

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF MARK KELLEY ,**

**COMPLAINANT,**

**v.**

**CASE NO. 16-1789-WW-CSS**

**AQUA OHIO, INC.,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on September 29, 2016

{¶ 1} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice relating to any service furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory.

{¶ 2} Aqua Ohio, Inc. (Aqua or Respondent) is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On August 24 2016, Mark Kelley (Complainant) filed a complaint against Aqua alleging, among other things, that a leak on the water service line serving his property caused him to incur both costs associated with higher water usage and costs associated with repairing the service line. Essentially, Complainant contends that he should be reimbursed by Aqua for such costs because it was Aqua's improper installation of the service line that caused those costs to be incurred. Further explaining, Complainant alleges that when the City of Marion replaced sewer, water, and gas lines near his property, Aqua improperly installed his water service line approximately one foot from the water meter, directly under a city sidewalk, and over an existing old galvanized line that should have been removed.

{¶ 4} Aqua filed its answer on September 14, 2016. In its answer, Aqua admits some and denies other of the complaint's allegations and sets forth several affirmative defenses.

{¶ 5} 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 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 any party from initiating settlement negotiations prior to the scheduled settlement conference.

{¶ 6} Accordingly, a settlement conference shall be scheduled for October 19, 2016, at 10:00 a.m. at the Commission offices, 180 East Broad Street, 12th floor, Conference 1246, Columbus, Ohio 43215-3793. The parties should bring with them all documents relevant to this matter. 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.

{¶ 7} Pursuant to Ohio Adm.Code 4901-1-26(F) 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.

{¶ 8} 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).

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That a settlement conference be scheduled for October 19, 2016, 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,

{¶ 11} ORDERED, That a copy of this Entry be served upon all parties 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**

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**Case No(s). 16-1789-WW-CSS**

Summary: Attorney Examiner Entry ordering a settlement conference be scheduled for October 19, 2016, at 10:00 a.m. at the Commission offices, 180 East Broad Street, 12th floor, Conference Room 1246, Columbus, Ohio 43215-3793. Entry electronically filed by Debra Hight on behalf of Daniel E. Fullin, Attorney Examiner.