

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S. G.)	
Foods, Inc., et al.; Miles Management Corp.,)	
et al.; Allianz US Global Risk Insurance)	
Company, et al.; Lexington Insurance)	
Company, et al.; and BMW Pizza, Inc. and)	
DPNY, Inc., et al.,)	
)	
Complainants,)	Case Nos. 04-28-EL-CSS
)	05-803-EL-CSS
v.)	05-1011-EL-CSS
)	05-1012-EL-CSS
The Cleveland Electric Illuminating)	05-1014-EL-CSS
Company, Ohio Edison Company, Toledo)	
Edison Company, and American)	
Transmission Systems, Inc.,)	
)	
Respondents.)	

ENTRY

The Commission finds:

- (1) On August 14, 2003, portions of the northeastern part of the United States and the southeastern part of Canada experienced a widespread loss of electrical power (blackout).
- (2) Between January 12, 2004, and August 15, 2005, the above captioned complaints were filed with the Commission relating to the blackout. By entry issued March 7, 2006, these cases were consolidated for hearing and ultimate resolution. In this entry, the Commission will consider two motions to dismiss filed in these proceedings.

Motion to Dismiss Certain Complainants in 04-28 and 05-803

- (3) On January 12, 2004, S.G. Foods, Inc., Pak Yan Lui, and John Summers filed their complaint in Case No. 04-28-EL-CSS (04-28). On July 11, 2005, Miles Management Corp., Alok Bhajji,

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M.D., Inc., Union House Bar & Restaurant, and Regional Therapy, Inc., filed their complaint in Case No. 05-803-EL-CSS (05-803).

- (4) On February 20, 2007, the respondents in these cases filed a motion to dismiss certain complainants in 04-28 and 05-803. Specifically, the respondents allege that Pak Yan Lui and John Summers, in 04-28, and Regional Therapy, Inc., in 05-803, have failed to respond to discovery after having four months to respond and having been ordered to do so by the attorney examiner in an entry issued February 5, 2007. According to the respondents, these three complainants have neither provided responses to discovery nor contacted the respondents to arrange a schedule for doing so. No memorandum contra was filed in response to the respondents' motion to dismiss these complainants.
- (5) On February 5, 2007, the attorney examiner issued an entry in these consolidated cases in response to a motion to compel complainants to respond to discovery that was propounded by the respondents on September 29, 2006. The entry directed the complainants to respond within ten days from the date of the entry or, if a complainant was unable to respond within that time frame, to contact the respondents to arrange a mutually agreeable schedule for response. If the parties could not agree on a schedule, the entry directed the complainant to file a motion in these proceedings, requesting the establishment of appropriate response times.
- (6) Upon consideration of the respondents' unopposed motion to dismiss certain complainants in these cases and, in light of the fact that these complainants disobeyed the attorney examiner's directive to respond to discovery, the Commission finds that the respondents' February 5, 2007, motion is reasonable and should be granted. Accordingly, Pak Yan Lui and John Summers, in 04-28, and Regional Therapy, Inc., in 05-803, should be dismissed as complainants in these proceedings.

BMW Pizza Complainants' Motion to Dismiss 05-1014

- (7) On August 15, 2005, as amended on August 14, 2006, numerous consumers (BMW Pizza complainants) filed their complaint in Case No. 05-1014-EL-CSS (05-1014).
- (8) On February 26, 2007, the BMW Pizza complainants filed a motion to dismiss their claims in 05-1014 without prejudice. The BMW Pizza complainants state that they wish to withdraw from this matter based upon their determination that the costs of continuing litigation would exceed the benefits. No memorandum contra the motion to dismiss was filed.
- (9) The Commission finds that the motion filed by the BMW Pizza complainants to dismiss their claims should be granted and 05-1014 should be dismissed without prejudice.
- (10) The parties remaining in this consolidated proceeding should modify the consolidated caption to read "S. G. Foods, Inc.," rather than "S. G. Foods, Inc., et al.," and should delete all reference to the BMW Pizza complainants and Case No. 05-1014-EL-CSS.

It is, therefore,

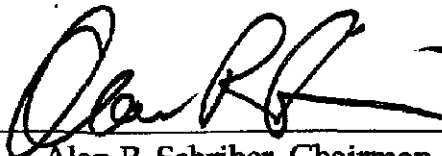
ORDERED, That the respondents' February 5, 2007, motion be granted to dismiss Pak Yan Lui and John Summers as complainants in 04-28 and to dismiss Regional Therapy, Inc., as a complainant in 05-803. It is, further,

ORDERED, That the motion filed by the BMW Pizza complainants to dismiss their claims be granted and 05-1014 be dismissed without prejudice. It is, further,

ORDERED, That the parties remaining in this consolidated proceeding comply with the directive in finding (10). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



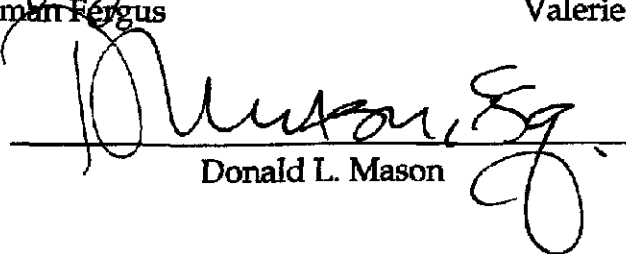
Alan R. Schriber, Chairman



Ronda Hartman Fergus



Valerie A. Lemmie

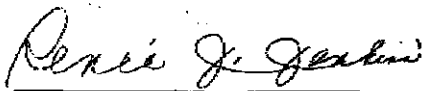


Donald L. Mason

CMTP/hw

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Renee J. Jenkins
Secretary