

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Judith R. Zuniga,)	
)	
Complainant,)	
)	
v.)	Case No. 14-1564-EL-CSS
)	
The Toledo Edison Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On September 8, 2014, Complainant, Judith R. Zuniga, filed a complaint against Respondent, The Toledo Edison Company (TE). Briefly summarized, the complaint alleges that since July 3, 2014, TE has, without authorization, withdrawn funds from Complainant's bank checking account, leaving that account in negative balance and resulting in the bank imposing overdraft fees.
- (2) TE filed its answer on September 29, 2014. In its answer, TE alleges that, on July 3, 2014, Complainant was placed on agreement for up front payment of \$12.00, through an auto payment arrangement that Complainant had set up. In the meantime, avers TE, Complainant paid the \$12.00 payment instead with a payment agent. Complainant contacted TE and requested that the auto payment be cancelled. However, the auto payment was not cancelled, says TE, because TE's representative misunderstood Complainant's request. Thereafter, claims TE, a good faith credit of \$37.50 was added to Complainant's account and TE attempted to contact Complainant several times to obtain wire information to pay \$37.50 to Complainant's bank account. TE submits that both contact numbers for Complainant were disconnected. TE also alleges that it reversed it \$15.00 return check charge. Finally, in its answer, TE raises several affirmative defenses, including: (a) that the complaint fails to allege that TE has violated a rule or statute applicable to it; (b) that the complaint fails to set forth reasonable grounds for complaint, as required by R.C. 4905.26;

- (c) that the complaint does not set forth a claim for which relief may be granted; and (d) that at all times relevant to the complaint, TE complied with all applicable laws, regulations, and its own tariffs.
- (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 November 19, 2014, at 10:00 a.m. in Conference Room 1247 of the offices of the Commission, 12th 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 November 19, 2014, at 10:00 a.m. in Conference Room 1247 of the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. 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

s/Daniel E. Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/dah

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/24/2014 9:00:45 AM

in

Case No(s). 14-1564-EL-CSS

Summary: Attorney Examiner Entry that a settlement conference be held on November 19, 2014, at 10:00 a.m. in Conference Room 1247 of the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215; electronically filed by Debra Hight on behalf of Daniel E. Fullin, Attorney Examiner.