

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF  
ANTUAN BURRESS-EL,**

**CASE NO. 21-298-GA-CSS**

**COMPLAINANT,**

**v.**

**DUKE ENERGY OHIO, INC.,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on February 16, 2022

{¶ 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 a 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 March 31, 2021, Antuan Burress-El (Complainant) filed a complaint against Duke in which he alleges, among other things, that negligence on the part of Duke and/or its contractor KS Energy caused Complainant to lose use of his furnace for an extended period and, as a result, to incur damages which he believes entitle him to compensation.

{¶ 4} On April 20, 2021, Duke filed its answer, in which it denies all of the complaint's allegations, asserts its own allegations of fact, and sets forth several affirmative defenses.

{¶ 5} By Entry issued May 14, 2021, a settlement teleconference was scheduled to occur on June 2, 2021.

{¶ 6} On May 18, 2021, Duke filed a motion to dismiss this case. Duke argues that the case should be dismissed because the Commission lacks subject matter jurisdiction over the claims asserted in the complaint and lacks personal jurisdiction over certain entities named in the complaint, and also, argues Duke, because the complaint fails to state a claim upon which relief can be granted.

{¶ 7} The settlement teleconference was held, as scheduled, on June 2, 2021. Later, on August 23, 2021, the settlement teleconference was resumed. On neither occasion did the parties arrive at a settlement of the case.

{¶ 8} On January 26, 2022, Complainant filed a procedural motion by which he seeks to be granted an extension of time for filing a formal response to Duke's motion to dismiss. In support of his motion, Complainant asserts that, as the settlement teleconferences proceeded, he was under the mistaken impression that the Commission had, by then, already denied Duke's motion to dismiss. To prevent unintended consequences which might otherwise result because of his misunderstanding of Commission procedure, Complainant now seeks to avoid -- at this juncture, before the Commission issues a ruling, if any, on Duke's motion to dismiss -- being denied further opportunity to be heard by the Commission on the topics covered by that motion. Duke did not file any response to Complainant's motion filed January 26, 2022.

{¶ 9} Ohio Adm.Code 4901-1-13(A) grants the attorney examiner authority to, upon his own motion, extend the time period allotted for parties to file pleadings or other papers. Under the circumstances presented, the attorney examiner, upon his own motion, pursuant to Ohio Adm.Code 4901-1-13(A), grants Complainant an extension of time, until March 3, 2022, to file, if Complainant chooses to do so, a memorandum contra Duke's motion to dismiss filed on May 18, 2021. By the same authority, the attorney examiner grants Duke seven days from the date of the filing of such a memorandum contra, if any, to reply to it.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That Complainant shall have until March 3, 2022, to file his memorandum contra, if any, the motion to dismiss filed in this case by Duke on May 18, 2021. It is, further,

{¶ 12} ORDERED, That Duke shall have seven days from the date of filing of any such memorandum contra by Complainant to file a reply to it. It is, therefore,

{¶ 13} 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

NJW/kck

**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

**2/16/2022 9:46:04 AM**

**in**

**Case No(s). 21-0298-GA-CSS**

Summary: Attorney Examiner Entry ordering that Complainant shall have until March 3, 2022, to file his memorandum contra, if any, the motion to dismiss filed in this case by Duke on May 18, 2021 and ordering that Duke shall have seven days from the date of filing of any such memorandum contra by Complainant to file a reply to it. electronically filed by Kelli C. King on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio