

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Dale Ballock,)	
)	
Complainant,)	
)	
v.)	Case No. 12-2383-EL-CSS
)	
The Cleveland Electric Illuminating)	
Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On August 27, 2012, the complainant, Dale Ballock, filed a complaint against the respondent, The Cleveland Electric Illuminating Company (CEI), which alleges that the complainant has persistently experienced, over many years, and continues to experience presently, an unacceptable number of momentary service outages, collectively amounting to a situation of unreliable and inadequate service that CEI has not adequately addressed. This has left the complainant not only aggravated and frustrated, but has also damaged one of his household appliances.
- (2) By entry issued September 14, 2012, the respondent was granted an extension of time to file its answer. On October 8, 2012, the respondent timely filed its answer, in which it admits to certain of the complainant's allegations, including: (a) that momentary outages have occurred at the complainant's address, and (b) that it denied an earlier claim made by the complainant for a damaged microwave oven. However, the respondent further answers by denying, many, if not most, of the complainant's other allegations, including that the respondent has failed to provide adequate service to the complainant, or that CEI is discriminating against the complainant. Further, CEI's answer sets forth

affirmative defenses including: (a) that the complaint fails to set forth reasonable grounds for complaint; (b) that the complainant has failed to mitigate his damages; (c) that the complainant is not the real party of interest; and (d) that CEI has, at all times relevant to the complaint, complied with the Revised Code, the rules, regulations, and orders of the Commission, and its tariffs. Further, CEI requests dismissal of the complaint.

- (3) 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 discussion. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.
- (4) Accordingly, a settlement conference shall be scheduled for November 7, 2012, at 10:00 a.m., in Conference Room 1246, in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215-3793.
- (5) 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.
- (6) 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 prehearing settlement conference be held in accordance with Finding (4). It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Daniel Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/sc

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in

Case No(s). 12-2383-EL-CSS

Summary: Attorney Examiner Entry scheduling a prehearing settlement conference for 11/07/12, 10:00 a.m. at the offices of the Commission located at 180 E. Broad St., 12th Flr., Rm. 1246, Columbus, Ohio. - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio