

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
GREGORY PECK,**

COMPLAINANT,

v.

CASE NO. 16-2338-EL-CSS

DUKE ENERGY OHIO, INC.,

RESPONDENT.

ENTRY

Entered in the Journal on August 28, 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, Duke Energy Ohio, Inc. (Duke), is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On December 8, 2016, Gregory Peck (Complainant) filed a complaint against Duke. The complaint alleges, among other things, that, upon learning that Duke wished to place an advanced meter at his home, he requested that Duke provide information on what the advanced meter was to be used for after it was installed. Complainant is concerned that the advanced meter Duke was proposing to install in his home might have privacy-invading capabilities and could be used by Duke for purposes other than those specifically identified in the marketing materials Duke provided him. Complainant further alleges that Duke refused to provide Complainant with a letter such as the one he requested and, instead, began charging him \$30.00 per month for not having the smart meter installed.

{¶ 4} Duke filed its answer on December 21, 2016. In its answer, Respondent admits some and denies others of the allegations of the complaint and sets forth several affirmative defenses.

{¶ 5} A settlement conference was scheduled for and held on April 18, 2017. However, the parties were unable, then or since, to resolve the dispute giving rise to this complaint case.

{¶ 6} R.C. 4905.26 requires that the Commission set for hearing a complaint against a public utility whenever reasonable grounds appear that any rate charged or demanded is in any respect unjust, unreasonable, or in violation of law, or that any practice affecting or relating to any service furnished is unjust or unreasonable.

{¶ 7} The attorney examiner finds that reasonable ground for complaint have been stated. Accordingly, this case should be scheduled for hearing on October 4, 2017, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-C, Columbus, Ohio 43215-3793.

{¶ 8} All discovery requests should be conducted in accordance with Ohio Adm.Code 4901-1-16 to 4901-1-24.

{¶ 9} Any party intending to present direct expert testimony should comply with Ohio Adm.Code 4901-1-29(A)(1)(h), which requires that all such testimony to be offered in this type of proceeding be filed and served upon all parties no later than seven days prior to commencement of the hearing.

{¶ 10} In complaint proceedings before the Commission, 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). Therefore, at hearing, it shall be Complainant's responsibility to appear and present evidence in support of the complaint.

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That a hearing in this matter be scheduled for October 4, 2017, at 10:00 a.m. at the Commission offices, 180 East Broad Street, 11th floor, Hearing Room 11-C, Columbus, Ohio 43215-3793. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Daniel Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/sc

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Case No(s). 16-2338-EL-CSS

Summary: Attorney Examiner Entry scheduling hearing for 10/04/2017 in accordance with Paragraph 7. - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio