

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Martin)
Management Services,)
)
Complainant,)
)
v.) Case No. 11-883-EL-CSS
)
Columbus Southern Power Company,)
)
Respondent.)

In the Matter of the Complaint of Martin)
Management Services,)
)
Complainant,)
)
v.) Case No. 11-1185-EL-CSS
)
Ohio Power Company,)
)
Respondent.)

ENTRY

The attorney examiner finds:

- (1) On February 16, 2011, and March 4, 2011, Martin Management Services (MMS or complainant) filed separate complaints against Columbus Southern Power and Ohio Power Company (collectively, AEP), in case numbers 11-883-EL-CSS (11-883) and 11-1185-EL-CSS (11-1185), respectively. Both complaints concern electric service for properties which have been placed under receivership. The property at issue in 11-883 is a commercial building located at 90 North High Street, Columbus, Ohio, while 11-1185 concerns a residential property located at 217 East Larwill Street, Wooster, Ohio. MMS states that it is the court-appointed receiver for each property. MMS alleges that AEP is improperly threatening disconnection of service to each property due to nonpayment of pre-receivership debt and further alleges that AEP refuses to allow MMS to

establish a new account in its own name. MMS requests a stay of disconnection for each property due to nonpayment of pre-receivership debt, late charges, and any unpaid deposits during the pendency of these complaints, provided that MMS continues to pay all post-receivership billings.

- (2) AEP filed answers in 11-883 and 11-1185, denying the material allegations of the complaints and asserting that these cases involve delinquent customer accounts which are subject to disconnection. AEP contends that the appointment of a receiver does not trump the Commission's primary jurisdiction over the payment of utility service and requests dismissal of the complaints.
- (3) A settlement conference was held on April 19, 2011; however, the parties failed to fully resolve all of the outstanding issues. During the settlement conference, the parties indicated to the presiding attorney examiner that they would attempt to file a stipulation of facts which would establish facts not in dispute in these cases. Subsequent to the settlement conference, the parties advised the presiding attorney examiner that they were unable to fully agree on such a pleading.
- (4) Accordingly, a hearing should be held in these cases on July 28, 2011, at 10:00 a.m. at the offices of the Commission, 11th Floor, Hearing Room 11-C, 180 East Broad Street, Columbus, Ohio 43215. In the event that, prior to the hearing, the parties are able to stipulate such that there are no facts in dispute, the parties may request, at that point in time, that the hearing be cancelled and that the issues in these cases be decided based on briefs the parties elect to file.
- (5) Nevertheless, the parties should be aware that, even if they believe that their stipulation of facts constitutes the entirety of the facts in these cases, the attorney examiner or the Commission may decide that there are facts that have not been established by the parties and for which a hearing may be necessary.
- (6) Any party intending to present direct, expert testimony should comply with Rule 4901-1-29(A)(1)(h), Ohio Administrative Code, which requires that all such testimony to be offered in

this type of proceeding be filed and served upon all parties no later than seven days prior to the commencement of the hearing.

- (7) 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.* (1996), 5 Ohio St.2d 189.

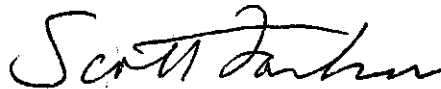
It is, therefore,

ORDERED, That a hearing be held on July 28, 2011, at 10:00 a.m. at the offices of the Commission, 11th Floor, Hearing Room 11-C, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

ORDERED, That any party intending to present direct, expert testimony comply with Finding 6. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO



By: Scott Farkas
Attorney Examiner

/vrm 719

Entered in the Journal
JUN 24 2011



Betty McCauley
Secretary