

THE PUBLIC UTILITIES COMMISSION OF OHIO

Case No. 12-2980-EL-CSS

- (1) On November 14, 2012, the complainant, Eugene Holmes, filed a complaint against the respondent, The Cleveland Electric Illuminating Company (CEI), alleging that the respondent's actions taken in response to power outages resulting from a recent storm amount to an abuse of discretion.
- (2) On December 3, 2012, the attorney examiner issued an entry granting CEI an extension of time, until December 17, 2012, for filing its answer or other responsive pleading in this case. On December 17, 2012, CEI filed its answer, a motion to dismiss, and a memorandum in support of its motion to dismiss.
- (3) On December 31, 2012, the complainant filed a motion for an extension of time for filing a memorandum contra CEI's motion to dismiss this case. In support of his motion, the complainant argues that, due to the holiday season and the fact that he did not receive service of CEI's motion to dismiss until December 20, 2012, he needs additional time to prepare and file his memorandum contra.
- (4) Rule 4901:1-12(B)(1), Ohio Administrative Code (O.A.C.), as applicable here, provides that any party may file a memorandum contra to a motion within fifteen days after

the service of a motion, or any such period as the attorney examiner may require. Rule 4901:1-12(B)(2), O.A.C., as applicable here, provides that any party may file a reply memorandum within seven days after the service of a memorandum contra, or any such period as the attorney examiner may require.

- (5) Upon review of the pleadings, the attorney examiner finds that the complainant's motion for extension of time for filing a memorandum contra CEI's December 17, 2012 motion to dismiss is reasonable and should be granted. Accordingly, the complainant shall have until the close of business on January 9, 2013, to file such a pleading. Correspondingly, CEI shall have until the close of business on January 16, 2013, to file a reply memorandum to the complainant's memorandum contra, if any.
- (6) The complainant's December 31, 2012, pleading also includes a request for more time and opportunity for filing his response to CEI's answer to the complaint. The Commission's rules do not permit or contemplate that, in a complaint case, any type of formal pleading may be filed by a complainant in response to a respondent's answer. Therefore, the complainant's request for time and opportunity for filing such a pleading is without merit and is hereby denied.

It is, therefore,

ORDERED, That, in accordance with Finding (5), the complainant's motion for an extension of time for filing a memorandum contra CEI's December 17, 2012 motion to dismiss is granted. It is, further,

ORDERED, That, in accordance with Finding (5), the complainant shall have until the close of business on January 9, 2013, to file filing a memorandum contra CEI's December 17, 2012 motion to dismiss. It is, further,

ORDERED, That, in accordance with Finding (5), CEI shall have until the close of business on January 16, 2013, to file a reply memorandum to the complainant's memorandum contra, if any. It is, further,

ORDERED, That, in accordance with Finding (6), the complainant's request for time and opportunity for filing a formal pleading in response to CEI's answer to the complaint is denied. It is, further,

ORDERED, That a copy of this entry be served upon all parties 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). 12-2980-EL-CSS

Summary: Attorney Examiner Entry grants an extension until 01/09/2013 for the Complainant to file a Memorandum Contra the Respondent's Motion to Dismiss and until 01/16/2013 for the Respondent to file a Reply Memorandum. The Complainant's request for time and opportunity to file a formal pleading in response to the Respondent's Answer to the Complaint is denied. - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio