

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
KENNETH B. LOGAN,**

COMPLAINANT,

v.

CASE NO. 17-1943-EL-CSS

OHIO POWER COMPANY,

RESPONDENT.

OPINION AND ORDER

Entered in the Journal on January 16, 2019

I. SUMMARY

{¶ 1} The Commission finds that Complainant has not demonstrated that AEP Ohio's actions were unjust, unreasonable or in violation of law.

II. PROCEDURAL BACKGROUND

{¶ 2} On September 6, 2017, Kenneth B. Logan (Complainant) filed a complaint against Ohio Power Company (AEP Ohio or the Company). In the complaint, the Complainant alleges that AEP Ohio misread his meter, billed him improperly, and failed to issue a rebate. The Complainant also alleges that AEP Ohio inappropriately assessed him charges relating to the service of disconnection notices.

{¶ 3} On September 26, 2017, AEP Ohio filed an answer in which it denied all material allegations in the complaint.

{¶ 4} By Entry issued November 6, 2017, the attorney examiner scheduled a settlement conference for December 6, 2017. The Complainant did not appear for the

settlement conference. However, the parties did initiate negotiations and agreed to the rescheduling of a settlement conference.

{¶ 5} By Entry issued December 13, 2017, the attorney examiner scheduled a settlement conference for December 18, 2017.

{¶ 6} On December 18, 2017, AEP Ohio filed a motion to dismiss the complaint with prejudice. In support of its motion, AEP Ohio alleged that the parties had resolved all issues raised in the complaint.

{¶ 7} By Entry issued February 23, 2018, the attorney examiner provided the Complainant 20 days to respond to the motion to dismiss.

{¶ 8} By facsimile transmission dated March 6, 2018, the Complainant contested AEP Ohio's motion to dismiss.

{¶ 9} On May 2, 2018, the attorney examiner issued an entry scheduling this matter for a hearing to occur on June 28, 2018.

{¶ 10} Pursuant to a motion to continue filed by the Complainant's newly retained counsel, the attorney examiner continued the hearing to September 26, 2018.

{¶ 11} On September 25, 2018, the Complainant's counsel filed a notice of withdrawal.

{¶ 12} A hearing was held on September 26, 2018, at which the Company presented its evidence. The Complainant did not appear.

III. DISCUSSION

A. *Applicable Law*

{¶ 13} R.C. 4905.22 provides that every public utility shall furnish service and facilities that are adequate, just, and reasonable, and that all charges made or demanded for any service be just, reasonable, and not more than allowed by law or by order of the Commission.

{¶ 14} Pursuant to R.C. 4905.26, the Commission has authority to consider a written complaint 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.

{¶ 15} AEP Ohio is a public utility as defined in R.C. 4905.02, and, as such, AEP Ohio is subject to the jurisdiction of this Commission.

{¶ 16} In complaint proceedings, the burden of proof lies with the complainant. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966). Therefore, in cases such as this, it is the responsibility of the complainant to present evidence in support of the allegations made in the complaint.

B. *Issues Raised by the Complainant*

{¶ 17} The Complainant alleges in his complaint that the Company erred in reading his meter, billed him incorrectly, inflated charges related to disconnection, and failed to give him a \$60 rebate. In a letter filed May 2, 2018, the Complainant raised an additional issue, referring to the danger of smart meters and that the installation of such a meter would likely cause his son to experience “cluster headaches.”

C. *Summary of the Evidence*

{¶ 18} On June 21, 2018, AEP Ohio filed the testimony of Dwight C. Snowden (AEP Ohio Ex. 1 and 2) and Paula S. Igo (AEP Ohio Ex. 3). Mr. Snowden appeared and testified at the hearing on behalf of AEP Ohio. He is employed by American Electric Power Service Corporation as a Senior Collection Support Coordinator. In that capacity, he is responsible for credit and collection guidance to ensure compliance with credit and collection regulations. The purpose of his testimony is to explain the Company's billing and collection policies and the billing and credit history of the Complainant. Mr. Snowden sponsored AEP Ohio Exs. 1 and 2. AEP Ohio Ex. 2 is supplemental testimony that updates the billing and credit history of the Complainant. Mr. Snowden testified that the Company attempts to read each meter every month to provide customers with bills based on actual usage. He pointed out that actual meter reading is not always possible. For example, a customer could deny access to a meter or access to the meter could be prevented by a locked door, gate, dog, or inclement weather. In such a case, the Company would issue estimated bills based upon account history. (AEP Ohio Ex. 1 at 2-3.)

