

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
SO & GE LLC,**

CASE NO. 20-1818-GE-CSS

COMPLAINANT,

v.

DUKE ENERGY OHIO, INC.,

RESPONDENT.

ENTRY

Entered in the Journal on May 21, 2021

{¶ 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} Duke Energy Ohio, Inc. (Duke) is an electric light company and natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On December 28, 2020, Hizam Akkawi (Mr. Akkawi), on behalf of SO & GE LLC (Complainant), filed a complaint against Duke. Among other things, Mr. Akkawi alleges that he called Duke after Complainant received a bill for roughly \$25,000. Further, Mr. Akkawi alleges that a former employee told him that the employee had reported to Duke by phone that Mr. Akkawi “was stealing electricity.” Mr. Akkawi further alleges that Duke, after receiving the phone call from the former employee, compared Complainant’s usage to that of the previous business and stated there is a discrepancy. Mr. Akkawi claims that, in response, he informed Duke: (1) that he uses more gas-operated equipment than did the previous business; and (2) that the Duke employee he spoke with had treated him rudely and threatened him with disconnection if he did not pay. Mr. Akkawi asserts that, beyond the words of a disgruntled former employee, no proof exists to support a claim that service

tampering for which Complainant should be held accountable has occurred. In closing, Mr. Akkawi asserts that he has tried to keep up with Complainant's bills from Duke, which he claims are far greater than in the past, but he admits that, due to COVID-19, he has fallen short in doing so.

{¶ 4} On January 19, 2021, Duke filed its answer to the complaint, in which it denies all of the complaint's allegations and sets forth several affirmative defenses. Specifically, Duke acknowledges that Mr. Akkawi is the one who filed the complaint but asserts that the customer account involved in this complaint case is a business account, with the customer being SO & GE LLC. Duke, in its answer, states that it lacks sufficient information to form a belief as to the truth of the complaint's allegations regarding calls made by a former employee, which Duke considers to be too vague and ambiguous for Duke to respond to and, therefore, denies such allegations. Beyond this, Duke admits that an anonymous person contacted Duke in July 2020 stating that Mr. Akkawi had been saying that he tampered with the electric meter. Further, in its answer, Duke admits that, on July 16, 2020, a Duke investigator went to investigate the meter at the service address identified in the complaint. According to Duke's answer, the investigator found the electric meter seal cut and the bypass bar in the meter base, indicating tampering. Answering further, Duke admits that, in July 2020, it added a charge to the involved business account for estimated past due usage from December 15, 2015, to July 16, 2020, in the amount of \$22,933.39, with the estimate being based on historical usage.

{¶ 5} By Entry issued January 26, 2021, a settlement teleconference in this case was scheduled for February 11, 2021. The conference occurred as scheduled, but neither Mr. Akkawi, nor anyone else representing Complainant, called in to participate. Nevertheless, the mediating attorney examiner from the Commission's legal department was able to reach Mr. Akkawi by telephone during the time set aside and to connect him to the line established for the teleconference, so that initial settlement discussions could proceed, as scheduled. The parties did not reach a settlement that day but, during their call, an arrangement was

reached between the mediating attorney examiner and the parties that the settlement teleconference should continue on March 16, 2021. However, Mr. Akkawi again failed to call in to the settlement conference on March 16, 2021, and, this time, the mediating attorney examiner was unable to reach Mr. Akkawi, or anyone representing Complainant, by telephone. By Entry issued March 26, 2021, a settlement teleconference was scheduled for April 9, 2021. The Entry specified that Complainant's failure to call in and participate in the April 9, 2021 settlement teleconference might result in dismissal of this complaint for Complainant's lack of sufficient prosecution. On April 9, 2021, Mr. Akkawi failed to call into the scheduled teleconference and, once again, neither he, nor anyone representing Complainant, could be reached by telephone.

{¶ 6} On April 14, 2021, Duke filed a motion to dismiss this case. Among other arguments in support of its motion, Duke contends that the complaint should be dismissed for Complainant's failure to prosecute, given Complainant's failure to attend consecutive scheduled settlement conferences, including one which was scheduled with an express warning that failure to attend might result in dismissal. In short, Duke asserts that it should not be required to defend itself in this action when Complainant fails to attend mandatory settlement conferences.

{¶ 7} Complainant did not file a response to Duke's motion to dismiss.

{¶ 8} Three settlement teleconferences have been scheduled and held in this case, but Complainant has failed to call in to participate in any of them. Complainant has never contacted anyone at the Commission to explain its failure to do so. Since February 11, 2021, all attempts by members of the Commission's legal department to reach Complainant at the telephone number provided in the complaint have proven unsuccessful. As noted, Complainant has never responded to Duke's motion to dismiss this case.

{¶ 9} By no later than June 4, 2021, Complainant must file, in this docket, a letter stating Complainant's intention to continue in prosecution of this complaint. Such letter

must identify three proposed dates and times, occurring during June 2021 and during the Commission's regular business hours, when Complainant will be available to call into and participate in a settlement teleconference in this case. If no such filing is timely made, the Commission will presume that Complainant no longer intends further prosecution of this case and, accordingly, may dismiss the complaint.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That Complainant must comply with the directives of Paragraph 9. Otherwise, the Commission may dismiss this complaint for lack of sufficient prosecution. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Daniel E. Fullin

By: Daniel E. Fullin
Attorney Examiner

MJA/kck

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in

Case No(s). 20-1818-GE-CSS

Summary: Attorney Examiner Entry ordering that Complainant must comply with the directives of Paragraph 9. Otherwise, the Commission may dismiss this complaint for lack of sufficient prosecution. electronically filed by Kelli C. King on behalf of Daniel E. Fullin, Attorney Examiner, Public Utilities Commission of Ohio