

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

| | | |
|--|---|------------------------|
| In the Matter of the Complaint of Joe E. |) | |
| Snell, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | Case No. 09-187-EL-CSS |
| |) | |
| Ohio Edison Company, |) | |
| |) | |
| Respondent. |) | |

ENTRY ON REHEARING

The Commission finds:

- (1) On March 9, 2009, Joe E. Snell filed a complaint with the Commission against The Ohio Edison Company (Ohio Edison or company). In the complaint, Mr. Snell alleged that Ohio Edison allowed his name to be used to order service without his consent at his former address. Further, Mr. Snell stated that he was a victim of identity theft.
- (2) On March 27, 2009, Ohio Edison filed an answer. In the answer, the company acknowledged that Mr. Snell was the customer of record at the premises in question, but denied that it permits a homeowner to order electric service in someone else's name without knowing whether the person lives at the premises.
- (3) A hearing was held in the case on October 1, 2009.
- (4) On January 27, 2010, the Commission issued its opinion and order in this matter. The Commission found that there was insufficient evidence in the case to support a conclusion that Mr. Snell's name on the electric service account at his former address was not authorized by him or occurred without his knowledge. The Commission further found that Mr. Snell should be held accountable for the charges that were transferred to his present account from his former address. In addition, the Commission stated that there was no evidence in the record demonstrating that Ohio Edison failed to comply

with any statutory or regulatory requirements, or that it acted unreasonably, pertaining to the supply of electricity at Mr. Snell's former address. The Commission, therefore, found that the complainant failed to sustain his burden of proof and dismissed the complaint.

- (5) Section 4903.10, Revised Code, states that any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission, within 30 days of the entry of the order upon the Commission's journal.
- (6) Section 4903.10, Revised Code, also provides that if the Commission grants such rehearing, it shall specify the purpose for which rehearing is granted and shall also specify the scope of the additional evidence, if any, that will be taken; but it shall not take any evidence that, with reasonable diligence, could have been offered upon the original hearing.
- (7) On February 25, 2010, Mr. Snell filed an application for rehearing. In the application for rehearing, Mr. Snell argued that his position in the case was not given fair consideration. In numbered paragraphs, one through nine, Mr. Snell disagreed with aspects of the January 27, 2010, opinion and order, relayed his personal history, and reiterated his contention that he had been the victim of identity theft perpetrated by the late Rita Tanner, the person with whom he had shared his former residence. While not specifically styled as separate assignments of error or grounds for rehearing in the application for rehearing, the Commission will divide Mr. Snell's points of disagreement with the opinion and order into three general issues for the purpose of listing them in this entry.
- (8) For his first issue, contained in paragraph three of the pleading, Mr. Snell argued that, according to company witness Tobias, it is possible to order electric service by telephone, with only a social security number as identification, and the company's operator will assume the caller is the person who is the rightful owner of that social security number. Mr. Snell stated that he did not order electric service for his former residence. He then argued that, if a person's electric service is disconnected for non-payment, the service should not be restored until the person whose name is on that electric account has verified his

or her identity by submitting a signed billing statement to the company.

- (9) For his second issue, contained in paragraphs four through six and in paragraph seven of the pleading, Mr. Snell alleged that Ohio Edison's operators could distinguish Ms. Tanner's voice from his own voice on the telephone and that the company allowed her to fraudulently use his social security number, place his name on the electric account, and manage it for 15 years. He stated that he never spoke to a company operator because he did not know that the account existed. Further, Mr. Snell stated that the police report in the case concerning identity theft does not mention the company's electric service or a time frame when the theft of that service occurred, because he only knew about fraudulent credit card charges in his name at that time. Mr. Snell argued that, when he filed the police report, he was unaware that he was listed as the owner of the electric account.
- (10) For his third issue, contained in paragraphs seven through nine of the pleading, Mr. Snell presented arguments on issues that were not introduced as evidence or mentioned in testimony at hearing. Specifically, Mr. Snell alleged that he was informed by Ohio Edison's counsel that Ms. Tanner's personal checks had been received by the company. Mr. Snell stated that, although those checks were later returned for insufficient funds, they prove that Ms. Tanner paid on and managed the electric account at his former address and that the company accepted her checks. Moreover, Mr. Snell alleged that Ms. Tanner had been accorded preferential treatment by the company because of her race and gender, thus enabling her to manipulate the company's telephone operator in her management of the electric account.

Mr. Snell alleged that the payment history of Ms. Tanner's past electric service with the company, which had been shut off for non-payment, demonstrates that she could not use her own social security number to obtain electric service and that company telephone operators allowed her to use his social security number for that purpose without his permission. Mr. Snell also stated that Ms. Tanner's past electric accounts with the company should be traced using her social security number, which he included with his filing.

Finally, Mr. Snell stated that his only income is a monthly pension and that payment on the electric account has caused him economic hardship. He requested that the Commission reconsider its decision in this matter and set forth a rehearing.


- (11) On March 8, 2010, Ohio Edison filed a memorandum contra the application for rehearing. In its memorandum contra, Ohio Edison argued that the Commission rejected Mr. Snell's arguments in its January 27, 2010, opinion and order - the same arguments that he seeks to make in his application for rehearing. Ohio Edison also argued that Mr. Snell has included other issues in his application for rehearing (such as matters of personal circumstance and checks from Rita Tanner that were returned for insufficient funds) that he never raised at hearing where his testimony would be subject to cross-examination. Lastly, Ohio Edison argued that Mr. Snell has re-stated the sequence of events to make it appear that he discovered electric bills in his name after he filed the police report in the case. In support of this argument, Ohio Edison noted that, at hearing, Mr. Snell testified that the police report was filed after he discovered the electric bills, that there was no mention of a theft of electric service in the police report, and that the police report was accurate.
- (12) With regard to the first and second issues, the Commission finds that Mr. Snell has raised no new arguments in his application for rehearing. We believe that his previously raised arguments have been fully considered and properly decided in our opinion and order in this matter. As to the third issue, we observe that, with reasonable diligence, Mr. Snell could have offered evidence on those issues at hearing. He chose not to do so, however. Now he seeks to offer such evidence through his application for rehearing. Mr. Snell has provided no explanation why the purported additional evidence could not have been provided at the hearing in this case. Therefore, pursuant to Section 4903.10, Revised Code, the Commission shall not take any additional evidence on those issues through a rehearing.
- (13) Accordingly, after a through review, we find that Mr. Snell's application for rehearing should be denied.

It is, therefore,

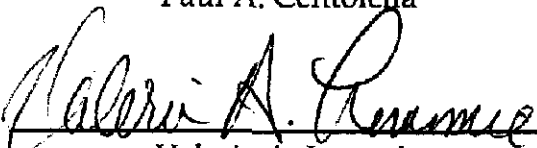
ORDERED, That Mr. Snell's application for rehearing be denied. It is, further,

ORDERED, That a copy of this entry on rehearing be served upon each party of record.

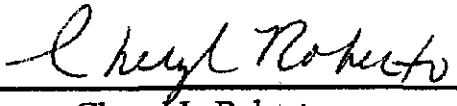
THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman

Paul A. Centolella


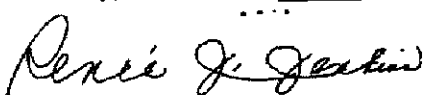
Valerie A. Lemmie

Ronda Hartman Fergus


Cheryl L. Roberto

KKS/vrm

Entered in the Journal

MAR 17 2010
....


Renee J. Jenkins
Secretary