

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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|---|---|-------------------------|
| 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 Commission 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.
- (2) On November 30, 2009, Ohio Edison filed its answer, in which it generally denied the allegations of the complaint. Ohio Edison also filed a motion to dismiss the same day, arguing that the complaint fails to set forth reasonable grounds for complaint and further fails to allege facts upon which the Commission can grant relief.
- (3) By entry issued December 9, 2009, the attorney examiner requested that the complainant provide a more definite statement of the facts underlying the complaint. To determine whether reasonable grounds exist and whether the Commission has jurisdiction, the attorney examiner requested that the complainant provide by December 24, 2009, a description of the service or services at issue.

- (4) On January 25, 2010, the attorney examiner again requested that the complainant file, on or before February 5, 2010, a clear and concise statement of the facts underlying the complaint.
- (5) On February 4, 2010, complainant filed a letter stating any further information that he could send would be more bills with the same overcharges from Ohio Edison.
- (6) By entry dated March 4, 2010, the attorney examiner scheduled a settlement conference in this case for April 9, 2010. However, the complainant did not attend or otherwise participate in the settlement conference.
- (7) By entry dated April 28, 2010, the attorney examiner rescheduled the settlement conference for June 15, 2010. The complainant also did not attend or otherwise participate in the rescheduled settlement conference.
- (8) A service notice, which listed that the complainant was served with the entry scheduling the April 9, 2010 settlement conference at his street address in Elyria, Ohio, was filed on March 4, 2010. A second service notice, indicating that the complainant was served with the entry scheduling the June 15, 2010 settlement conference at the same address, was filed on April 29, 2010. An inquiry to the Commission's Docketing Department revealed that neither the March 4, 2010 entry nor the April 28, 2010 entry was included in mail returned to the Commission. Further, the inquiry revealed that, had service of either scheduling entry been returned, the return would be indicated on the service notice of the docket card for the case. No such indication appears on either service notice for the settlement conferences.
- (9) On June 24, 2010, Ohio Edison filed a motion to dismiss the complaint. In the motion, Ohio Edison noted that the complainant twice has failed to appear at scheduled settlement conferences, without any explanation or excuse. The company argued that, because the complainant has failed to prosecute his case, the complaint should be dismissed.
- (10) To date, the attorney examiner has not been contacted by the complainant for any reason, nor has he received any explanation from the complainant regarding the complainant's

failure to attend the April 9, 2010 and June 15, 2010 settlement conferences.

- (11) The Commission finds that Ohio Edison's motion should be granted. This case should be dismissed, without prejudice, for lack of prosecution.

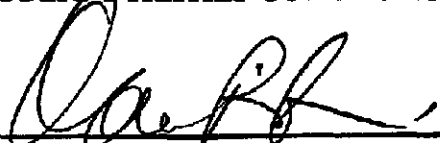
It is, therefore,

ORDERED, That Ohio Edison's motion to dismiss be granted. It is, further,

ORDERED, That Case No. 09-1086-EL-CSS be dismissed, without prejudice, for lack of prosecution. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO


Alan R. Schriber, Chairman


Paul A. Centolella


Valerie A. Lemmie

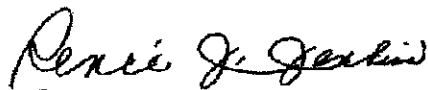

Steven D. Lesser


Cheryl L. Roberto

KKS/vrm

Entered in the Journal

JUL 14 2010



Renee J. Jenkins
Secretary