

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 Company 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 building 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 resolve these matters. During the settlement conference, the parties indicated to the presiding attorney examiner that they would attempt to file a stipulation of facts that were not in dispute in these cases.
- (4) By entry of June 24, 2011, a hearing was scheduled for July 28, 2011. On July 28, 2011, the parties filed a document entitled "Joint Proposed Agreed Statement of Facts and Issues by Complainant and Respondent" (joint statement). Within the joint statement, is a list of agreed upon facts and statement of outstanding issues in the cases. According to the parties, they have agreed to allow the statement of facts to serve as the hearing required by Section 4905.26, Revised Code, and to brief the issues based on the agreed statement of facts and issues contained in the joint statement.
- (5) As the parties have stipulated to the facts in this matter, the attorney examiner now finds that the parties should file their initial briefs by August 22, 2011, and any reply briefs by August 29, 2011. In addition to the issues identified in the joint statement, parties should include within their briefs a discussion of the following issues: (1) Is the complainant required or authorized by the court to pay the outstanding AEP utility bills for the properties placed into receivership prior to the appointment of the complainant? (2) Is AEP authorized by statute or rule to disconnect utility service to the properties managed by the complainant for failure to pay the utility bills incurred by the properties prior to the appointment of the complainant? (3) Why did AEP recently change its practice of not requiring a receiver to pay pre-receivership debts? Was it reasonable to change its practice?

It is, therefore,

ORDERED, That the parties file briefs in accordance with finding 5. 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

gfg/sc

Entered in the Journal

AUG 10 2011



Betty McCauley
Secretary