

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF R. SIMBALLA AND
MARY SIMBALLA,**

COMPLAINANTS,

v.

CASE NO. 22-1065-EL-CSS

OHIO EDISON COMPANY,

RESPONDENT.

ENTRY

Entered in the Journal on December 21, 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 Edison Company (OEC) is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On November 16, 2022, R. Simballa and Mary Simballa (Complainants) filed a complaint against OEC, alleging that OEC “did not provide timely notice regarding the demand for a security deposit, and then applied submitted payments to the security deposit instead of the current distribution charges as directed on the payment,” thereby violating the Ohio Administrative Code. Complainants explain that the period of time addressed in their complaint begins in March 2021 and continues through the date of filing the complaint. According to Complainants, OEC provided notice in their March 2021 bill regarding “potential imposition of a security deposit”; Complainants further contend that this notice was not provided at any time subsequently, when a security deposit was imposed on Complainants’ account in April 2022. Complainants assert that they contacted OEC regarding the security deposit and timing of the notice, but OEC would not remove the

security deposit, so Complainants submitted payment and requested that it be applied to current charges. According to Complainants, OEC accepted the payment but applied it to the security deposit, despite a subsequent telephone call and request from Complainants to apply the payment to current charges. Complainants add that they continue to pay current charges on the account, but because their initial payment was applied to the security deposit, the account became delinquent and has been in arrears. Complainants emphasize that OEC has wrongly held the security deposit for 12 months, in violation of R.C. 4933.17, under which such a deposit can be held for a maximum six months. Complainants further allege that, despite their payments toward the amount of the bill that is not in dispute, OEC has wrongfully threatened to disconnect their service.

{¶ 4} OEC filed its answer on December 6, 2022. OEC admits that R. Simballa is an OEC customer and that R. Simballa's account is in arrears, resulting in disconnection notices. OEC states that, on Complainants' February 16, 2022 bill, OEC provided notice that a security deposit would be required, and that OEC imposed the security deposit on May 12, 2022. OEC admits that Complainants contacted OEC on May 20, 2022, to inquire about their bill and the security deposit. According to OEC, although Complainants made payment on May 31, 2022, Complainants did not request that the payment be applied only to current charges. OEC explains that it has refused to remove the security deposit because of "repeated untimely and partial payments of bills" and adds that, presently, Complainants' account is still in arrears.

{¶ 5} 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 in lieu of an evidentiary hearing. In accordance with Ohio Adm.Code 4901-1-26, any statements 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 any party from initiating settlement negotiations prior to the scheduled settlement conference.

{¶ 6} The settlement conference shall be scheduled for January 25, 2023, 1:00 p.m. in Room 1247 at the Commission offices, 180 East Broad Street, Columbus, Ohio 43215-3793. All parties should register at the lobby desk and then proceed to the 11th floor in order to participate in the settlement conference. The parties should bring all documents relevant to this matter. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.

{¶ 7} If a settlement is not reached at the conference, the attorney examiner may conduct discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.

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

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

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That a settlement conference be scheduled for January 25, 2023, at 1:00 p.m. as indicated in Paragraph 6. 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/James M. Lynn

By: James M. Lynn
Attorney Examiner

MJA/hac

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in

Case No(s). 22-1065-EL-CSS

Summary: Attorney Examiner Entry ordering that a settlement conference shall be scheduled for January 25, 2023, 1:00 p.m. electronically filed by Heather A. Chilcote on behalf of James M. Lynn, Attorney Examiner, Public Utilities Commission