

The Columbus Dispatch

SUNDAY

HAPPY MOTHER'S DAY



Class assignment: Mom as superhero / **B1** Joe Blundo: quizzing Mom / **D1**

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Law enforcement

Clerks not reporting convictions

By **Randy Ludlow**
THE COLUMBUS DISPATCH

While the office of Ohio Attorney General Mike DeWine wrestles with a technologically unreliable criminal back-

ground-check system in a bid to generate accurate reports, there's another problem.

Some Ohio court clerks fail to follow state law that requires them to report criminal convictions weekly so they can be

As a result, background checks might miss important details about people.

linked to arrests and fingerprints on file.

And there's nothing DeWine, or the Ohio Supreme Court, can do about it. The laws lack any

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State budget

Shortfalls worrying watchdogs

By **Darrel Rowland**
THE COLUMBUS DISPATCH

The Ohio inspector general's office launched investigations in recent years that nabbed one state agency for failing to return more than \$30 million due Ohio taxpayers, and another that improperly handled more than \$250 million in federal grant money.

But because of tightening in the proposed two-year state budget, those types of self-initiated probes likely will no longer happen, Inspector Gen-

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CONSUMERS VS. UTILITIES



KYLE ROBERTSON | DISPATCH

A power surge at Daniel George's home in Forest, Ohio, damaged his stove, other appliances, furnace and television.

In complaints against the industry, customers face daunting process to seek resolution

By **Dan Gearino** • THE COLUMBUS DISPATCH

If you are an Ohio consumer filing a complaint against a utility company, get ready for a long battle, and be prepared to lose. • This is the advice of Daniel George of Hardin County, one of the 869 people or groups who made formal complaints with the Public Utilities Commission of Ohio since 2005. He filed last year after a power surge did thousands of dollars worth | See **Complaints** Page **A10**

Health-care finances

Suits over medical flights soar

By **Ben Sutherly**
THE COLUMBUS DISPATCH

Medical debt weighs on many Americans, but few incidents pack a larger or more-unexpected hit than a medical-helicopter flight.

Across the country, patients have been left more financially vulnerable by changes in the air-ambulance industry. In many cases, private insurance companies are scaling back their reimbursement for coverage.

The nation's largest air-ambulance operator, Air Methods, which had more than

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Complaints

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of damage to his home appliances.

"Not a red cent was given to me," he said.

The PUCO has ruled in favor of consumers just four times in that 10-year period, which is 6 percent of cases that ended in a decision on the merits, and less than 1 percent of all cases, according to a *Dispatch* review.

The most common outcome is a settlement, which happened in 535 cases. Settlement details are mostly undisclosed, making it difficult to say how consumers fared. Attorneys who have worked on the cases say that most of the settlements are cases that should never have risen to that level, and are easily solved. Other cases were dropped or dismissed or had some other reason for not making it to a decision.

That left 70 cases that made it all the way to the commission for a ruling. Of those, consumers won four times. Three more cases were won in part and lost in part. The rest, 63 decisions, were in favor of the utilities.

The cases cover a wide array of sales and service concerns, including complaints from people who think their bills are unfairly high, and those who allege property damage from utilities' tree-trimming or digging, among many others.

Utilities have a distinct advantage, with teams of lawyers and lobbyists who are experts in the relevant laws, and even helped write some of the laws. Meanwhile, most consumers go in with no representation and little knowledge of the rules. Cases can drag on for years, leading to expenses that easily exceed the amount in dispute.

About 80 percent of complaints came from residential consumers, and about 20 percent were from businesses, local governments and others.

The formal complaint process "makes me kind of gag," said F. Bruce Abel, a Cincinnati lawyer who has decades of experience arguing cases before the panel. "What individual is going to take on a utility?" he asked.

When presented with these findings, the PUCO said that formal complaints — which are much like civil lawsuits — should be viewed as only one way in which the commission interacts with consumers. A spokesman noted that the agency's call center had 76,402 contacts with consumers last year. Those calls led to 13,421 investigations in which a staff member reached out to a utility to try to solve a problem — without a formal complaint having been filed.

"We recognize that an individual (can find the process) very daunting," said Lynn Slaby, one of the PUCO's five commissioners. "It would be like David meeting Goliath. ... We're here to make that process less intimidating and less daunting."

He made the comments on Wednesday at the panel's regular meeting, following a vote to

Utility-complaint cases

Most complaint cases are settled or dropped before Ohio utility regulators need to make a ruling. Among the cases with rulings, consumers prevailed four times. The outcomes of 869 formal complaints related to electricity, natural gas and water from 2005 until May 2015:

TOTAL CASES

Settled	535
Decided by commission	70
Dismissed*	69
Pending	67
Withdrawn by consumer	65
Other**	63
TOTAL	869

DECIDED BY COMMISSION

Won by utility	63
Won by consumer	4
Each side won and lost in part	3
TOTAL	70

*Because of lack of follow-up by consumer.
**Includes cases dismissed because regulators found they lacked jurisdiction, and complaints later recategorized as other types of cases, among others.

COMPLAINTS BY UTILITY

UTILITY	TYPE OF UTILITY	COMPLAINTS (PER 100,000 CUSTOMERS)	RESULTS OF CASES DECIDED BY COMMISSION		
			WON	LOST	WON IN PART, LOST IN PART
FirstEnergy	electricity	219 (10.5)	26	1	2
Duke Energy	gas, electricity	134 (11.9)	9	0	1
Columbia Gas	gas	129 (9.1)	4	2	0
Dominion	gas	110 (9.2)	5	0	0
AEP	electricity	86 (5.9)	8	1	0
Dayton Power & Light	electricity	36 (7.0)	1	0	0
Vectren	gas	20 (6.3)	1	0	0
Total for 46 companies	gas, electricity, water	869 (NA)	63	4	3

Sources: Public Utilities Commission of Ohio, *Dispatch* research

THE COLUMBUS DISPATCH

dismiss several complaints. He did not say whether he intended his comments to be a response to this story.

The PUCO is a "neutral body," he said.

At one time, the Office of the Ohio Consumers' Counsel was more active in complaint cases. The office, a consumer advocate for utility issues, has sharply reduced its caseload since a 2011 budget cut and has been part of only a few complaints since then.

Several lawyers interviewed for this story pointed to the counsel's office as a key player if the complaint system is to be improved. The office declined to comment.

Damaging surge

George and his family woke up in their farmhouse one day in February 2014 to the smell of burning wires. He traced the smell to an American Electric Power transformer, a metal cylinder on a power pole near his garage. He soon discovered that the transformer had released a power surge that damaged his furnace, television, oven and other appliances.

He expected AEP to write him a check for furnace repairs and to replace appliances, which totaled about \$4,500. He has homeowners' insurance but didn't file a claim because he was confident AEP would come through.

Then, last October, the PUCO issued a unanimous decision saying that the damage likely was caused by AEP's malfunctioning equipment, but that George had failed to prove AEP was liable for the damage under state rules.

"How can this be?" George asked in filing a response to the decision. As with all of his correspondence in the case, including the initial complaint, it was handwritten.

"This is not a good standard (to) treat a paying customer in this manner," he wrote.

He took off work to drive to Columbus for the case. On one of the trips, he walked into a meeting room, dressed in a shirt and khakis, and was surprised to see that it was essentially a courtroom, with everyone else in suits, and a stenographer.

"When I came here, I'll be honest, I didn't realize this was court," he said, according to the transcript, essentially acting as his own attorney.

George, 52, now thinks of the hearing as his low point. He recalls feeling helpless, with little idea of what laws applied to his situation.

Once he got out of the hearing and was by himself, he broke down. "The big baby, me, I cried," he said while sitting in his living room recently. He can laugh about it now.

AEP declined to comment on George's case because he could still appeal. Speaking in general, spokeswoman Terri Flora said this:

"The PUCO-approved tariff requires customers to protect any sensitive electronic equipment they may have on their premises from voltage surges or similar conditions that may temporarily exist on the grid," she said. "The commission will decide the case in due course based on the facts and the law."

Even in those rare cases when the PUCO sides with a consumer, state law doesn't allow it to

Resolving a dispute

Here are the steps for addressing a utility issue:

1. Contact the utility's call center to describe the problem and see whether the company is willing to help. Most disputes are resolved this way.

