

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMPLAINT OF
MARIO D. BLUE,

COMPLAINANT,

CASE NO. 22-1101-EL-CSS

v.

CLEVELAND PUBLIC POWER,

RESPONDENT.

ENTRY

Entered in the Journal on March 8, 2023

I. SUMMARY

{¶ 1} The Commission dismisses and closes this case due to a lack of jurisdiction over the Respondent.

II. DISCUSSION

A. *Facts and Procedural Background*

{¶ 2} 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.

{¶ 3} On November 30, 2022, Mario Blue (Complainant or Mr. Blue) filed a complaint against Cleveland Public Power (Respondent or CPP), alleging that CPP was improperly billing him and threatening to disconnect his service.

{¶ 4} CPP did not file a response to the November 30, 2022 complaint.

B. *Analysis*

{¶ 5} As a prerequisite to any proceeding before the Commission, we must assess whether we have jurisdiction to hear this complaint. Pursuant to R.C. 4905.26, the

Commission only has jurisdiction over complaints filed against public utilities, as that term is defined in the Ohio Revised Code. Under R.C. 4905.02(C), "public utility" specifically excludes utilities that are owned or operated by any municipal corporation. As such, CPP is not a public utility as defined in R.C. 4905.02. Therefore, CPP is not subject to the Commission's jurisdiction. In order for Mr. Blue's complaint to be in compliance with the Commission's complaint requirements, it must have clearly alleged improper service by an entity under Commission jurisdiction, which all other pending complaints before the Commission initiated by Mr. Blue, on his own behalf or on behalf of Blue Acres, LLC, clearly did. See *In re the Complaint of Blue Acres, LLC v. The Cleveland Elec. Illum. Co.*, Case No. 22-1088-EL-CSS, Entry (Jan. 13, 2023) at ¶ 2; *In re the Complaint of Mario Blue v. The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Case No. 22-855-GA-CSS, Entry (Dec. 2, 2022) at ¶ 2, *In re the Complaint of Mario Blue v. The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Case No. 22-1075-GA-CSS, *In re the Complaint of Blue Acres, LLC v. The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Case No. 22-1089-GA-CSS. Moreover, the receipt of electrical service from CPP is insufficient to confer jurisdiction onto the Commission. Similarly, in an Entry in Case Nos. 04-28-EL-CSS, et al., a complainant amended its original complaint to include CPP. The Commission explained that, even though the complainants correctly identified that they received electrical service from CPP, this did not grant the Commission jurisdiction over such a claim against CPP. See *In re Complaints of S.G. Foods, Inc., et al.; Miles Management Corp., et al.; Allianz US Global Risk Insurance Co., et al.; Lexington Insurance Co., et al.; and BMW Pizza, Inc. and DPNY, Inc., et al. v. The Cleveland Elec. Illum. Co., Ohio Edison Co., The Toledo Edison Co., and American Transmission Systems, Inc.*, Case No. 04-28-EL-CSS et al., Entry (Aug. 7, 2006) at 3; see also *In re the Complaint of Christina A. Ward v. The Cleveland Elec. Illum. Co.*, Case No. 04-824-EL-CSS, Response (June 17, 2004).

{¶ 6} The Commission concludes, sua sponte, that we lack jurisdiction over CPP and, thus, cannot consider the allegations made against CPP in Mr. Blue's filed complaint. Accordingly, this case is dismissed with prejudice and closed of record.

III. ORDER

{¶ 7} It is, therefore,

{¶ 8} ORDERED, That this case be dismissed with prejudice, and closed of record.
It is, further,

{¶ 9} ORDERED, That a copy of this Entry be served upon Complainant and CPP.

COMMISSIONERS:

Approving:

Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

IMM/dr

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in

Case No(s). 22-1101-EL-CSS

Summary: Entry that the Commission dismisses and closes this case due to a lack of jurisdiction over the Respondent electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio