

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Virgil J. Temke, Jr.,)	
)	
Complainant,)	
)	
v.)	Case No. 14-1545-GA-CSS
)	
Duke Energy Ohio, Inc.,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) The above-referenced complaint was filed on September 2, 2014. In the complaint, Virgil J. Temke, Jr. (Mr. Temke or Complainant) alleges that Duke Energy Ohio, Inc. (Duke Energy) damaged the gas pipes in his house and caused leaks. Mr. Temke requests that Duke Energy repay him for the cost of repairing his gas pipes.
- (2) On September 24, 2014, Duke Energy filed an answer denying the allegations in the complaint. On that same day, Duke Energy filed a motion to dismiss the complaint.
- (3) In the motion to dismiss, Duke Energy states that the Commission should dismiss this action because Complainant fails to set forth reasonable grounds for a complaint against Duke Energy. Further, the Commission lacks jurisdiction to hear a property damage claim and award money damages, as requested by Complainant. More specifically, Duke Energy states that the complaint arises out of an apparent gas leak at Complainant's property two years after Duke Energy installed a new gas line and meter. Duke Energy states that if any mistakes were made in rendering those services, which Duke Energy denies, the resulting leaks in Complainant's gas line would have become apparent right after the work was done. Duke Energy also notes that Complainant does not allege in his complaint that Duke Energy failed to comply with any of its filed tariffs or any other rule or regulation and that the Commission does not

have jurisdiction to do award money damages, as Complainant seeks in his complaint. Duke Energy, therefore, argues that this complaint should be dismissed.

- (4) 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 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 either party from initiating settlement negotiations prior to the scheduled settlement conference.
- (5) Accordingly, a settlement conference shall be scheduled for October 23, 2014, at 11:00 a.m., in the offices of the Commission, Conference Room 1246, 12th floor, 180 East Broad Street, Columbus, Ohio 43215-3793. 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.
- (6) 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.
- (7) As is the case in all Commission complaint proceedings, 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, at this time, Duke Energy's motion to dismiss be denied. It is, further,

ORDERED, That the matter be scheduled for a settlement conference on October 23, 2014 at 11:00 a.m., in the offices of the Commission, Conference Room 1246, 12th floor, 180 East Broad Street, Columbus, Ohio 43215-3793. It is, further,

ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ Kerry K. Sheets

By: Kerry K. Sheets
Attorney Examiner

CMTP/dah

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/9/2014 4:54:56 PM

in

Case No(s). 14-1545-GA-CSS

Summary: Attorney Examiner Entry that, at this time, Duke Energy's motion to dismiss be denied and the matter be scheduled for a settlement conference on October 23, 2014 at 11:00 a.m.; electronically filed by Debra Hight on behalf of Kerry K. Sheets, Attorney Examiner.