

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Marcena Upp,)	
)	
Complainant,)	
)	
v.)	Case No. 11-5427-EL-CSS
)	
The Toledo Edison Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On October 11, 2011, Ms. Marcena Upp (complainant) filed a complaint against the Toledo Edison Company (Toledo Edison). In her complaint, Ms. Upp alleges that for the period 2008 to the present Toledo Edison has engaged in a practice of improper billing, abusive collection practices, wrongful disconnection, and inaccurate meter reading.
- (2) By entry issued June 28, 2012, the attorney examiner scheduled this matter for hearing. The hearing is scheduled for August 1, 2012.¹
- (3) On July 10, 2012, the complainant filed a motion to stay disconnection of her electricity service while her case is pending. The complainant alleges that on June 15, 2012, Toledo Edison issued a notice to disconnect her electricity service even though she had requested that Toledo Edison fax a medical certificate to her physician. The complainant seeks a stay pursuant to Rule 4901-9-01(E), Ohio Administrative Code, (O.A.C.).
- (4) Toledo Edison filed a response to the complainant's motion for stay on July 12, 2012. Toledo Edison agrees to stay

¹ In the June 28, 2012, entry the attorney examiner scheduled the hearing for August 8, 2012. Upon request of counsel for Toledo Edison and consent of the complainant, the parties agreed to reschedule the hearing for August 1, 2012.

disconnection while the case is pending as long as the complainant pays at least some of the amount not in dispute. Toledo Edison acknowledged that a payment of \$551.35 posted to the complainant's account on July 2, 2012. According to Toledo Edison the payment covers January through April 2012. For May and June 2012, Toledo Edison states that the complainant owes \$360.34. Toledo Edison is willing to defer this amount until the case concludes if the complainant pays her July bill and all future monthly bills. Without payment, Toledo Edison points out that the complainant would not qualify for relief under Rule 4901-9-01(E), O.A.C. In the event of nonpayment, Toledo Edison requests that it be allowed to disconnect service pursuant to Rule 4901:1-18-06, O.A.C.

- (5) In view of Toledo Edison's response to the complainant's motion for stay, the complainant's motion appears, in overall effect, moot. Toledo Edison agrees to defer payments for May and June 2012, to stay disconnection as long as the complainant pays her July 2012 bill, and to stay disconnection as long as she pays undisputed future billings while the case is pending. Inasmuch as both parties seek an outcome that is consistent with Rule 4901-9-01(E), O.A.C., complainant's request for stay is essentially moot.

Absent the complainant's acquisition of a medical certificate that could impose a stay on disconnection, the complainant should abide by the terms set forth in Toledo Edison's response. Specifically, the complainant should pay her July bill and future undisputed bills. Otherwise, the complainant will be subject to disconnection pursuant to the Commission's rules.

- (6) On July 23, 2012, Toledo Edison moved to continue the hearing. In its motion, Toledo Edison states that on June 27, 2012, it served its first set of interrogatories, requests for production, and requests for admission upon the complainant. Toledo Edison calculates that responses to its discovery requests were due July 20, 2012. To date, Toledo Edison has not received responses or a request for an extension of time. Toledo Edison has scheduled a deposition for July 26, 2012.
- (7) In support of its motion, Toledo Edison states that it would be prejudiced if this case goes forward as scheduled. Without responses to its discovery requests, Toledo Edison claims that it

will not be able to depose the complainant thoroughly and productively. Toledo Edison adds that its prefiled testimony is due July 27, 2012. Toledo Edison argues that it would be unfair to require testimony in the absence of responses to its discovery requests. Because of the limited time before the hearing, Toledo Edison requests an expedited ruling on its motion.

- (8) The attorney examiner finds that Toledo Edison's motion to continue the hearing and request for expedited ruling are well-taken and should be granted. Accordingly, the hearing in this matter shall be continued indefinitely to allow the completion of discovery.

It is, therefore,

ORDERED, That the complainant's motion for stay is moot, but the complainant should adhere to the conditions in Rule 4901-9-01(E), O.A.C. It is, further

ORDERED, That Toledo Edison's motion for expedited treatment of its motion to continue the hearing is granted. It is, further,

ORDERED, That the hearing in this matter shall be continued indefinitely pending completion of discovery. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ L. Douglas Jennings

By: L. Douglas Jennings
Attorney Examiner

sef/vrm

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in

Case No(s). 11-5427-EL-CSS

Summary: Attorney Examiner Entry granting Toledo Edison's motion to continue hearing. electronically filed by Vesta R Miller on behalf of L. Douglas Jennings, Attorney Examiner, Public Utilities Commission of Ohio