{¶ 19} In his testimony, Mr. Snowden discussed the Company's credit and collection procedures for nonpayment. If a current bill remains unpaid at the next billing date, the Company issues a disconnection notice to collect the past due balance. AEP Ohio provides the customer with notice of pending disconnection for nonpayment at least 14 days prior to disconnection. The notice may be mailed separately or with the regular monthly bill. During the winter period, November 1 through April 15, at least ten days prior to the scheduled disconnection of service, AEP Ohio provides an additional notification to customers that are pending disconnection for nonpayment. In addition, AEP Ohio attempts to call the customer by telephone. If there is no phone or if contact is unsuccessful, the Company mails a notice of the pending disconnection to the customer. On the day of disconnection, field personnel will attempt to make contact in-

person with the customer. Disconnection may proceed whether or not field personnel make contact with the customer, but not if there is a forecast of less than 25 degrees Fahrenheit within the next 24 hours. (AEP Ohio Ex. 1 at 3-4.)

{¶ 20} After discussing the Company's credit and collection policies, Mr. Snowden reviewed the Complainant's billing and credit history. He noted that the Complainant opened his account on December 22, 2001 (AEP Ohio Ex. 1 at 4). An exhibit attached to the witness' testimony provides an account billing and payment history (AEP Ohio Ex. 2, DCS-S1). In Mr. Snowden's review of billing and arrearages, he mentioned that the Company had to estimate billings on several occasions because the Complainant prevented access to his meter by locking a door or a gate (AEP Ohio Ex. 1 at 4). Because of accumulated payment arrearages, the Company offered the Complainant an extended payment agreement. The agreement provided that the Complainant could pay his outstanding balance of \$326.52, as of December 18, 2018, over a period of 12 months, equating to 12 monthly payments of \$27.21. The Complainant would continue to pay current charges. (AEP Ohio Ex. 1 at 6.) At the time of the hearing, Mr. Snowden testified that the Complainant's account was not in good standing. The Complainant had not paid the monthly amount. (AEP Ohio Ex. 2 at 2.)

{¶ 21} As of September 2018, the amount due on the Complainant's account was \$442.35. This amount includes 90-days arrears of \$29.47, 60-days arrears of \$98.48, 30-days arrears of \$158.69, and current charges of \$155.71 due on October 1, 2018. The total account balance is \$496.77. Mr. Snowden added that the Complainant failed to make full payment of the total amount due for 21 of the past 24 bill periods. (AEP Ohio Ex. 2 at 2; Ex. DCS-S1.)

{¶ 22} Ms. Paula S. Igo appeared and testified at the hearing on behalf of AEP Ohio. Ms. Igo is employed by AEP Ohio in the Regulatory Consultant, Principle position and sponsored AEP Ohio Ex. 3. She is involved in the deployment of the AEP Ohio smart

grid. The purpose of her testimony is to provide information about the metering options available to customers and to the Complainant. (AEP Ohio Ex. 3 at 1-2.)

{¶ 23} Ms. Igo presented testimony about the deployment of Advanced Meter Infrastructure (AMI) meters or “smart” meters throughout AEP Ohio’s service territory. Depending upon location, AMI meters are the standard for residential customers. In areas that are more rural, AEP Ohio has deployed AMR or “radio frequency” meters. AMR meters are also installed when AEP Ohio is aware that an analog meter is not measuring electrical consumption properly. However, the AMI network has not yet been deployed in the customer’s area. Ms. Igo also noted that the Complainant’s residence is within the Company’s AMI deployment territory, making him ineligible for AMR (AEP Ohio Ex. 3 at 3). Typically, AMI meters are deployed after completion of the network that supports them (Tr. at 11).

{¶ 24} Analog or dial meters are no longer standard metering equipment in AEP Ohio’s territory. The meters are no longer manufactured or supported. The Company has not purchased such meters in over ten years. Moreover, new employees are not trained to read analog/dial meters. While some meters remain in operation, they are being replaced by AMI or AMR meters. For customers who choose to opt-out of standard metering equipment, AEP Ohio makes available a non-emitting digital meter. These meters, rather than transmitting data like their AMI counterparts, display the data, thus requiring physical access to the meter. Non-emitting digital meters do not send or receive information. Customers who choose to opt-out of AMI must pay a \$24.00 monthly fee. If an AMI meter has been installed at the premises, the customer must pay a \$54.00 meter exchange fee to obtain a non-emitting meter. At the customer’s expense, the customer may also move the meter to a different location on the premises. Notwithstanding the choice of opting out, Ms. Igo highlighted the rule that allows the Company to refuse opt-out service when the service creates a safety hazard or when the customer does not allow access to the meter at the customer’s premises. She testified that the standard meter

for the Complainant is an AMI meter. If he chooses to opt out he will receive a non-emitting, digital meter and be charged the monthly opt-out fee. (AEP Ohio Ex. 3 at 4-7.)

