

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
ROBERT R. MURPHY,**

COMPLAINANT,

CASE NO. 22-443-EL-CSS

v.

OHIO POWER COMPANY,

RESPONDENT.

ENTRY

Entered in the Journal on June 6, 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} Ohio Power Company (AEP Ohio or Respondent) is a public utility as defined in R.C. 4905.02. Accordingly, Respondent is subject to the Commission's jurisdiction.

{¶ 3} On April 19, 2022, Robert R. Murphy (Complainant) initiated a complaint against AEP Ohio. Complainant alleges that in the fall of 2019, Respondent hired New River Electric Corporation (New River) to replace the underground electric service line from the utility pole to the home located at 530 Cedar Run Road, NE, Newark, Ohio 43055 (Property). Complainant acquired the Property in August 2020. Complainant alleges that the ditch for this new underground line was improperly dug and backfilled, resulting in water infiltration into and through the walls of his garage, along with related water damage and mold growth. Complainant states that he began noticing the issue in early spring 2021. After filing a damage claim with AEP Ohio, Complainant claims that Respondent notified him that it is the responsibility of New River to remedy the issue. Complainant states that he subsequently received correspondence from New River in which New River stated that they are not responsible for any damages because they performed the work according to

AEP Ohio's standards. Complainant alleges that AEP Ohio has provided him inadequate and faulty service via the installation of the underground line by its contractor, New River. Complainant requests that AEP Ohio take certain actions to remedy the issue.

{¶ 4} Pursuant to Ohio Adm.Code 4901-9-01(B), a copy of the complaint was mailed to Respondent on April 19, 2022, directing Respondent to file its answer and any other responsive pleading within 20 days after April 19, 2022.

{¶ 5} Respondent filed its answer on May 9, 2022. In its answer, Respondent admits that Complainant is its customer and that New River conducted electric work on the service line located at the Property. Respondent further admits that an AEP Ohio employee visited the Property to investigate the matter. With respect to the remaining allegations in the complaint, Respondent generally denies them or states that it is without sufficient knowledge to ascertain their veracity. Respondent also outlines a number of affirmative defenses in its answer.

{¶ 6} At this time, the attorney examiner finds that this matter should be scheduled for a settlement conference. 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.

{¶ 7} Accordingly, a settlement conference shall be scheduled for July 7, 2022, at 10:00 a.m., at the offices of the Commission, Room 1246, 180 East Broad Street, Columbus, Ohio 43215. Visitors should register at the lobby desk and then proceed to the 11th floor in order to participate in the settlement conference.

{¶ 8} 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.

{¶ 9} Pursuant to Ohio Adm.Code 4901-1-26(F), the representatives of Respondent shall investigate the issues raised in the complaint prior to the settlement conference. All parties attending the settlement conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues.

{¶ 10} As is the case in all Commission complaint cases, 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).

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That a settlement conference be scheduled for July 7, 2022, at the offices of the Commission, in accordance with Paragraph 7. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/David M. Hicks

By: David M. Hicks
Attorney Examiner

JRJ/hac

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in

Case No(s). 22-0443-EL-CSS

Summary: Attorney Examiner Entry ordering that a settlement conference shall be scheduled for July 7, 2022, at 10:00 a.m., at the offices of the Commission, Room 1246, 180 East Broad Street, Columbus, Ohio 43215 electronically filed by Heather A. Chilcote on behalf of David M. Hicks, Attorney Examiner, Public Utilities Commission of Ohio