

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Complaint of Ed Luu, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | Case No. 20-1407-EL-CSS |
| |) | |
| Ohio Power Company, |) | |
| |) | |
| Respondent. |) | |

**OHIO POWER COMPANY'S
INITIAL POST-HEARING BRIEF**

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1. Introduction

Complainant Ed Luu alleges that the electric meter at his house exploded and set his house on fire, and argues that Respondent Ohio Power Company (“AEP Ohio” or the “Company”) should be liable for damages. Complainant failed to meet his burden of proving that the meter exploded. Indeed, the incontrovertible evidence demonstrates that the fire started outside of the meter because Complainant’s service entrance cable failed. For the reasons set forth below, AEP Ohio respectfully asks the Public Utilities Commission of Ohio (the “Commission”) to decide this case in AEP Ohio’s favor and to dismiss the Complaint with prejudice.

2. Statement of Facts

2.1. AEP Ohio’s Tariff

The Company’s Terms and Conditions of Service in effect on July 19, 2020 (the “Tariff”), the day of the incident, govern the electric service provided from the Company to Complainant. Paragraph 19 of the Tariff states that the Company is not responsible for any damage caused by defects in the customer’s equipment.¹ Paragraph 20 of the Tariff provides that the customer owns all of the equipment between the delivery point and the metering device, including the meter base and all internal parts inside the meter base. The Company owns the metering device; the customer owns the service entrance cable leading to the metering device.² The Company is not liable for damage caused by equipment which does not belong to the Company.³

2.2. The Complaint

2.2.1. Complainant’s electric service was issue-free before the incident.

From the time Complainant moved into his house in 2003 until the incident, Complainant had no issues with his electrical service and used the same house wiring without alteration.⁴ Two service calls occurred at Complainant’s

¹ P.U.C.O. No. 20 at 3rd Revised Sheet No. 103-12(¶19); AEP Ohio Exhibit 1 at 4:16.

² P.U.C.O. No. 20 at 3rd Revised Sheet No. 103-12(¶20)

³ *Id.*

⁴ Tr. at 54:10-15.

house in the years leading up to the incident—one by the Company in August 2017 to remove a tree branch that was sagging down near a service line, and one by a third-party vendor in May 2019 to install an advanced metering infrastructure electric meter (i.e. smart meter). Complainant did not report any service issues or property damage to the Company following either service call, and the Company's records contain no information suggesting that AEP Ohio or its vendor caused any damage at either time.⁵ Furthermore, there was no reason for anyone from either the Company or the third-party vendor to touch customer-owned equipment, like Complainant's service entrance cable, during either service call.⁶ The meter installed at Complainant's residence sent analytics data about its operations to the Company every four hours; that data shows no sign of unusual temperatures or other issues between May 1, 2020, and the incident.⁷ There is also no evidence of any issues with the meter before May 2020.

2.2.2. The incident and the following events.

July 18, 2020, started as a crisp day with clear blue skies.⁸ Complainant was in bed but was awoken by the sound of an explosion, which he thought might be fireworks.⁹ He initially thought nothing of the sound, but soon his room filled with smoke and he realized that the house was on fire.¹⁰ The fire quickly spread and started to burn three layers of siding.¹¹ Complainant called the fire department, who extinguished the fire.¹²

The Company removed its service from Complainant's residence after receiving notice of the fire.¹³ On August 1, 2020, Complainant filed a claim with the Company.¹⁴ On August 4, 2020, an AEP Ohio supervisor went to Complainant's residence to inspect the scene of the incident and found that Complainant's

⁵ Tr. at 54:16-25; AEP Ohio, Ex. 1, p. 6:8-15.

⁶ AEP Ohio, Ex. 1, p. 6:16-19.

⁷ AEP Ohio, Ex. 1, p. 6:20-23

⁸ Tr. at 23:15.

⁹ Tr. at 13:3; 55:23-56:3.

¹⁰ Complaint; Tr. at 13:5-12.

¹¹ Tr. at 13:13-20.

¹² Tr. at 57:3-6.

¹³ AEP Ohio, Ex. 1, p. 7:10-11.

¹⁴ AEP Ohio, Ex. 1, p. 2:14.

service entrance cable had failed and caused the fire.¹⁵ The Company does not know why Complainant's service entrance cable failed.¹⁶ On August 5, 2020, the Company sent Complainant a denial letter explaining that his claim was denied because the Company was not responsible for damage caused by the failure of Complainant's service entrance cable.¹⁷ On August 19, 2020, Complainant filed his Complaint with the Commission alleging that the "meter exploded" and set his house on fire.¹⁸

2.3. The Hearing

2.3.1. The description of the explosion.

Complainant believes that the meter exploded¹⁹ even though he was asleep at the time of the incident and thus did not see it. Nor does Complainant possess any relevant expertise to make such a determination.²⁰ Complainant has not been trained or certified to investigate the cause of fires.²¹ He admits that he is not a fire expert.²² He is not an electrician.²³ Furthermore, although Complainant believes that the meter exploded, he admitted that a firecracker could have started the fire.²⁴

Stephen P. James testified on behalf of the Company. Mr. James has over 40 years of electric utility experience, having begun his career first as a meter reader and field-technician, and now serving as the Company's Advanced Meter Infrastructure Manager.²⁵ Mr. James testified that he is not aware of the occurrence of any smart-meter fires in AEP Ohio, the AEP service system, or the utility

¹⁵ AEP Ohio, Ex. 1, p. 7:13-14.

¹⁶ AEP Ohio, Ex. 1, p. 3:16-17.

¹⁷ AEP Ohio, Ex. 1, p. 2:22-3:2.

¹⁸ Complaint.

¹⁹ Tr. at 16:4-6; 18:11; 28:3; 29:22; 31:7; 40:4; 40:19; 51:11.

²⁰ Complaint; Tr. at 55:20-25.

²¹ Tr. at 59:5-19.

²² Tr. at 47:24.

²³ Tr. at 50:13-14.

²⁴ Tr. at 59:12.

²⁵ AEP Ohio, Ex. 1, p. 1:5-21.

industry at large.²⁶ He has, however, observed accidents that were similar to the fire at Complainant's house and caused by a homeowner's failed equipment.²⁷

Mr. James said that an arc flash may have caused the fire, and that this explanation was consistent with Mr. Luu's description of an explosion when the incident occurred.²⁸ Mr. James stated that an arc flash is not caused by a surge of power, but rather by the release of energy from a fault in a wire.²⁹ In his expert opinion, an arc flash from a fault in Complainant's service entrance cable was the original heat source for the fire.³⁰ He further stated that the arc flash could have ignited the siding and substructure of the house, causing the fire to expand from its original location.³¹

2.3.2. The service entrance cable.

Complainant agreed that the service entrance cable is his property and that it was "fried."³² He asserted, without any basis for his lay opinion, that the service entrance cable could not have started the fire because it is not flammable and did not burn.³³ He said that the service entrance cable could not have caused the incident because it supposedly was not touching the house at the point of the fault.³⁴ He argued that the entrance cable lacked the amount of flammable material necessary to keep the house fire going on its own.³⁵ In an attempt to support these claims, Complainant introduced Complainant's Exhibits 1 and 2,³⁶ small pieces of electric cables that he cut himself, to show that the cables are "solid."³⁷ However, he took these pieces from *below* the meter, because that piece of wire

²⁶ Tr. at 79:8-9.

²⁷ Tr. at 76:24-77:8.

²⁸ Tr. at 83:11;83:3-4.

²⁹ Tr. at 84:6-12.

³⁰ Tr. at 71:9-10;73:1-4.

³¹ Tr. at 83:10-15.

³² Tr. at 36:18,39:14.

³³ Tr. at 39:15-18.

³⁴ Tr. at 17:7-14.

³⁵ Tr. at 42:5-6.

³⁶ Piece of cable with the binding on it is Complainant's Exhibit 1. Tr. 60:22-23. Cable piece without binding around it is Complainant's Exhibit 2. Tr. 60:23-25.

³⁷ Tr. at 6:6-20.

“look[ed] more intact,”³⁸ even though the service entrance cable *above* the meter failed.³⁹ Complainant’s Exhibits 1 and 2 therefore are not representative of the condition of the cable at issue, and the Commission should decline to give them any weight in making its decision in this case.

Mr. James stated that Complainant’s service entrance cable caused the fire, based on his experience and review of the Company’s records, because an insulated section of the cable was burned and had a hole in it.⁴⁰ In Mr. James’s opinion, the damage to the back of Complainant’s house, which was focused around the service entrance cable, was consistent with the service entrance cable causing the fire.⁴¹ Mr. James did not know how Complainant’s service entrance cable failed, though in his experience such failures are caused by the natural aging of the cable, or numerous other environmental reasons.⁴² He further testified that he has observed multiple instances where animals have chewed through electric cables, including service entrance cables and triplex wire.⁴³ He stated that this was a particular issue after a wire aged and weathered.⁴⁴

2.3.3. The electric meter.

Mr. James testified that he examined the meter that served Complainant’s premises on the date of the incident and concluded that it did not explode or fail.⁴⁵ The internal components of the meter were undamaged.⁴⁶ He found no signs of heat buildup on the meter base, as there usually would be if the meter caused the fire, and the meter face was not discolored.⁴⁷ Mr. James stated that the damage to the meter clearly occurred from an outside heat source.⁴⁸ He said the regular plastic encasing of the meter will melt when exposed to heat, and that

³⁸ Tr. at 61:3-5.