D. Conclusion

{¶ 25} In his complaint, Mr. Logan alleged that he paid his electricity bills on time. He claims that there are billing errors, errors in disconnection notification, and failure to issue a \$60 rebate. In a letter filed on May 2, 2018, Mr. Logan claimed that smart meters presented a hazard to the health of his son. The Complainant did not appear at the hearing to provide evidence to support his claims. Accordingly, the Commission must conclude that the Complainant did not meet his burden of proof. On the other hand, AEP Ohio produced records to show that the Complainant owes \$496.77 on his account as of October 1, 2018. The Complainant merely made an assertion concerning an AEP Ohio rebate of \$60. Without pleading facts and presenting evidence, there is no basis to support the Complainant's claim and so it must be denied. Although there is no evidentiary support for the Complainant's claim that smart meters present a health hazard, the Complainant may alleviate this concern by requesting the installation of a non-emitting meter and paying the applicable fee. Accordingly, the Commission finds that the Complainant has not met his burden of proof demonstrating that AEP Ohio's actions were unjust, unreasonable or in violation of law.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 26} On September 6, 2017, Kenneth B. Logan filed a complaint against AEP Ohio, alleging that AEP Ohio misread his meter, billed him improperly, and failed to issue a rebate. The Complainant also alleged that AEP Ohio inappropriately assessed him charges relating to the service of disconnection notices.

{¶ 27} On September 26, 2017, AEP Ohio filed an answer in which it denied all material allegations in the complaint.

{¶ 28} A settlement conference was conducted on December 18, 2017. On the same day, AEP Ohio filed a motion to dismiss the complaint, asserting that the parties had resolved the dispute.

{¶ 29} By Entry issued February 23, 2018, the attorney examiner issued an Entry providing the Complainant 20 days to respond to AEP Ohio's motion to dismiss.

{¶ 30} In response to a letter submitted by the Complainant, the attorney examiner issued an Entry on May 2, 2018, scheduling a hearing for June 28, 2018.

{¶ 31} By Entry issued August 27, 2018, the attorney examiner continued the hearing to September 26, 2018, pursuant to a motion to continue filed by the Complainant's counsel.

{¶ 32} On September 25, 2018, Complainant's counsel filed notice of his withdrawal as counsel for the Complainant.

{¶ 33} On September 26, 2018, a hearing was held in the offices of the Commission, at which the Complainant did not appear.

{¶ 34} The burden of proof in a complaint proceeding is on the complainant *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 35} The Complainant did not meet his burden of proof to demonstrate that AEP Ohio Power violated its tariff, a rule or order of the Commission, or any provision of R.C. Title 49.

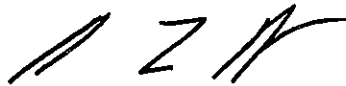
V. ORDER

{¶ 36} It is, therefore,

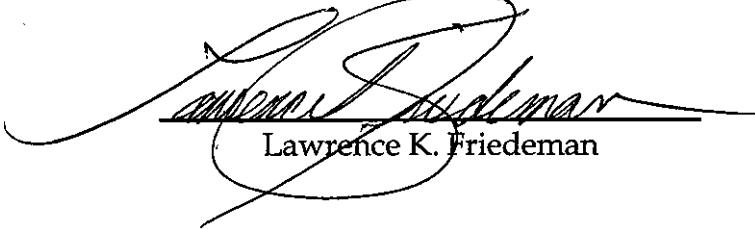
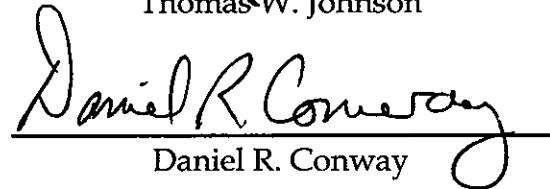
{¶ 37} ORDERED, That this matter be decided in favor of AEP Ohio, as the Complainant has failed to meet his burden of proving the allegations in the complaint. It is, further,

{¶ 38} ORDERED, That a copy of this Opinion and Order be served upon the parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Asim Z. Haque, Chairman


M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

LDJ/sc

Entered in the Journal
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Secretary