

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Robert C.	)	
Tarry, Sr.,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 09-1086-EL-CSS
	)	
Ohio Edison Company,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On November 10, 2009, Robert C. Tarry, Sr. (Mr. Tarry or complainant) filed a complaint against Ohio Edison Company (Ohio Edison or company). In his complaint, Mr. Tarry stated that Ohio Edison should not be charging him or anyone else for electricity that they have not distributed. Further, Mr. Tarry listed two properties that he owns and the kilowatt usage at each property. Mr. Tarry indicated that the minimal kilowatt usage at his properties was disproportionate when compared to the amount that he paid for electric service. He provided no other allegations in support of the complaint.
- (2) On November 30, 2009, Ohio Edison filed an answer to the complaint and a motion to dismiss. In the answer, Ohio Edison denied the allegations in the complaint. Ohio Edison stated that the bill increase described by the complainant resulted from new tariffs put into effect pursuant to lawful Commission order. In the motion to dismiss, Ohio Edison argued that the complaint should be dismissed for failure to state reasonable grounds for complaint. Citing, in part, *Seketa v. The East Ohio Gas Co.*, Case No. 06-549-GA-CSS, (Entry dated August 9, 2006), the company argued that, under well-established Commission precedent, a complaint alleging that approved rates should not be charged fails to set forth the reasonable grounds for complaint required under Section 4905.26, Revised Code, and must be dismissed.

- (3) Pursuant to Rule 4901-1-12, Ohio Administrative Code (O.A.C.), any party may file a memorandum contra within 15 days after the service of a motion or such other period as the Commission, legal director, assistant legal director, or attorney examiner requires. To date, complainant has not filed a response to Ohio Edison's motion to dismiss.
- (4) Rule 4901-9-01(B), O.A.C., requires that a complaint clearly explain the facts which constitute the basis of the complaint. Mr. Tarry's complaint does not comply with the rule. Although the complaint contains statements, it contains no factual allegations that would lead to a finding that Ohio Edison has engaged in improper or unlawful actions.
- (5) Within 15 days of this entry, the complainant shall file a more definite statement that provides the facts that lead him to allege that Ohio Edison has improperly charged him for electric service. In addition, within the same 15-day period, complainant should file a response to Ohio Edison's motion to dismiss.

It is, therefore,

ORDERED, That the complainant file within 15 days of this entry a more definite statement expressing the facts underlying the allegations in the complaint. It is, further,

ORDERED, That the complainant file within 15 days of this entry a response to Ohio Edison's motion to dismiss. It is, further,

ORDERED, That copies of this entry be served upon the complainant, Ohio Edison, and all interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Kerry K. Sheets  
By: Kerry K. Sheets  
Attorney Examiner

gaf  
/vrm

Entered in the Journal  
DEC 09 2009

Renee J. Jenkins

Renee J. Jenkins  
Secretary