2. If that doesn't succeed, contact the Public Utilities Commission of Ohio at 1-800-686-PUCO. The staff can give advice and contact the utility. This is often called an "informal complaint."

3. If that doesn't work, contact the PUCO to file a formal complaint, which is like a lawsuit. The utility will be required to file a response, which may be followed by a settlement conference and a trial-like hearing, overseen by an administrative-law judge. If there is no settlement, the case will eventually go to the agency's five-member board for a ruling.

Source: *Dispatch* research

award damages. The consumer who wins with the PUCO still would need to go to common pleas court to seek damages.

Although no comfort to George, Columbus-based AEP has a small number of formal complaints for a company of its size, with 86 of the cases since 2005. This translates to 5.9 complaints per 100,000 customers, based on 2014 customer counts.

FirstEnergy has the most complaints by far, 219, and the second-highest rate, with 10.5 complaints per 100,000 customers. Doug Colafella, a FirstEnergy spokesman, said the complaint totals are not significant, considering that they occurred over 10 years and that FirstEnergy has more than 2 million utility customers.

Duke Energy, the only regulated utility in the state that offers natural gas and electricity, has the second-most complaints, 134, and the highest rate, 11.9 complaints per 100,000 customers. Most of the company's complaints are about electricity service.

Attorneys with experience in complaint cases say that observers should be cautious in drawing conclusions from consumers' low success rate.

"It's just the nature of the beast that complainants have the burden of proof in these things," said Barth Royer, a Columbus lawyer who has represented consumers and utilities in complaint cases. "You wouldn't expect complainants to come out 50-50."

Indeed, some of the cases lost by consumers are clearly frivolous. Some consumers file complaint after complaint, such as a Cleveland woman who filed four times against FirstEnergy over billing issues. Some appear to be using the complaint process to delay a utility shut-off for nonpayment.

The utility companies are required to file a response to every complaint, and legal costs are passed on to consumers through utility rates.

And yet, consumers interviewed for this story say that their poor showing is so dramatic that any reasonable person can see something is not right.

Even experts run into trouble when they file complaints. A current example is John Keller, a Powell lawyer who specializes in energy issues. He filed a complaint in 2012, asking for AEP to pay for the cost of food lost in a prolonged power outage. He argued that the company was negligent for not trimming one of the trees that had knocked out the power lines, even though the tree had been marked for removal for months.

"If I can't pursue this, who the hell can?" he asked in a 2012 interview.

Two-and-a-half years later, his case remains pending. He declined to comment for this story.

Numbers tell story

The *Dispatch* looked at every complaint case filed since 2005 for electricity, natural gas and water. Of 869 cases, 535 ended in settlements in which the parties resolved their differences, usually with the involvement of PUCO staff as mediators. The details of the settlements are rarely disclosed.

Matt Schilling, a PUCO spokesman, says the high number of settlements "is a beneficial outcome for the consumer."

Not so, said Sam Randazzo, a Columbus lawyer who has represented businesses that have complaints with utilities. He thinks most of the settlements are in cases that should have been settled informally "without burdening the system with the time, cost and consumer frustration that comes from the formal complaint process," he said.

Lawrence Boros of Mentor has the distinction of being the only complainant to win a case without an attorney in the period surveyed. He filed a complaint in 2005 about what he said was low-quality street lighting provided by FirstEnergy. He took this action after a near-miss while driving at night in his neighborhood.

"I damn near hit a kid that I would have seen if the lights had been there," said Boros, 70, who is an engineer.

Although he won, he was upset with a process that he feels was stacked against him. He made four trips to Columbus for the case and spent hundreds of hours working on his filings. He waited 18 months for the initial ruling.

FirstEnergy "really should have done the right thing to begin with, and they didn't," he said.

Colafella, the FirstEnergy spokesman, said this was "a rather unique case" that should not be used as the basis for any assumptions about the company.

Boros' success is the exception. Many more consumers are like Daniel George, the Hardin County man, who thought he had a legitimate grievance and was stunned to find out that the PUCO disagreed.

"It's just hard to believe," he said.

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