

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Cincinnati	)	
Insurance Company as Subrogee of Shane	)	
Simpson,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 11-501-EL-CSS
	)	
Ohio Power Company,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On February 18, 2011, Cincinnati Insurance Company (CIC or complainant), as subrogee of Shane Simpson, filed a complaint against Ohio Power Company (Ohio Power). CIC explains that it insures Mr. Simpson under a homeowner's policy. CIC alleges that on or about August 26, 2008, it paid claims to Mr. Simpson for property damage in the amount of \$6,020.69.

In its complaint, CIC alleges that an electrical surge resulted from Ohio Power's improper repair of the electrical facilities that serve Mr. Simpson's residence. According to CIC, the surge damaged several electrical appliances and devices within Mr. Simpson's home. Based on an inspection and report by American Structurepoint, Inc., CIC concludes that the damage was attributable to a neutral connection failing in a portion of the service drop owned by Ohio Power.

- (2) On February 18, 2011, Ohio Power filed an answer and a motion to dismiss. For its answer, Ohio Power denies the material allegations of the complaint. Ohio Power also asserts several affirmative defenses. Ohio Power moves to dismiss on the grounds that it has breached no legal duty, that the complaint fails to state reasonable grounds, and that the complainant has failed to identify any rule or regulation that Ohio Power has violated. In addition, Ohio Power contends that the complainant's claims are flawed because they are

based on the premise that Ohio Power owes a duty to provide service in accordance with the customer's sensitivity to power quality.

- (3) At this time, the attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code (O.A.C.), any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.

Accordingly, a settlement conference shall be scheduled for May 4, 2011, at 1:30 p.m., in Hearing Room 1246, in the offices of the Commission, 12<sup>th</sup> Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.

Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference and all parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.

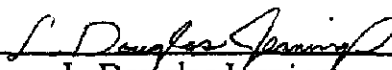
As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.*, 5 Ohio St. 2d 189 (1996).

It is, therefore,

ORDERED, That, in accordance with Finding (3), the parties appear for a mediated settlement conference to be held on May 4, 2011, at 1:30 p.m., in Hearing Room 1246 in the offices of the Commission, 12<sup>th</sup> Floor, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

ORDERED, That copies of this entry be served upon all parties and interested persons of record.

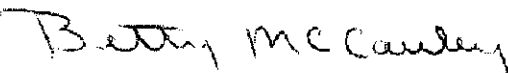
THE PUBLIC UTILITIES COMMISSION OF OHIO

By:   
L. Douglas Jennings  
Attorney Examiner

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Entered in the Journal

APR 04 2011

  
Betty McCauley  
Secretary