

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Stephen Grace,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 14-865-EL-CSS
	)	
Duke Energy Ohio, Inc.,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On May 12, 2014, Complainant, Stephen Grace, filed a complaint against Respondent, Duke Energy Ohio Inc. (Duke). The complainant alleges that during a wind storm that occurred on the night of March 14, 2014, a pine tree located on his property blew onto power lines, causing a transformer to spark and pine limbs touching the power lines to catch fire. Complainant asserts that Duke was notified and, on that same evening, came onto his property to cut down the pine tree. According to Complainant, the pine tree was located next to a piece of yard equipment and also next to Complainant's pool filtration system. Complainant asserts that Duke "felled the pine tree without any problems" but claims that Duke also "topped" a nearby maple tree and, in doing so, dropped the part of the maple tree they had just cut onto the pool filtration system. In doing this, claims Complainant, Duke broke the top off of the filtration system, broke the connection hosing, and left the entire system unusable and unrepairable. Complainant is seeking to have Duke pay to have the filtration system replaced.
- (2) On June 2, 2014, Respondent filed its answer. Duke admits that a wind storm occurred in the Complainant's neighborhood on March 14, 2014. Duke further admits that, at approximately 8:30 p.m. that evening, one of Complainant's neighbors reported to the company that a tree had fallen onto the Company's power lines and had

caught fire. Duke asserts that its trouble crew promptly reported to the scene (along with the local fire department), at which point a member of the crew found that a tree had been uprooted, was lying on the power lines, had damaged a nearby shed and pool equipment, and that several customers were without power. In its answer, Duke states that it ultimately restored power at approximately 12:27 a.m. early on March 15, 2014. Beyond this, Duke denies all of the other allegations in the complaint, including that it cut down another tree and damaged Complainant's pool equipment and related personal property. Further, Duke's answer sets forth affirmative defenses including: (a) that the complaint fails to set forth reasonable grounds for complaint; (b) that it fails to set forth a claim upon which relief can be granted, and (c) that Duke has, at all times relevant to the complaint, complied with the Revised Code, the rules, regulations, and orders of the Commission, and its tariffs on file with the Commission. Further, Duke requests dismissal of the complaint.

- (3) 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 Ohio Adm.Code 4901-1-26, any statement 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 either party from initiating settlement negotiations prior to the scheduled settlement conference.
- (4) Accordingly, a settlement conference shall be scheduled for July 17, 2014, at 10:00 a.m. in Hearing Room 11-A of the offices of the Commission, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner may 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 Ohio Adm.Code 4901-1-26(F), 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 be held on July 17, 2014, at 10:00 a.m. in Hearing Room 11-A of the offices of the Commission, 11th 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/Daniel Fullin

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By: Daniel E. Fullin  
Attorney Examiner

JRJ/sc

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

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**Case No(s). 14-0865-EL-CSS**

Summary: Attorney Examiner Entry scheduling a prehearing settlement conference for 07/17/2014 in accordance with finding (4). - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio