

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMPLAINT OF
DOUGLAS MORGAN,

COMPLAINANT,

v.

CASE NO. 21-385-EL-CSS

OHIO POWER COMPANY D/B/A AEP OHIO,

RESPONDENT.

ENTRY

Entered in the Journal on November 16, 2023

I. SUMMARY

{¶ 1} The Commission dismisses the complaint, without prejudice, for failure to prosecute.

II. DISCUSSION

{¶ 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} Respondent, Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company), is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 4} On April 9, 2021, Mr. Douglas Morgan (Complainant or Mr. Morgan) filed a complaint against AEP Ohio. The complaint alleges that the way in which AEP Ohio is maintaining and utilizing its power line or other facilities is responsible for noise and radio frequency interference which, intermittently and for days at a time, prevents Mr. Morgan, a

certified amateur radio license holder, from using his radio equipment. Mr. Morgan alleges that he reported this to AEP Ohio, but the Company has, as of the complaint's filing, not located or repaired the problem.

{¶ 5} On April 28, 2021, AEP Ohio filed its answer to the complaint. In its answer, AEP Ohio admits that Complainant is a customer of the Company but otherwise denies all of the complaint's allegations and sets forth several affirmative defenses.

{¶ 6} A prehearing settlement teleconference was scheduled for and held in this case on May 26, 2021. Although the parties did not reach a formal settlement of the case at that time, they agreed to keep working towards a mutually agreeable resolution of the case.

{¶ 7} By Entry issued on April 19, 2022, the attorney examiner ordered that the parties file a status update by May 19, 2022.

{¶ 8} On May 17, 2022, Complainant submitted correspondence that the testing of the alleged radio frequency levels was ongoing.

{¶ 9} On May 19, 2022, AEP Ohio filed a status update indicating that, once Mr. Morgan completed his abovementioned testing, the parties intended to reconvene to discuss a resolution.

{¶ 10} By Entry issued on September 14, 2023, the attorney examiner directed Complainant to file correspondence by October 6, 2023, indicating whether he wished to continue pursuing this matter. Complainant did not file any documentation in the docket indicating that a resolution has been reached or that he wishes to proceed to hearing by the October deadline.

{¶ 11} 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). At the time of this Entry, Complainant has not filed documentation indicating that the proceedings should continue. We note that the

Complainant was on notice that if he did not file documentation by the October 6, 2023 deadline, the complaint could be dismissed. Further, Complainant has not contacted the Commission or the attorney examiner to present extenuating circumstances justifying the missed deadline. Accordingly, the Commission finds that this case should be dismissed, without prejudice, and the case be closed of record due to Complainant's failure to prosecute the matter.

III. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That the complaint be dismissed, without prejudice, for lack of prosecution and this case be closed of record. It is, further,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

IMM/dmh

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in

Case No(s). 21-0385-EL-CSS

Summary: Entry that the Commission dismisses the complaint, without prejudice, for failure to prosecute. electronically filed by Ms. Donielle M. Hunter on behalf of Public Utilities Commission of Ohio.