

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Michael	)	
Todd Dawson,	)	
Complainant,	)	
	)	
v.	)	Case No. 09-1081-GE-CSS
	)	
Duke Energy Ohio, Inc.,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On November 9, 2009, Michael Todd Dawson (complainant) filed a complaint against Duke Energy Ohio, Inc. (Duke), questioning his natural gas and electric service rates and the manner in which those services are metered. Specifically, complainant questions Duke's billing for natural gas and electric services for the common areas of two buildings that contain rental properties. The complainant also requests an order prohibiting the termination of service for nonpayment during the pendency of this complaint.
- (2) On November 30, 2009, Duke filed its answer to the complaint, as well as a motion to dismiss, denying the allegations in the complaint, and stating that Duke has not violated any rule, regulation, or tariff provision. Duke also asserts that the complainant has failed to set forth reasonable grounds for the complaint.
- (3) Rule 4901-9-01(E), Ohio Administrative Code (O.A.C.), provides that, if a complainant is facing termination of service by the public utility, the complainant may request that the Commission prevent the termination of service during the pendency of the complaint. Rule 4901-9-01(E), O.A.C., also provides that a person making a request for such assistance must agree to pay to the utility, during the pendency of the complaint, all amounts that are not in dispute.

- (4) Consistent with Rule 4901-9-01(E), O.A.C., the complainant has requested that the Commission prevent the termination of service during the pendency of the complaint. The attorney examiner finds this request to be reasonable. Therefore, Duke shall not disconnect the electric and natural gas services of the complainant, for nonpayment of the amounts in dispute. However, nothing in this entry excuses complainant from making payments of all amounts not in dispute. The complainant is directed to timely pay all billings that he does not dispute.
- (5) Additionally, 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 this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, O.A.C., 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 either party from initiating settlement negotiations prior to the scheduled settlement conference.
- (6) Accordingly, a settlement conference shall be scheduled for January 28, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12<sup>th</sup> floor, Room 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) 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.* (1996), 5 Ohio St.2d 189.
- (8) The attorney examiner additionally finds that this case, which was originally docketed as Case No. 09-1081-EL-CSS, and referenced in the Commission's docketing system as Case No. 09-1081-GA-CSS, is more appropriately docketed with the GE

industry code, as it appears to address both complainant's natural gas and electric services. Accordingly, now and hereafter, Case Nos. 09-1081-EL-CSS and 09-1081-GA-CSS should be designated as Case No. 09-1081-GE-CSS.

It is, therefore,

ORDERED, That Duke not terminate service to the complainant based on nonpayment of disputed amounts. It is, further,

ORDERED, That a settlement conference be scheduled for January 28, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12<sup>th</sup> floor, Room 1246, Columbus, Ohio 43215-3793. It is, further,

ORDERED, That Case Nos. 09-1081-EL-CSS and 09-1081-GA-CSS be now and hereafter designated as Case No. 09-1081-GE-CSS. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Katie L. Stenman  
By: Katie L. Stenman  
Attorney Examiner

jes /dah

Entered in the Journal

DEC 04 2009

Renee J. Jenkins

Renee J. Jenkins  
Secretary