

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of	)	
Subs 4 U, LLC,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 12-1951-GA-CSS
	)	
Duke Energy Ohio, Inc.,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On June 28, 2012, Subs 4 U, LLC, (Subs) filed a complaint against Duke Energy Ohio, Inc. (Duke), alleging unfair and unjust billing practices. Subs alleges that it was charged for utility service that it did not use. Therefore, Subs requests relief in the manner of a refund from Duke for the amount overcharged.
- (2) On July 17, 2012, Duke filed its answer, with an amended answer filed by Duke on July 19, 2012. Duke asserts that Subs fails to state a claim upon which relief may be granted and fails to state reasonable grounds for complaint. In addition, Duke contends that Subs lacks standing to assert a claim against Duke. Moreover, Duke states it has complied with all relevant statutes, regulations, and approved tariffs. Duke further states that Subs has a gas meter on its property and that Duke is entitled to recover a minimum service charge on a monthly basis in accordance with Rule 4901:1-13-11, Ohio Administrative Code (O.A.C.). Duke requests that the complaint be dismissed.

- (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, 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 August 23, 2012, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12<sup>th</sup> floor, Room 1246, 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) Pursuant to Rule 4901:1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference and all parties attending the 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, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

It is, therefore,

ORDERED, That a settlement conference in this case be scheduled in accordance with finding (4). It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Bryce McKenney

By: Bryce A. McKenney  
Attorney Examiner

GAP/sc

**This foregoing document was electronically filed with the Public Utilities**

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**in**

**Case No(s). 12-1951-GA-CSS**

Summary: Attorney Examiner Entry scheduling a settlement conference for August 23, 2012 at 10:00 a.m. electronically filed by Ms. Sandra M. Coffey on behalf of Bryce McKenney, Attorney Examiner, Public Utilities Commission of Ohio