³⁹ Tr. at 86:11-14.

⁴⁰ AEP Ohio, Ex. 1, p. 3:7-10.

⁴¹ Tr. 74:7-11; AEP Ohio, Ex. 1, p. Exhibit 3, Appendix p. 3.

⁴² AEP Ohio, Ex. 1, p. 3:16-17; 7:3-8.

⁴³ Tr. at 68:5-12.

⁴⁴ Tr. at 68:13-14.

⁴⁵ Tr. at 70:1-6; AEP Ohio, Ex. 1, Exhibits 10-14, Appendix p. 10-14.

⁴⁶ Tr. at 70:22; AEP Ohio, Ex. 1, p. 3:12-13.

⁴⁷ Tr. at 70:23-25; 71:2; AEP Ohio, Ex. 1, p. 3:12-14

⁴⁸ Tr. at 71:4-5.

the nature of the melting in this case showed that the heat source came from outside the meter.⁴⁹ Mr. James's testimony was confirmed by substantial photographic evidence objectively demonstrating many of his observations.⁵⁰

3. Law and Argument

3.1. Standard of Review

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. 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 order to prevail in this matter, Complainant must prove the allegations in his complaint by a preponderance of the evidence. Complainant has failed to meet his burden of proof.

3.2. Argument

3.2.1. The service entrance cable was Complainant's property; the Company is not responsible for damage resulting from its use.

Every public utility in Ohio, including the Company, files tariff schedules with the Commission for review and approval; these tariff schedules govern the utility-customer relationship—when the Commission approves a utility's tariff, it tacitly signifies that the provisions of the tariff are neither unjust nor unreasonable on their face. See *In the Matter of the City of Reynoldsburg v. Columbus Southern Power Company*, Case No. 08-846-EL-CSS, Opinion and Order at 14 (April 5, 2011).

Paragraph 19 of the Tariff in place at the time of the incident provides that the Company is not responsible for damage caused by the customer's equipment⁵¹ Paragraph 20 of the Tariff provides that the service entrance cable is the customer's equipment.⁵² Complainant himself agreed that he owned the service

⁴⁹ Tr. 80:12-15; 81:4-7.

⁵⁰ AEP Ohio Ex. 1, Exhibits 8, 10-14.

⁵¹ P.U.C.O. No. 20 at 3rd Revised Sheet No. 103-12(¶19); AEP Ohio Exhibit 1 at 4:16.

⁵² P.U.C.O. No. 20 at 3rd Revised Sheet No. 103-12(¶20)

entrance cable.⁵³ Therefore, because the service entrance cable is customer equipment, the Company is not liable for damage caused by its use.

3.2.2. The record evidence demonstrates that the fire likely resulted from a fault in Complainant's service entrance cable; Complainant offered no evidence otherwise.

The service entrance cable at Complainant's residence was at least seventeen years old, if not older, at the time of the incident, undoubtedly leaving it in a weathered and weakened condition.⁵⁴ Complainant agreed that his service entrance cable was "fried."⁵⁵

Complainant's descriptions of his experience and the "fried" service entrance cable are consistent with the occurrence of an "arc flash," as Mr. James, the Company's expert witness, explained.⁵⁶ This arc flash could have caught the siding and substructure of the house on fire, which unfortunately then further expanded.⁵⁷ An insulated section of the cable was burned and had a hole in it, indicating an arc flash.⁵⁸ Moreover, fire damage to the back of Complainant's house was focused around where the service entrance cable came from the service drop down to the meter itself, further indicating that the fire started at the service entrance cable.⁵⁹

Complainant asserted that the service entrance cable could not have started the fire because it is not flammable, did not burn, and did not touch the house, even though an arc flash requires none of those things to occur.⁶⁰ Unlike Mr. James, however, Complainant is not qualified to offer opinion testimony regarding the cause of the fire, as Complainant himself acknowledged.⁶¹ The Commission, therefore, should give little weight to Complainant's testimony. The Com-

⁵³ Tr. at 36:18.

⁵⁴ Tr. at 54:10-15.

⁵⁵ Tr. at 39:14.

