

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
LINDA KIRBY,**

COMPLAINANT,

v.

CASE NO. 18-691-EL-CSS

OHIO EDISON COMPANY,

RESPONDENT.

ENTRY

Entered in the Journal on October 24, 2018

{¶ 1} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice relating to any service furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory.

{¶ 2} The Ohio Edison Company (Ohio Edison or the Company) is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On April 16, 2018, Linda Kirby (Complainant) filed a complaint against Ohio Edison. The Complainant alleged that stray voltage from Ohio Edison's facilities resulted in elevated levels of stress on the Complainant's cows, resulting in decreased milk production. The Complainant alleged that after the Company initially denied electrical effects on her livestock, a utility technician later detected stray voltage and installed a remedial device. The Complainant alleged that her cows returned to normal behavior and normal milk production.

{¶ 4} On May 4, 2018, Ohio Edison filed an answer to the complaint. Ohio Edison admitted that it tested and found elevated neutral-to-earth voltage. In response, Ohio

Edison alleged that it promptly installed a neutral isolator. Ohio Edison asserted affirmative defenses and urged the Commission to dismiss the complaint.

{¶ 5} On August 7, 2018, the parties appeared for a prehearing settlement conference but were not able to resolve the issues raised by the complaint.

{¶ 6} On September 6, 2018, Ohio Edison filed a motion to dismiss the complaint. In its memorandum in support, Ohio Edison outlined the Commission's jurisdiction, stating that the Commission only has authority to determine whether there is a violation of a utility tariff, Commission rules, regulations or orders. Ohio Edison acknowledges that the Complainant has the right to be heard by the Commission but emphasizes that the Commission does not have authority to award monetary damages to a complainant. Ohio Edison, therefore, urges the Commission to dismiss that portion of the complaint that seeks damages.

{¶ 7} At this time, the attorney examiner finds that this matter should be set for hearing. Accordingly, an evidentiary hearing shall commence on November 28, 2018, at 10:00 a.m., at the offices of the Commission, Hearing Room 11-C, 11th floor, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 8} Any party intending to present direct expert testimony should comply with Ohio Adm.Code 4901-1-29(A)(l)(h) which requires that all such testimony to be offered in this type of proceeding be filed and served upon all parties no later than seven days prior to commencement of the hearing.

{¶ 9} As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That a hearing be held on November 28, 2018, at 10:00 a.m. at the offices of the Commission, Hearing Room 11-C, 11th floor, 180 East Broad Street, Columbus, Ohio 43215-3793.

{¶ 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

GAP/sc

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/24/2018 10:27:03 AM

in

Case No(s). 18-0691-EL-CSS

Summary: Attorney Examiner Entry scheduling hearing for 11/28/2018 at 10:00 a.m. at the offices of the Commission, 180 E. Broad St., 11th Flr, Rm. 11-C, Columbus, Ohio - electronically filed by Sandra Coffey on behalf of L. Douglas Jennings, Attorney Examiner, Public Utilities Commission of Ohio