

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Marilyn Rhodes,)	
Complainant,)	
v.)	Case No. 14-834-GA-CSS
Duke Energy Ohio, Inc.,)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On May 6, 2014, Marilyn Rhodes (Complainant) filed a complaint against Duke Energy Ohio, Inc. (Duke), consisting of 49 pages of miscellaneous Duke bills, cancelled checks, credit reports, and a health care coverage statement. The Complainant appears, in part, to allege that Duke transferred a balance of \$791.26 for service at her ex-husband's residence to her account and that she is not responsible for this charge. The Complainant also asserts that there have been instances involving fraud and her credit history and mail diversion that impact this complaint. The Complainant also requests assistance from the Commission to prevent disconnection of her service during the pendency of the complaint. On May 12, 2014, the Complainant filed an additional 39 pages of bills from Duke.
- (2) On May 23, 2014, Duke filed an answer and a motion to dismiss the complaint. Duke states it conducted an investigation and concluded that it has no record of any improper balance transfers onto the Complainant's account.
- (3) In response to a request from the Complainant to prevent disconnection of service during the pendency of the complaint, the attorney examiner issued an Entry on June 5, 2014. The Entry noted Ohio Adm.Code 4901-9-01(E)

provides that, if a complainant is facing termination of service by the public utility, the complainant may request that the Commission prevent the termination of service during the pendency of the complaint. The Entry added that Ohio Adm.Code 4901-9-01(E) also provides that a person making a request for assistance must agree to pay, during the pendency of the complaint, all amounts to the utility that are not in dispute.

- (4) The June 5, 2014 Entry directed Duke to file a document that clearly identifies the usage and amounts billed the Complainant, the payments made by the Complainant, and all billed amounts that are unpaid. The June 5, 2014 Entry also directed the Complainant to file, by June 30, 2014, a response to Duke's filing that identifies the amounts of usage, amounts billed, and amounts paid that she disputes; the actions taken by Duke that violate a statute, rule, or Commission regulation; how fraud, mail diversion, and her credit history are directly related to actions of Duke; and what amounts she is disputing from the information provided by Duke in its June 16, 2014 pleading. The Entry also explained that the Complainant must pay all amounts not in dispute including all current charges.
- (5) On June 16, 2014, Duke filed the information as directed. According to Duke, its records date to February 2003, and show that the Complainant has an unpaid balance for natural gas service of \$1,263.93 and an unpaid balance for electric service of \$1,662.45, for a total unpaid balance of \$2,926.38. In addition, Duke asserts that it has followed all required procedures for proper disconnection of the Complainant and it should be allowed to institute such procedures.
- (6) On June 26, 2014, Duke filed a motion to dismiss the amended complaint and a request for an expedited ruling on its right to disconnect the Complainant's service. Duke attached to its June 26, 2014 pleading two pages of what it claims are the response of the Complainant to its June 16, 2014 pleading. Duke contends that, based on these two pages, it now believes that \$210, and not the initial \$791.26, is in dispute, because that is the only charge identified in her amended filing. Duke explains that this charge dates

from 11 years ago and was a security deposit and not an amount transferred from another account. Duke also notes that the Complainant has failed to identify any statute, rule, or regulation of the Commission that Duke has violated. According to Duke, as of June 3, 2014, the outstanding balance owed by the Complainant is \$3,063.20, which is undisputed, and the Complainant has not made a payment of any undisputed bills since February 19, 2014. Duke requests that it be permitted to disconnect the Complainant's services for nonpayment in accordance with its filed tariffs and that it read the Complainant's meters on July 1, 2014, and issue her next bill two weeks later.

- (7) It is worth noting that that Complainant failed to file any response as directed that identifies the amounts of usage, amounts billed, and amounts paid that she disputes; the actions taken by Duke that violate a statute, rule, or Commission regulation; and how fraud, mail diversion, and her credit history are directly related to actions of Duke.
- (8) Upon review of the complaint and Duke's responses filed on June 16 and 26, 2014, the attorney examiner now has the information necessary to determine the amount in dispute in this case; therefore, it is now possible to establish the amount in dispute. Such a determination was not possible based on Duke's answer filed May 23, 2014.
- (9) As clarified, the attorney examiner now finds that the only amount in dispute is a total of \$1,001.26, which is based on the initial disputed amount of \$791.26 identified in the complaint and the subsequent disputed amount of \$210.00 identified in the two pages attached to Duke's June 26, 2014 motion to dismiss. Therefore, the undisputed amount is \$2,061.94, which is the difference between the total amount identified by Duke of \$3,063.20 and the identified disputed amount of \$1,001.26. The Complainant must work with Duke and pay this identified undisputed amount, as well as all current charges. Should she fail to do so, the utility services may be subject to disconnection, as those charges are not subject to dispute in this case.

- (10) At this time, the attorney examiner finds that a settlement conference should be held on the \$1,001.26, which has been identified as the amount in dispute. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Ohio Adm.Code 4901-1-26, any statement 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 either party from initiating settlement negotiations prior to the scheduled settlement conference.
- (11) Accordingly, a settlement conference should be scheduled for August 19, 2014, at 10:00 a.m., in Conference Room 1246 in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner may conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.
- (12) Pursuant to Ohio Adm.Code 4901-1-26(F), the representatives of the public utility shall investigate the issues raised in 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 requisite authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.
- (13) 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 held on August 19, 2014, at 10:00 a.m., in Conference Room 1246 in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Scott Farkas

By: Scott E. Farkas
Attorney Examiner

JRJ/sc

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in

Case No(s). 14-0834-GA-CSS

Summary: Attorney Examiner Entry scheduling a 10:00 a.m. settlement conference on 08/19/2014 at the offices of the Commission, 180 E. Broad St., 12th Flr., Rm. 1246, Columbus, Ohio. - electronically filed by Sandra Coffey on behalf of Scott Farkas, Attorney Examiner, Public Utilities Commission of Ohio