⁵⁶ Tr. at 83:3-15.

⁵⁷ Tr. at 83:10-15.

⁵⁸ AEP Ohio, Ex. 1, p. 3:7-10.

⁵⁹ Tr. 74:7-11; AEP Ohio, Ex. 1, p. Exhibit 3, Appendix p. 3.

⁶⁰ Tr. at 39:15-18; 17:7-14; 83:3-4.

⁶¹ Ohio R. Evid. 701; Tr. at 47:24.

mission similarly should disregard Complainant's Exhibits 1 and 2.⁶² Complainant introduced those exhibits ostensibly to show that the wire is "solid."⁶³ However, he confirmed took these pieces from *below* the meter, because that piece of wire "look[ed] more intact,"⁶⁴ even though the service entrance cable *above* the meter failed.⁶⁵ Complainant's Exhibits 1 and 2 are therefore irrelevant, because they do not provide information on the defective entrance cable at issue.

3.2.3. The meter shows no signs of undergoing an "explosion."

Complainant believes that the meter exploded, even though he did not personally witness the incident and does not have the requisite knowledge or expertise to make such a determination. It would be highly unusual for a meter to explode; Mr. James, who unlike Complainant is an advanced metering technology expert, is not aware of any smart-meter fires in AEP Ohio's distribution system, the AEP system, or the utility industry at large.⁶⁶ Furthermore, the analytics data sent by the meter showed no signs of unusual temperatures or other anomalies for a month and a half prior to the incident, indicating no mechanical issues with the meter.⁶⁷

Mr. James personally examined the meter and concluded that it did not fail.⁶⁸ There was no damage to the internal components of the meter.⁶⁹ There were no indications of heat buildup that would be present if the meter was the source of the fire.⁷⁰ In fact, the nature of the melting showed that the heat source came from outside the meter.⁷¹

⁶² Piece of cable with the binding on it is Complainant's Exhibit 1. Tr. 60:22-23. Cable piece without binding around it is Complainant's Exhibit 2. Tr. 60:23-25.

⁶³ Tr. at 6:6-20.

⁶⁴ Tr. at 61:3-5.

⁶⁵ Tr. at 86:11-14.

⁶⁶ Tr. at 79:8-9.

⁶⁷ AEP Ohio, Ex. 1, p. 6:20-23

⁶⁸ Tr. at 70:1-6; AEP Ohio, Ex. 1, Exhibits 10-14, Appendix p. 10-14.

⁶⁹ Tr. at 70:22; AEP Ohio, Ex. 1, p. 3:12-13.

⁷⁰ Tr. at 70:23-25; 71:2; AEP Ohio, Ex. 1, p. 3:12-14

⁷¹ Tr. 80:12-15; 81:4-7.

Complainant alleged that the meter exploded, but he readily admitted that he might have heard a firecracker.⁷² He said the explosion was “similar to a lightning bolt hitting the house”—that it was “enormous,” “basically incinerate[d] everything,” and gave off “bright light, glowing plasma, electrical shock, shock wave.”⁷³ If the meter had exploded as Complainant describes, then the internal components of the meter should have been destroyed, but they were not.⁷⁴ Complainant’s claims regarding the Company’s meter simply are not credible. In fact, they are plainly refuted by the record evidence before the Commission in this case.

4. Conclusion

Complainant Ed Luu has failed to meet his burden of proof that the meter exploded. To the contrary, the evidence presented shows that the fire started outside of the meter. There is no fire damage to the internal components of the meter, the meter globe appears melted by an external source, an insulated section of Complainant’s service entrance cable was burned in a manner indicating an arc flash, and there was no unusual analytics data from the meter for over a month and a half prior to the incident. Because Mr. Luu failed to carry his burden of proof, AEP Ohio respectfully asks the Commission to decide this case in AEP Ohio’s favor and dismiss the Complaint with prejudice.

⁷² Tr. at 59:12.

⁷³ Tr. at 16:11-12; 29:15-25; 30:10; 51:11-12.

⁷⁴ AEP Ohio, Ex. 1, p. Exhibit 14, Appendix p. 14.

Respectfully submitted,

/s/ Sahir Rama

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and accurate copy of the foregoing was served upon Complainant Ed Luu at the address listed below by regular mail, postage prepaid, on this 7th day of September, 2021.

Ed Luu
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Columbus, Ohio 43201

Complainant

/s/ Sahir Rama

Sahir Rama

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Summary: Brief Ohio Power Company's Initial Post-Hearing Brief electronically filed by Mr. Sahir Rama on behalf of Ohio Power Company