

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Raymond P. Normile,)	
)	
Complainant,)	
)	
v.)	Case No. 13-1062-EL-CSS
)	
First Energy Solutions Corp.,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On April 29, 2013, Raymond P. Normile (complainant) filed a complaint against First Energy Solutions Corp. (FES or respondent). The complainant alleges that he never received the \$25.00 gift card to which, he alleges, he was entitled for becoming a FES customer. The complaint includes what purports to be a copy of a cancellation invoice issued by the respondent on November 11, 2012, which appears to charge the complainant a \$150.00 cancellation charge for early termination of his service contract with the respondent. The complainant alleges that the respondent never informed him such a cancellation charge would apply for early termination of his service contract with the respondent. The complaint also includes what purports to be a copy of a collection notice issued on March 12, 2013, by a collection agency identified as The Receivable Management Services Corporation, seeking payment on the complainant's account with the respondent. The complainant alleges that sending the collection notice was an act of intimidation and threat.
- (2) FES filed its answer on May 20, 2013. In its answer, FES admits: (a) that the complainant was its customer, and (b) that he never received a gift card. Further answering, FES denies that it failed to present the complainant with information related to a cancellation charge. FES claims to lack knowledge sufficient to form a belief as to the truth regarding whether sending the collection notice was an act of intimidation or threat. The respondent, in its answer, sets

forth several affirmative defenses, including: (a) that the complaint fails to set forth reasonable grounds for a complaint, inasmuch as the complainant has not alleged any violations of statute, rule, or tariff provision; and (b) that, according to the respondent, the complaint fails to state a claim upon which relief can be granted.

- (3) By this entry, the attorney examiner schedules a settlement conference in this matter. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution 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 process. However, nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference.
- (4) Accordingly, a settlement conference in this matter is hereby scheduled to occur on June 13, 2013, at 10:00 a.m., at the Commission offices, 180 East Broad Street, 12th floor, Conference Room 1246, Columbus, Ohio 43215-3793. The parties should bring with them all documents relevant to this matter. If there is no settlement 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.
- (5) Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised on 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 authority to settle those issues.
- (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 matter be scheduled for June 13, 2013, at 10:00 a.m., at the Commission offices, 180 East Broad Street, 12th floor, Conference Room 1246, Columbus, Ohio 43215-3793. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Daniel Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/sc

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in

Case No(s). 13-1062-EL-CSS

Summary: Attorney Examiner Entry schedules a prehearing settlement conference for 06/13/2013. - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio