

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 Commission 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 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.

In their complaint, 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 during the second week of March, approximately 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 was 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 for complaint. 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) The complaint should be dismissed for failure to state reasonable grounds. The Complainants raise three issues, none of which compel a hearing: a) Toledo Edison did not timely submit a rebate check, b) Toledo Edison discriminated against the Complainants by subjecting their HVAC equipment to an inspection, and c) Toledo Edison failed to identify properly the person who inspected the equipment.
- (6) To support its claim that Toledo Edison did not timely submit a rebate check, the Complainants point out that all other homeowners who joined in the rebate program received their checks by mid-February. The Complainants allege that they received their rebate check during the second week of March. These facts alone are insufficient to lead us to find that the Complainants have stated reasonable grounds. The Complainants have merely asserted that others received their checks earlier. They have not alleged that Toledo Edison failed to adhere to any time constraints imposed by the rebate program.

In their complaint, the Complainants highlight that a "random test" was not one of the terms listed in the rebate form as a

condition for receiving a rebate check. Taking administrative notice of FirstEnergy's rebate program, we find that Toledo Edison reserved "the right to review installation to verify completion and measure energy savings to ensure compliance with all program requirements." The Commission does not find that a random test or the exercise of a right to inspect reserved under the rebate program constitutes sufficient facts to support a claim of discrimination. The Complainants do not assert any basis for the alleged discrimination that would warrant an investigation.

The Complainants' seek relief because they believe the person who conducted the inspection of their HVAC installation did not identify himself properly. However, the Complainants admit that they were contacted on February 16, 2013, and were informed that their equipment would be inspected. The Complainants further admit that they called their HVAC installer and verified that the inspection was not fraudulent. On February 19, 2012, the Complainants allowed an inspector to enter their home because they had confirmed the authenticity of the inspection beforehand. From these facts, it is evident that the verification and identity of the inspector was determined by the Complainants and is not an issue that needs to be decided by the Commission.

In reaching the conclusion that the Complainants have failed to state reasonable grounds, all allegations in the complaint have been taken as true. Because the complaint fails to present actual conflicts, fails to raise issues necessary for the Commission to decide, or show any entitlement to damages, the complaint should be dismissed.

It is, therefore,

ORDERED, That the complaint be dismissed for failure to state reasonable grounds for complaint. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler, Chairman

Steven D. Lesser

M. Beth Trombold

Lynn Slaby

Asim Z. Haque

LDJ/vrm

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Barcy F. McNeal

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Secretary