

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMPLAINT OF
LARRY WINSTON ANGUS JR.,

COMPLAINANT,

CASE NO. 22-1073-EL-CSS

v.

AEP OHIO, INC.,

RESPONDENT.

ENTRY

Entered in the Journal on October 18, 2023

{¶ 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} AEP Ohio Inc. (AEP Ohio or the Company) is an electric light 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 November 17, 2022, Larry Winston Angus, Jr. (Complainant) filed a complaint against AEP Ohio. Briefly summarized, Complainant claims that, by virtue of his customer relationship with the Company preceding AEP Ohio's implementation of its smart meter service, he should be recognized as one who should be opted-out of AEP Ohio's smart meter service platform without being enrolled in AEP Ohio's "opt-out service," which should exempt him from the Company's smart meter opt-out fee. The complaint also appears to concern an alleged threat by AEP Ohio to disconnect Complainant's service for nonpayment of billed charges, including monthly smart meter opt-out service fees.

{¶ 4} On December 8, 2022, AEP Ohio filed its answer in which it admits that Complainant is its customer, denies the remaining allegations of the complaint, and sets forth several affirmative defenses.

{¶ 5} A settlement conference was scheduled for, and held, at the Commission's offices on February 8, 2023. However, the parties were unable to resolve the dispute giving rise to this complaint case.

{¶ 6} By Entry issued April 21, 2023, an evidentiary hearing was scheduled to commence at the Commission's offices on June 13, 2023.

{¶ 7} On June 5, 2023, AEP Ohio filed a motion to dismiss this case, along with a memorandum in support of that motion. AEP Ohio also filed a motion for continuance of the hearing, accompanied by a request for an expedited ruling on that motion, seeking to have the June 13, 2023 hearing continued pending the Commission's ruling on AEP Ohio's motion to dismiss the case.

{¶ 8} By Entry issued on June 6, 2023, the attorney examiner granted the Company's motion for a continuance and postponed the hearing pending a ruling, in a separate future entry, on AEP Ohio's motion to dismiss. The attorney examiner clarified that a new hearing date would be established, if necessary, after a ruling on the motion to dismiss.

{¶ 9} On June 9, 2023, Mr. Angus filed a document in opposition to AEP Ohio's motion for dismissal and requested that a hearing date be scheduled. In his filing, Mr. Angus states that he was not notified of AEP Ohio's approved smart-meter opt out fee. Mr. Angus concedes that he received an opt-out letter from AEP Ohio and spoke with a Company representative regarding opting out of a smart meter. However, Complainant presents that he was never made aware of the opt-out fee.

{¶ 10} In response, on June 16, 2023, AEP Ohio filed a reply in support of its motion. The Company argues that Mr. Angus fails to set forth reasonable grounds for hearing because he does not dispute that the Commission approved AEP Ohio's smart meter opt-

out fee and does not claim that AEP Ohio violated Ohio Adm.Code 4901:1-10-05(J) or any other Ohio law. Moreover, the Company asserts that Complainant repeats his claims raised in his complaint. AEP Ohio states that its refusal to waive Mr. Angus's opt-out fee was not inadequate, unjust, or unreasonable.

{¶ 11} At this time, the attorney examiner finds it appropriate to schedule this matter for a hearing. An evidentiary hearing is scheduled for December 5, 2023, beginning at 10:00 a.m. at the offices of the Commission, Hearing Room 11-D, 180 East Broad St., 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 hearing.

{¶ 12} As is the case in all Commission complaint proceedings, 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). Therefore, at hearing, it shall be Complainant's responsibility to appear and present evidence in support of the complaint.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That a hearing in this matter be scheduled for December 5, 2023, at 10:00 a.m. at the Commission offices, 180 East Broad Street, Hearing Room 11-D, Columbus, Ohio 43215-3793. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Isabel M. Marcelletti

By: Isabel M. Marcelletti
Attorney Examiner

NJW/dmh

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in

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Summary: Attorney Examiner Entry that a hearing in this matter be scheduled for December 5, 2023, at 10:00 a.m. at the Commission offices, 180 East Broad Street, Hearing Room 11-D, Columbus, Ohio 43215-3793 electronically filed by Ms. Donielle M. Hunter on behalf of Isabel M. Marcelletti, Attorney Examiner, Public Utilities Commission of Ohio.