

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Mary A. Lowery,)	
)	
Complainant,)	
)	
v.)	Case No. 12-2949-GA-CSS
)	
Duke Energy Ohio, Inc.,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On November 13, 2012, Mary A. Lowery (Lowery) filed a formal complaint against Duke Energy Ohio, Inc. (Duke) alleging that Duke unjustly charged her a Percentage of Income Payment Plan (PIPP) reinstatement fee. Lowery alleges that she should never have been removed from PIPP, therefore, she should not be charged for PIPP reinstatement.
- (2) On December 3, 2012, Duke filed an answer to Lowery's formal complaint denying the allegations contained in the complaint. Duke also asserts multiple affirmative defenses, including that Lowery failed to set forth reasonable grounds for complaint, that at all times Duke complied with the Ohio Revised Code and Ohio Administrative Code (O.A.C.), and that Lowery has not stated any request for relief that can be granted by the Commission. Duke also requests that the case be dismissed for failure to set forth reasonable grounds for the complaint.
- (3) 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 January 17, 2013, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th 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

JRJ/sc

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in

Case No(s). 12-2949-GA-CSS

Summary: Attorney Examiner Entry scheduling a settlement conference for 01/17/13 at 10:00 a.m. at the offices of the Commission. - electronically filed by Sandra Coffey on behalf of Bryce McKenney, Attorney Examiner, Public Utilities Commission of Ohio