

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Sherry A. Wiley,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 10-2463-GE-CSS
	)	
Duke Energy Ohio, Inc.,	)	
	)	
Respondent.	)	

ENTRY ON REHEARING

The Commission finds:

- (1) On November 1, 2010, Sherry A. Wiley (Ms. Wiley or complainant) filed a complaint against Duke Energy Ohio, Inc. (Duke Energy or company), alleging that, contrary to a prior agreement, Duke Energy misapplied a Department of Development credit of \$271.00 to her bill. Ms. Wiley indicated that, as a result, her service was disconnected from October 19, 2010 to October 21, 2010, and she was forced by the company to agree to pay \$95.00, plus her current monthly bill to restore service.
- (2) On November 17, 2010, Duke Energy filed an answer denying the allegations in the complaint.
- (3) Thereafter, complainant filed an amended complaint in which she included an allegation that her electric bills were not accurate and that the company reneged on another payment arrangement and improperly disconnected her electric service in March 2011.
- (4) On April 4, 2011, Duke Energy filed an answer denying the additional allegations.
- (5) On October 12, 2011, following a hearing and the submission of briefs, the Commission issued its opinion and order in this proceeding. In the opinion and order, the Commission stated that it could find no evidence of record supporting

complainant's contention that she was improperly billed or disconnected. The Commission noted that complainant received disconnection notices and that the sole reason for her disconnections was nonpayment. Further, given the evidence presented by the parties at hearing, the Commission concluded that the complainant had not met her burden of proof that Duke Energy provided inadequate or unreasonable service, in contravention of the Ohio Revised Code, the company's tariff, or the Commission's rules and regulations, and the Commission dismissed the complaint.

- (6) 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.
- (7) On November 8, 2011, Ms. Wiley filed a request for an appeal of the Commission's October 12, 2011, opinion and order. Although not strictly styled as such, the Commission will consider Ms. Wiley's pleading to be an application for rehearing. In the application for rehearing, Ms. Wiley maintained that she had proven certain statements relating to her case against Duke Energy. Those statements, presumably submitted as grounds for rehearing, are summarized as follows:
  - (a) Ms. Wiley was wrongfully disconnected in October 2010. Further, she did make a payment arrangement with Duke Energy's customer service representative in September 2010.
  - (b) When Ms. Wiley went to the Veterans Administration for assistance in paying her bills, Casey James at that agency was given wrong billing information regarding Ms. Wiley's account and was told that she only owed \$25 instead of \$730.11, which caused her to be disconnected. At that time, in front of Mr. James, she requested a copy of her bill and all other documentation regarding her account with Duke Energy.
  - (c) Ms. Wiley proved that Duke Energy actually received the Home Energy Assistance Program

(HEAP) payment on November 26, 2011, instead of receiving the payment in August when the company claimed it was applied.

- (d) Ms. Wiley proved that she was harassed on the phone and in person by Duke Energy employees, and was not told about the winter rules, when she called to inquire why her service was disconnected.
- (e) Ms. Wiley proved that December was the only correctly labeled bill regarding her account with Duke Energy. Two separate billings were shown, one for her current bill and one for the overall disconnected bill in October 2010.
- (f) Ms. Wiley proved that the consecutive bills after that month included the old amount due and the current amount due "combined," so that the amount in dispute referenced the entire bill. However, Duke Energy ignored the order not to disconnect for the amount in dispute and disconnected Ms. Wiley's service.
- (g) Ms. Wiley proved that, during the period she was disconnected, in March 2011, Duke Energy charged her for service and that this charge was clearly seen on her March 2011 billing statement.
- (h) Ms. Wiley proved that the subpoena served upon the Duke Energy representative was ignored, that the person requested did not appear as ordered, and all of the requested documents pertaining to her account were never supplied.
- (i) Ms. Wiley proved that she was being discriminated against and charged more for service than her household used and that she was disconnected wrongfully in October 2010 and March 2011.

In concluding paragraphs of her application for rehearing, Ms. Wiley asked that the Commission reverse its decision and find for her in this matter. Moreover, Ms. Wiley requested that she

be granted monetary compensation in the amount of ten million dollars and five years with no gas and electric bills from Duke Energy or its affiliates.

- (8) On November 9, 2011, Duke Energy filed a memorandum in opposition to complainant's application for rehearing. In the memorandum in opposition, Duke Energy stated that, pursuant to Section 4903.10, Revised Code, a party seeking rehearing must identify with specificity the manner in which the Commission's order was unreasonable or unlawful. See, *Marion v. Public Util. Comm.* (1954), 161 Ohio St. 276, 119 N.E. 2d 67. With regard to complainant's application for rehearing, Duke Energy argued that complainant offered nothing more than a statement of her belief that she proved her case, which the Commission rejected. Duke Energy argued that, in dismissing the complaint, the Commission addressed everything which complainant now believes she has proved and which complainant lists in her application for rehearing.

Moreover, Duke Energy stated that an application for rehearing is not intended to allow a complainant to re-litigate a case that the Commission has already decided after hearing sworn testimony and evidence. Further, complainant did not argue or present any credible evidence as to how or why the October 12, 2011, opinion and order was unreasonable or unlawful. Therefore, because Complainant failed to comply with Section 4903.10, Revised Code, the Commission must deny her application for rehearing.

- (9) After a review of the parties' pleadings, the Commission finds that complainant's assertions are without merit. As noted by the company, Section 4903.10, Revised Code, requires a complainant to identify just how the Commission's order was in error. In complainant's application for rehearing, she has failed to provide any facts or arguments that would give the Commission just cause to reconsider its decision. Instead, the application for rehearing simply reiterates arguments that were considered and rejected by the Commission in its order in this case. Therefore, the Commission concludes that the complainant has raised no issue on rehearing that was not thoroughly reviewed in our initial consideration of this case.

- (10) Consequently, complainant's application for rehearing should be denied.

It is, therefore,

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

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

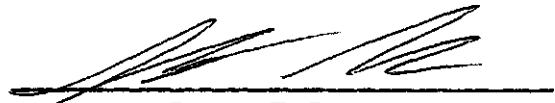
THE PUBLIC UTILITIES COMMISSION OF OHIO



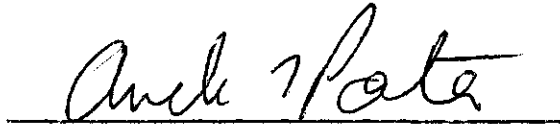
Todd A. Snitchler, Chairman



Paul A. Centolella



Steven D. Lesser



Andre T. Porter

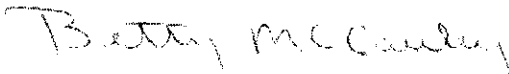


Cheryl L. Roberto

KKS/vrm

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**NOV 29 2011**



Betty McCauley  
Secretary