnected because of an address error in the billing to complainant's 5342 Crawford Drive property. After the error was recognized, the power was restored within about an hour. The company sent complainant a check for \$62.00 to compensate him the loss of food items, and complainant accepted the check. Subsequently, complainant filed a formal complaint. He testified at hearing that what he wants from the company is money (Tr. at 24).

Complainant's main contention is that the bills for electric service at 5342 Crawford Drive, which were sent to a non-existent address, 5530 Sinclair Road, would have been returned to AEP in the mail and that someone at AEP should have realized the bills were not being delivered to the correct address and acted to correct the situation (Tr. at 12-13). Complainant, however, submitted no evidence to support his argument that AEP received returned bills that was supposed to be sent to 5342 Crawford Drive. The Commission

notes that, according to the testimony of company witness Jeunelot (Pre-filed testimony of Michele Jeunelot at 4), and the account notes for complainant at 5342 Crawford Drive (Respondent's Exhibit B), AEP has no record of such returned mail. Moreover, we note that complainant's letter from the USPS, which was attached to his brief of the case, first gives general information about mail that cannot be delivered, and then states that mail sent to the 5530 Sinclair Road address may be returned or handled as undeliverable. In our opinion, the USPS letter does not serve as evidence that AEP received Mr. Vitek's 5342 Crawford Drive bills by return mail.

AEP admitted to making a mistake as to Mr. Vitek's billing address. However, after reviewing all of the evidence of record, we believe that AEP's mistake was an isolated occurrence and that it was not indicative of a pattern of poor service rendered to Mr. Vitek. The record, in fact, shows the following: AEP disconnected electric service at 5342 Crawford Drive as the result of an address error in the company's billing records; complainant did not receive prior notice of the disconnection via the mail; AEP hand-delivered a disconnection notice at 5342 Crawford Drive on September 14, 2010; bills for 5342 Crawford Drive were sent to 5530 Sinclair Road, a non-existent address; AEP has no record of bills for 5342 Crawford Drive that were returned via the mail; at the time his service was disconnected, complainant had not paid for electric use to 5342 Crawford Drive; complainant did not contact AEP to ask why he was not receiving any bills; complainant was six months in arrears on his account at the time of disconnection; when Mr. Vitek contacted the company, AEP acted expeditiously in correcting the address error and restored power to 5342 Crawford Drive; and Mr. Vitek was compensated by AEP for food items that he lost during the time his service was disconnected. (Pre-filed testimony of Michele Jeunelot at 4-6; Tr. at 6-9, 15-26; Respondent's Exhibits B, D, E, and F.) In short, the record in this proceeding reveals no evidence that the company's actions with regard to billing for electric use at 5342 Crawford Drive, or the disconnection of the electricity at that address, amounted to inadequate service.

Accordingly, lacking evidence showing that AEP did not conform its operations to statutory or regulatory requirements, or that it acted unreasonably, the Commission cannot find that AEP provided inadequate service, as set forth in Section 4905.22, Revised Code, to the complainant. The Commission, therefore, finds that this matter should be denied.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) Edgar S. Vitek filed a complaint against AEP on October 27, 2010, alleging that AEP mistakenly sent the electric bills for his recently purchased property to an incorrect address. Mr. Vitek stated that he did not receive the bills and, as a result, AEP

discontinued service to his property for non-payment without any prior notice.

- (2) On November 15, 2010, AEP filed an answer admitting that the company had an incorrect billing address for Mr. Vitek and that the company did disconnect power to Mr. Vitek's property. AEP stated that the error was immediately recognized and resolved, and AEP's meter was re-energized the same day. AEP stated that the company has complied with Commission rules and regulations and has breached no legal duty owed to complainant.
- (3) On March 8, 2011, a settlement conference was held; however, the parties failed to resolve this matter informally.
- (4) A hearing was held in this matter on May 10, 2011.
- (5) AEP is a public utility and an electric company pursuant to Sections 4905.02 and 4905.03, Revised Code. Thus, AEP is subject to the jurisdiction of this Commission under the authority of Sections 4905.04 through 4905.06, Revised Code.
- (6) This complaint is properly before this Commission, pursuant to the provisions of Sections 4905.22 and 4905.26, Revised Code.
- (7) 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.
- (8) There is insufficient evidence to support a finding that AEP provided inadequate service, as set forth in Section 4905.22, Revised Code, to the complainant.
- (9) Based on the record in this proceeding, the complainant has failed to sustain his burden of proof and the complaint should be denied.

ORDER:

It is, therefore,

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

ORDERED, That copies of this order be served each party and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella


Steven D. Lesser

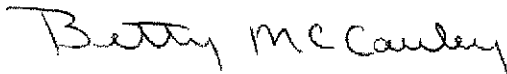

Andre T. Porter


Cheryl L. Roberto

KKS/vrm

Entered in the Journal

SEP 20 2011.


Betty McCauley
Secretary