

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

COLUMBUS BROCK,

Complainant,

v.

OHIO EDISON COMPANY,

Respondent.

Case No. 11-6085-EL-CSS

**OHIO EDISON COMPANY'S MOTION TO DISMISS FOR FAILURE TO PROSECUTE
AND MOTION FOR AN INDEFINITE CONTINUANCE**

Ohio Edison Company ("Ohio Edison") hereby moves to dismiss this case due to Columbus Brock's ("Complainant's") failure to prosecute. When Complainant filed his case, he alleged that Ohio Edison improperly disconnected electric service at his home in November 2004. During discovery, however, Complainant revealed that he actually disputes a disconnection that occurred in February 2002. Attorney Examiner Jim Lynn has asked Complainant to amend his Complaint to discuss the alleged February 2002 disconnection. More than a month later, Complainant has failed to file an amended Complaint. As a result, Ohio Edison asks that Complainant's case be dismissed. Ohio Edison also asks that the hearing currently scheduled for September 7, 2012, be continued indefinitely to allow for consideration of its Motion to Dismiss.

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Respectfully submitted,

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ATTORNEYS FOR RESPONDENT OHIO
EDISON COMPANY

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MEMORANDUM IN SUPPORT

Any utility consumer with a service or billing problem may file a complaint with the Commission “which clearly explains the facts which constitute the basis of the complaint.” Ohio Admn. Code § 4901-109. Once a complaint has been filed, a consumer who appears in propria persona has the sole duty to prosecute his case on his own behalf. *See* Ohio Admn. Code Rule 4901-1-08(A). That duty includes filing an amended complaint when required by the Commission. *See* Ohio Admn. Code Rule 4901-1-06 (“the commission, the legal director, the deputy legal director, or an attorney examiner may, upon their own motion or upon motion of any party for good cause shown, authorize the amendment of any . . . complaint . . . or other pleading filed with the commission.”)

Columbus Brock (“Complainant”) filed his Complaint on December 29, 2011. In his Complaint, he indicated that his electric service was turned off “from November 28, 2004, until November 8, 2006.” (Compl. p.1.) He further alleged that the disconnection was improper because insufficient notice was provided. (*Id.*). During discovery, however, Complainant indicated to counsel for Ohio Edison Company (“Ohio Edison”) that he actually disputes a

disconnection that occurred in February 2002. Ohio Edison's counsel conveyed this development to Attorney Examiner Jim Lynn by telephone on July 10, 2012. Attorney Examiner Lynn indicated via an email sent July 13, 2012, that Complainant had been instructed to file an amended complaint. More than a month has passed since then and the hearing in this matter, which is scheduled for September 7, 2012, is drawing close. Nevertheless, Complainant has not complied with Attorney Examiner Lynn's request. Ohio Edison respectfully requests that the Commission dismiss Complainant's case for failure to prosecute. Ohio Edison also requests an indefinite continuance so that Ohio Edison's Motion to Dismiss can be fully considered. *See Poole v. Ohio Edison Co.*, Case No. 11-3875-EL-CSS, Entry dated April 23, 2012 (granting a motion for a continuance (date to be determined) to allow the Commission time to consider a motion to dismiss for failure to prosecute).

Dated: August 20, 2012

Respectfully submitted,



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ATTORNEYS FOR RESPONDENT OHIO
EDISON COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was delivered to the following person by first class mail, postage prepaid, this 20th day of August, 2012:

Columbus Brock
943 Bradford Drive
Elyria, OH 44035

Alvin E. Haeck
An Attorney For Ohio Edison Company