

FILE

7

FirstEnergy

RECEIVED-DOCKETING DIV

76 South Main Street
Akron, Ohio 44308

Ebony L. Miller
Attorney

2007 AUG 27 AM 10:34

330-384-5969
Fax: 330-384-3875

PUCO

*Via Federal Express
And Facsimile (614-466-0313)*

August 24, 2007

Ms. Renee J. Jenkins
Director, Administration Department
Secretary to the Commission
Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215-3793

Dear Ms. Jenkins:

**Re: *Motion of Ohio Edison Company to Compel Discovery
Columbus Dunn v. Ohio Edison Company
Case No. 06-1290-EL-CSS***

Enclosed for filing, please find the original and twelve (12) copies of the *Motion of Ohio Edison Company to Compel Discovery* regarding the above-referenced case. Please file the enclosed documents, time-stamping the two extras and returning them to the undersigned in the enclosed envelope.

Thank you for your assistance in this matter. Please contact me if you have any questions concerning this matter.

Very truly yours,


Ebony L. Miller

mmw

cc: Parties of Record

Enclosures

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician Am Date Processed 8/27/07

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE MATTER OF COLUMBUS DUNN)

COMPLAINANT,)

vs.)

OHIO EDISON COMPANY)

RESPONDENT.)

CASE NO. 06-1290-EL-CSS

**MOTION OF
OHIO EDISON COMPANY
TO COMPEL DISCOVERY**

Pursuant to OAC 4901-1-23, Ohio Edison Company ("Ohio Edison") moves the Commission to compel Complainant to respond to Ohio Edison's First Set of Interrogatories and Requests for Production to Complainant, a copy of which is attached as Exhibit 1. A Memorandum in Support is attached hereto.

Respectfully submitted,



Ebony L. Miller (0077063)

Attorney

FirstEnergy Corp.

76 South Main Street

Akron, Ohio 44308

Phone: 330-384-5969

Fax: 330-384-3875

On behalf of Ohio Edison Company

MEMORANDUM IN SUPPORT

This action arises out of Complainant's complaint against Ohio Edison Company filed on October 25, 2006. On November 14, 2006 Ohio Edison filed its answer to the complaint. A settlement conference was scheduled for December 11, 2006. The parties were not able to resolve the matter informally during the settlement conference. An Entry was issued on August 1, 2007 which scheduled the hearing in this matter for September 27, 2007 at 9:00am in Room 11-G of the Commission's offices.

On April 9, 2007 Ohio Edison served J. Chris Lentz, Attorney for Complainant, with interrogatories, requests for admissions and requests for production of documents. (See Exhibit 1). To date no responses have been received from Mr. Lentz or Complainant. OAC 4901-1-19(A) provides that responses are due within 20 days.

The Ohio Administrative Code provides, "any party to a commission proceeding may obtain discovery of any matter, not privileged, which is relevant to the subject matter of the proceeding." OAC 4901-1-16(B). The Ohio Administrative Code further states:

It is not a ground for objection that the information sought would be inadmissible at the hearing, if the information sought appears reasonably calculated to lead to discovery of admissible evidence. Discovery may be obtained through interrogatories, request for the production of documents and things or permission to enter upon the land or other property, depositions, and requests for admission. The frequency of using these discovery methods is not limited unless the commission orders otherwise under rule 4901-1-24 of the Administrative Code. Id.

On around May 15, 2007, Counsel for Ohio Edison attempted to contact Mr. Lentz telephonically to discuss the discovery requests but Mr. Lentz did not return the call. Subsequently, through another attempt of Ohio Edison to reach Mr. Lentz, Ohio Edison learned that Mr. Lentz was no longer handling Complainant's case. On August 23, 2007, Ohio Edison learned that Complainant tentatively engaged new counsel but has not executed an engagement agreement. Complainant's prospective counsel, Thomas J. McGuire has indicated that he cannot begin work on the case until Complainant executes an engagement

agreement and that Complainant was not responding to Mr. McGuire's attempts to reach Complainant. At the time of this filing no such agreement has been executed.

The Ohio Administrative Code plainly states that the purpose behind the discovery rules is "to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings." OAC 4901-1-16(A). Because the Interrogatories and Requests for Production were served upon Counsel to Complainant on April 9, 2007, the time permitted by the Commission rules to respond has passed. No request for extension of time to respond to the discovery requests or objections to such requests have been served upon Ohio Edison. Because the Complaint in the instant case contains bare allegations absent a sufficiently detailed explanation of the basis for such allegations, Ohio Edison requires the information sought from Complainant in order to meaningfully prepare for and participate in the pending Commission proceeding.

Without an opportunity to conduct discovery, Ohio Edison will not be able to adequately present the Commission with all the facts necessary for the Commission to reach a thorough decision in this case. Based on the foregoing, Ohio Edison respectfully requests, pursuant to OAC 4901-1-23(A) that the Commission grant Ohio Edison's motion to compel discovery in this matter.

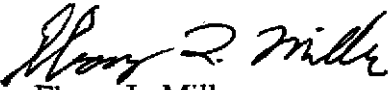
AFFIDAVIT

State of Ohio)
) SS:
County of Summit)

The undersigned, Ebony L. Miller, being duly sworn, states the following:

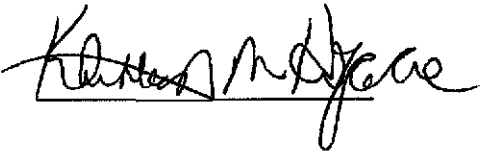
1. That she is counsel for Ohio Edison Company, the Respondent in PUCO Case No. 06-1290-EL-CSS.
2. That on April 9, 2007, she caused the First Set of Interrogatories and Requests for Production attached to the foregoing Motion to Compel to be served on Counsel to Complainant.
3. That on around May 15, 2007, having received no response from Complainant's Counsel to the First Set of Interrogatories and Requests for Production, she contacted Complainant's Counsel to make an additional attempt to obtain the requested information, and Complainant's Counsel did not respond.
4. That having still not received a response from Complainant to the First Set of Interrogatories and Requests for Production, she again attempted to contact Complainant's Counsel and was informed that Complainant's Counsel, Mr. Lentz, was no longer handling Complainant's case.
5. That, on August 23, 2007, having still not received a response from Complainant to the First Set of Interrogatories and Requests for Production, she was told that Complainant had tentatively engaged new counsel, Mr. Thomas McGuire, who could not begin work until an engagement agreement was executed and that Complainant was not responding to Mr. McGuire's attempts to reach Complainant.

Further the Affiant sayeth naught.


Ebony L. Miller

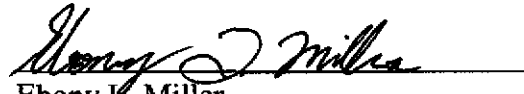
Sworn and subscribed before me, a Notary Public, this 24th day of August 2007.

KATHLEEN M. HOFACRE
Notary Public, State of Ohio, Stark Cty.
My commission expires Mar. 1, 2010



CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Motion of Ohio Edison Company to Compel Discovery was served by regular U.S. Mail, postage prepaid, to Thomas J. McGuire, Esq., Attorney for Columbus Dunn, 633 Broad Street, Suite 200, P.O. Box 1261, Elyria, Ohio 44036, and Columbus Dunn, 1853 West Avenue, Elyria, Ohio 44035, this 24th day of August, 2007.


Ebony L. Miller
Attorney