

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Larry Russell,)
)
 Complainant,)
)
 v.) Case No. 13-748-EL-CSS
)
 Border Energy Electric Services, Inc.,)
)
 Respondent.)

ENTRY

The attorney examiner finds:

- (1) On March 26, 2013, Larry Russell filed a complaint against Border Energy Electric Services, Inc. (Border), stating that his electric supplier had been changed to Border, even though he had never requested such a change.
- (2) Border filed its answer on April 26, 2013, and supplemented the answer on April 30, 2013. Border asserts that "this customer enrolled with Border Energy services on 2/8/2012" through a third-party telemarketing program. Border adds that "Bertha Russell was the party on the voice verification recording that stated she was authorized to make changes on the AEP account." Border contends that the recorded verification indicates that terms and conditions of the Border program were discussed in full and that Ms. Russell answered "yes" in accepting the agreement. Border states that the voice verification also indicates that Ms. Russell was clearly told that she was enrolling in an alternative energy program with Border, to which Ms. Russell answered "yes." Border states that the length of the contract and the early termination fee were also stated and accepted by Ms. Russell.

According to Border, the Russells' contract end date was December 1, 2014, but the account was cancelled by the customer on February 27, 2013, at which time the customer was advised of the cancellation fee during the telephone call.

- (3) 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 in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code (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 any party from initiating settlement negotiations prior to the scheduled settlement conference.
- (4) Accordingly, a settlement conference shall be scheduled for May 17, 2013, at 11:00 a.m. at the Commission offices, 180 East Broad Street, 12th floor, Conference 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.
- (5) Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised on the complaint prior to the settlement conference, and all parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.
- (6) 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.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

It is, therefore,

ORDERED, That a settlement conference be scheduled for May 17, 2013, at 11:00 a.m. at the Commission offices, 180 East Broad Street, 12th floor, Conference Room 1246, Columbus, Ohio 43215-3793. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/James Lynn

By: James M. Lynn
Attorney Examiner

JRJ/sc

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in

Case No(s). 13-0748-EL-CSS

Summary: Attorney Examiner Entry ordered a 10:00 a.m. settlement conference for 05/17/2013 at the Commission offices, 180 E. Broad St., 12th Flr., Rm. 1246, Columbus, Ohio. - electronically filed by Sandra Coffey on behalf of James Lynn, Attorney Examiner, Public Utilities Commission of Ohio