

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Anne L. Lauderdale,)
)
Complainant,)
)
v.) Case No. 13-1233-EL-CSS
)
The Dayton Power & Light Company and)
Verde Energy USA Ohio, LLC,)
)
Respondents.)

ENTRY

The attorney examiner finds:

- (1) On May 22, 2013, Anne L. Lauderdale (complainant) filed a complaint against two respondents, The Dayton Power & Light Company (DP&L) and Verde Energy USA Ohio, LLC (Verde). The complaint was signed, not by the complainant, but by Vincent Lauderdale.
- (2) The complaint alleges that “we are customers of Dayton Power & Light and our complaint is against Verde Energy.” The complaint further alleges that, since July 2012, “our utility provider has been changed by Verde, Star Energy, IGS Energy, or First Energy Solutions without our consent several times.” The complaint alleges that we “believe that we have been slammed.” The complaint alleges that fees and penalties adding up to \$506.00 appeared “on our February or March 2013 bill from Verde Energy.” The complainant is seeking to be reimbursed this amount. The complainant is also seeking to have Verde Energy “verify consent,” and to “validate” its fees and charges.
- (3) DP&L filed its answer on June 10, 2013. In its answer, DP&L denies, or claims insufficient knowledge to ascertain the veracity of, all of the allegations of wrongdoing as described in the complaint. DP&L asserts that, at all pertinent times, DP&L has complied with all relevant statutes, regulations, and approved tariffs. It asserts that, inasmuch as the

complaint specifically states that “our complaint is against Verde Energy,” the complaint against DP&L should be dismissed.

- (4) Verde Energy filed its answer on June 11, 2013. In its answer, Verde admits that the complainant is its customer, and asserts that, since September 14, 2012, it has supplied electric service to the complainant in accordance with the complainant’s telephone service enrollment as a Verde customer on August 23, 2012. Verde, in its answer, denies knowledge or information sufficient to form a belief as to the veracity of: (a) the complainant’s allegations regarding Star Energy, IGS Energy, or First Energy Solutions; and (b) the complainant’s belief that she has been slammed. Further, Verde admits that a bill in the amount of \$506.55 was provided to the complainant, and asserts that the billed amount was correct based the utility meter readings that were supplied to Verde from DP&L for the period from January 14, 2013, through February 1, 2013. Finally, in its answer, Verde requests that the complaint be dismissed, with prejudice, and that the Commission grant such other and further relief as it may deem proper.
- (5) Verde submitted, under seal, as Exhibit A to its answer, a compact disc containing an audio recording of the third-party verification of the complainant’s enrollment. The complainant’s customer account number is revealed if one listens to the entire audio recording. Verde also submitted both a public version and a confidential version of Exhibit B to its answer, which consists of a written transcript of the audio recording of the complainant’s third-party verification. The only difference between the public version and the confidential version of Exhibit B is that the complainant’s customer account number is revealed in the unredacted, confidential version of that exhibit, which was filed under seal, while the account number has been redacted from the public version. On June 11, 2013, Verde submitted a motion for protective order, by which its seeks to protect the confidentiality of the complainant’s account number, contained in the compact disc marked as Exhibit A to its answer, and in the confidential version of Exhibit B, filed under seal on June 11, 2013.

In support of its motion for protective order, Verde submits that Rule 4901:1-21-10(B), Ohio Administrative Code (O.A.C.), prohibits competitive retail electric service providers such as Verde from disclosing a customer's account number without the customer's consent. Verde explains that, in this instance, it does not have the complainant's consent to disclose the complainant's account number. Therefore, it has sought a protective order for the purpose of keeping the complainant's customer account number, which would otherwise be revealed in the exhibits to Verde's answer, from being publicly disclosed by Verde in this case.

- (6) The attorney examiner finds sufficient cause exists for granting Verde's motion for protective order. Accordingly, the motion is granted. As a result, Exhibits A and B to Verde's answer, as filed under seal on June 11, 2013, shall remain under seal for a period of five years, i.e., until June 11, 2018. Verde should, by no later than April 27, 2018, make an application to renew, for an additional five-year period, the protective treatment afforded here, in the event that, at that time, a remaining need for the same protective treatment continues to exist.
- (7) 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, 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.
- (8) Accordingly, a settlement conference in this matter is hereby scheduled to occur on July 18, 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.

- (9) 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.
- (10) 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 Verde’s June 11, 2013, motion for protective order be granted in accordance with Finding (6). It is, further,

ORDERED, That a settlement conference in this matter be scheduled for July 18, 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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6/27/2013 3:37:38 PM

in

Case No(s). 13-1233-EL-CSS

Summary: Attorney Examiner Entry schedules a prehearing settlement conference and rules on a motion for protective order. - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio