

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Ruth and	)	
John Insco,	)	
	)	
Complainants,	)	
	)	
v.	)	Case No. 13-706-EL-CSS
	)	
The Toledo Edison Company,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On March 19, 2013, Ruth and John Insco (complainants) filed a complaint against the Toledo Edison Company (Toledo Edison or respondent). The complainants allege that Toledo Edison failed to adhere to the terms and conditions of an HVAC Equipment Rebate program. The complainants allege that they decided, along with many other homeowners in their new subdivision, to install a geothermal heating system for their home. To reduce cost, the complainants submitted a rebate application collectively with other homeowners.

The complainants describe the problems that they encountered after submitting the application. Approximately six weeks after submitting the application, the complainants discovered that all other subdivision homeowners had received their rebate checks. Afterward, the complainants discovered that their unit would have to be inspected to ensure proper installation of the HVAC system. The complainants allege that the person who conducted the inspection did not display a Toledo Edison identification badge or any other type of verifiable identification. After filing an informal complaint with the Commission, the complainants state that they received a rebate check one month after the other homeowners.

The complainants believe that they have been unfairly discriminated against by having to submit to an inspection. The complainants also allege that insufficiently identified

employees create opportunities for unauthorized persons to enter residences. For a remedy, the complainants seek treble damages.

- (2) Toledo Edison filed an answer on April 8, 2013. In response to the complaint, Toledo Edison states that the rebate program's terms and conditions authorize inspections to verify installation and to measure energy savings. Toledo Edison admits that its contractor's field personnel performed an on-site inspection of the complainants' HVAC system. Toledo Edison, however, denies that the inspector is a Toledo Edison employee.

Toledo Edison admits that the complainants' received their rebate check on March 5, 2013. Toledo Edison adds that the check arrived within the 90-day period indicated in the terms and conditions of the HVAC rebate program.

- (3) With its answer, Toledo Edison filed a motion to dismiss. Toledo Edison states that, under its approved Energy Efficiency and Peak Demand Reduction portfolio program, it sponsors a rebate program for HVAC units. According to Toledo Edison, its contractor received the complainants' rebate application on December 17, 2012. Explaining the reason for the inspection, Toledo Edison states that the receipt that accompanied the complainants' application lacked serial and model numbers. An "exception" was, therefore, noted. By letter, the complainants were advised of the missing information. The complainants provided the information in February 2013. Toledo Edison states that, pursuant to the terms and conditions of the rebate program, the contractor selected the complainants' application for an on-site inspection. The contractor conducted the inspection on February 19, 2013. Within 90 days, the complainants received their rebate check, in compliance with the rebate program.
- (4) Toledo Edison argues that the complainants' request for relief is moot because their rebate application has been approved, the rebate has been issued, and the complainants have cashed the check. Moreover, Toledo Edison points out that the complainants received the rebate check within the time frame prescribed by the rebate program. Toledo Edison contends that there is no basis for awarding damages.

Arguing that the complainants have stated no facts that would support a finding of inadequate service, Toledo Edison asserts that there is no basis for finding reasonable grounds. Absent too, according to Toledo Edison, is any allegation that Toledo Edison violated any statute, Commission rule, or order.

Although the complainants have asserted discrimination, Toledo Edison fails to see how the alleged discrimination caused them damage. With regard to the identification of the inspector, Toledo Edison points out that the inspector was not a Toledo Edison employee. Toledo Edison argues, therefore, that it is useless for the complainants to highlight Toledo Edison's employee identification requirements. For failure to state reasonable grounds, Toledo Edison urges the Commission to dismiss the complaint.

- (5) 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 statement made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to provide liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.
- (6) Accordingly, a settlement conference shall be scheduled for June 4, 2013, at 1:00 p.m. in Room 1246 in the offices of the Commission, 12<sup>th</sup> Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.
- (7) 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.

- (8) 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 be held on June 4, 2013, at 1:00 p.m. in Room 1246 in the offices of the Commission, 12<sup>th</sup> Floor, 180 East Broad Street, Columbus, Ohio 43215.

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ L. Douglas Jennings

---

By: L. Douglas Jennings  
Attorney Examiner

jrj/vrm

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

**Commission of Ohio Docketing Information System on**

**5/8/2013 11:20:54 AM**

**in**

**Case No(s). 13-0706-EL-CSS**

Summary: Attorney Examiner Entry scheduling a settlement conference on June 4, 2013, at 1:00 p.m., electronically filed by Vesta R Miller on behalf of L. Douglas Jennings, Attorney Examiner, Public Utilities Commission of Ohio