

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
MICHAEL A. DANE,**

COMPLAINANT,

v.

CASE NO. 16-1971-EL-CSS

OHIO POWER COMPANY D/B/A AEP OHIO,

RESPONDENT.

ENTRY

Entered in the Journal on May 23, 2017

{¶ 1} On September 30, 2016, Michael A. Dane (Complainant) filed a complaint against Ohio Power Company d/b/a AEP Ohio (AEP-Ohio) in which he denied that he reached a settlement with AEP-Ohio in a previous complaint.

{¶ 2} AEP-Ohio filed an answer to the complaint on October 18, 2016. AEP-Ohio asserted that the prior complaint was dismissed with prejudice and that this complaint should be dismissed on the basis of res judicata and collateral estoppel.

{¶ 3} By Entry issued February 10, 2017, the attorney examiner scheduled a settlement conference for March 21, 2017. AEP-Ohio appeared for the conference; the Complainant did not.

{¶ 4} By letter filed March 28, 2017, the Complainant explained that he did not appear for the conference because he was notified by a medical specialist on the morning of the conference that he could be seen that day, rather than waiting for his scheduled appointment. In the letter, the Complainant requests that the settlement conference be rescheduled.

{¶ 5} On April 3, 2017, AEP-Ohio renewed its motion to dismiss. AEP-Ohio states four reasons in support of its motion. First, AEP-Ohio argues that the complaint should be dismissed for lack of prosecution. AEP-Ohio emphasizes that a settlement conference was

scheduled and that, even if the Complainant needed to cancel on the day or hour of the settlement conference, he could have given notice. Not knowing the whereabouts of the Complainant, the remaining participants of the conference had to wait.

{¶ 6} AEP-Ohio argues that the Complainant has failed to state a claim upon which relief can be granted. AEP-Ohio points out that the Complainant filed a prior complaint in which he sought to obtain information about his now deceased father's account. *In re Complaint of Michael A. Dane v. Ohio Power Company*, Case No. 15-1638-EL-CSS. The Complainant also expressed dissatisfaction with the complaint investigation process. AEP-Ohio contends that neither the complaint about his father's account nor the complaint about the Commission's process states a viable claim.

{¶ 7} AEP-Ohio claims that the Complainant has not clearly explained the facts concerning his father's account or his frustration with the Commission's procedure.

{¶ 8} As its final basis for dismissing the complaint, AEP-Ohio asserts that the doctrines of res judicata and collateral estoppel should bar the Complainant's attempt to re-open an issue that could have been adjudicated by the Commission. AEP-Ohio argues that the Complainant had a full and fair opportunity to assert his claim in the prior complaint case.

{¶ 9} The attorney examiner shall hold AEP-Ohio's motion to dismiss in abeyance while granting the Complainant another opportunity to resolve the complaint informally. A settlement conference shall be scheduled for June 14, 2017, at 10:00 a.m., at the Commission offices, 180 East Broad Street, 12th floor, Conference Room 1246, Columbus, Ohio 43215-3793.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That a settlement conference be scheduled for June 14, 2017, at 10:00 a.m. at the Commission offices, 180 East Broad Street, 12th floor, Conference Room 1246, Columbus, Ohio 43215-3793. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ L. Douglas Jennings

By: L. Douglas Jennings
Attorney Examiner

jrj/vrm

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in

Case No(s). 16-1971-EL-CSS

Summary: Attorney Examiner Entry scheduling June 14, 2017 settlement conference;
electronically filed by Vesta R Miller on behalf of L. Douglas Jennings, Attorney Examiner,
Public Utilities Commission of Ohio