

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF  
RICHARD BURKART,**

**COMPLAINANT,**

**v.**

**CASE No. 17-818-EL-CSS**

**OHIO POWER COMPANY,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on April 13, 2017

{¶ 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} Respondent, Ohio Power Company d/b/a AEP Ohio (AEP Ohio), is a public utility, as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On March 23, 2017, Richard Burkart (Complainant) filed a complaint against AEP Ohio. In the complaint, Complainant claims that on January 5, 2017, AEP Ohio billed Complainant \$692.40 for electric services received for the period December 1, 2016 through January 4, 2017, based on an observed meter reading of 38,992 kilowatts-hours (kWh). Mr. Burkart attaches photographs of the meter purportedly taken between January 10, 2017 and January 19, 2017. The Complainant argues that the photographs show that the meter dials are misaligned. On or about January 20, 2017, Complainant states he contacted AEP Ohio, informed them of a problem with the meter, asked that the Company investigate the problem and requested to be present when the field technician evaluates the meter to explain his findings. Complainant

states on January 24, 2017, he found a door tag from AEP Ohio which indicated that the meter had been read and determined to be accurate with a reading of 4,7341 kWh. After contacting AEP Ohio again about the meter, Mr. Burkart states he met with the field service technician and the meter supervisor on February 10, 2017. At the February 10, 2017 meeting, AEP Ohio personnel and the Complainant reviewed Complainant's photographs of the meter and discussed the meter calibration process, dial indicators and relative positioning, and evaluation of the meter. The meter was replaced on February 10, 2017. Complainant alleges the meter readings were inaccurate and the equipment faulty and, as a result, AEP Ohio has issued erroneous bills to Complainant. Complainant declares AEP Ohio can not provide any reliable usage measurement for service December 1, 2016, until the meter was replaced on February 10, 2017, and therefore, AEP Ohio should credit the Complainant for all erroneously billed usage, which the Complainant estimates to be at least \$1,080.90.

{¶ 4} On April 11, 2017, AEP Ohio filed its answer to the complaint and admits the dials on the meter installed prior to February 10, 2017, were slightly misaligned. However, AEP Ohio states the meter was tested for accuracy and was within the applicable American National Standards Institute 2008 standards and, therefore, denies that the Complainant was erroneously billed for electric services received December 1, 2016 to February 2, 2017. AEP Ohio denies the remaining allegations in the Complaint.

{¶ 5} Further, AEP Ohio states that pursuant to R.C. 4905.26 and Ohio Adm.Code 4901-9-01(C)(3), the complaint fails to set forth reasonable grounds to sustain a complaint. The Company declares that at all times relevant to the complaint, it has complied with R.C. Title 49, applicable Commission rules, regulations and orders and applicable provisions of the Company's tariff.

{¶ 6} The attorney examiner notes that on April 5, 2017, Mr. Burkart contacted the Commission offices about the status of his complaint and his electric account with AEP Ohio. In conversations with Commission Staff, Complainant represented that his electric service was subject to disconnection on or about April 6, 2017.

{¶ 7} On April 5, 2017, the attorney examiner contacted AEP Ohio and AEP Ohio confirmed Mr. Burkart's account was subject to disconnection for nonpayment. However, AEP Ohio informed the attorney examiner that as a result of the pending complaint, Mr. Burkart's account had been removed from the disconnection list. Further, AEP Ohio stated Company personnel had attempted to notify Mr. Burkart by telephone but the Complainant could not be reached and his voice mailbox was full.

{¶ 8} Subsequently, the attorney examiner contacted Mr. Burkart on April 5, 2017, and informed the Complainant that his service was not immediately subject to disconnection; however, while this complaint is pending, he must pay the amounts not in dispute to avoid the disconnection of his service. Ohio Adm.Code 4901-9-01(E).

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

{¶ 10} Accordingly, a settlement conference shall be scheduled for May 17, 2017, at 10:00 a.m., at the Commission offices, 180 East Broad Street, 11th floor, Hearing Room C, 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.

{¶ 11} 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 authority to settle those issues.

{¶ 12} 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).

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That a settlement conference be scheduled for May 17, 2017, at 10:00 a.m. at the Commission offices, 180 East Broad Street, 11th floor, Hearing Room C, Columbus, Ohio 43215-3793. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Greta See

By: Greta See  
Attorney Examiner

JRJ/dah

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

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**Case No(s). 17-0818-EL-CSS**

Summary: Attorney Examiner Entry ordering a settlement conference be scheduled for May 17, 2017, at 10:00 a.m. at the Commission offices, 180 East Broad Street, 11th floor, Hearing Room C, Columbus, Ohio 43215-3793. Entry electronically filed by Debra Hight on behalf of Greta See, Attorney Examiner.