

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Elizabeth)	
Milenkovich,)	
)	
Complainant,)	
)	
v.)	Case No. 10-195-EL-CSS
)	
The Cleveland Electric Illuminating)	
Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On February 12, 2010, in *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a New Rider and Revision of an Existing Rider*, Case No. 10-176-EL-ATA (Case No. 10-176-EL-ATA), the Ohio Edison Company, The Cleveland Electric Illuminating Company (CEI), and The Toledo Edison Company filed an application to revise their tariffs in a way that affected the all-electric discount to electric service customers.
- (2) On February 16, 2010, Elizabeth Milenkovich (complainant) filed a complaint against CEI. In her complaint, Ms. Milenkovich alleged that CEI's service rates for electricity are unjust and unreasonable. In support of her claim, she pointed to her January 2010 heating bill for \$2,373.68 and her February 2010 heating bill for \$2,088.98. Comparing her January and February 2010 bills to her January 2009 bill for \$757.02 and her February 2009 bill for \$691.63, Ms. Milenkovich calculated increases of 314 percent and 302 percent, respectively. She regards increases of this magnitude as grossly excessive. For relief, Ms. Milenkovich sought a reduction in charges and a limitation on rate increases to a maximum of 10 percent for the prior year.

- (3) CEI filed an answer and a motion to dismiss on March 8, 2010. In its answer, CEI admitted that Ms. Milenkovich experienced bill increases over the past year. CEI attributed the increase to the elimination of certain all-electric rates pursuant to proceedings before the Commission.¹
- (4) In CEI's motion to dismiss, CEI summarized the complaint as a disapproval of a Commission-approved rate. CEI emphasized that the complainant did not claim that she was charged the wrong rate or that CEI had violated any statute, tariff provision, rule, regulation, or order of the Commission. Relying on Commission precedent, CEI argued that there is a well-established Commission principle that allegations that approved rates should not be charged does not establish reasonable grounds for a complaint.

In addition, CEI urges the Commission to dismiss the complaint because it fails to request available relief. The complaint seeks the reversal of a Commission decision. To CEI, the complainant's remedy is not available.

CEI points out that the Commission, since March 3, 2010, has asserted jurisdiction over all-electric rates. In a March 3, 2010, finding and order in Case No. 10-176-EL-ATA, CEI states that the Commission ordered CEI and its sister companies to reinstitute temporarily all electric rates as they existed in December 2008. CEI noted that the Commission continued to exercise jurisdiction to fashion a long-term solution. CEI recommended that, rather than addressing this issue in a case-by-case manner, the Commission should address disputes like the complainant's in Case No. 10-176-EL-ATA. Pending a result in Case No. 10-176-EL-ATA, CEI advocated that the complaint be dismissed with prejudice.

- (5) On March 16, 2010, the complainant filed a pleading entitled "Objection to Respondent's Motion to Dismiss." The

¹ *In the Matter of the Notice of Intent of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company to File an Application to Increase Distribution Rates for Electric Service and for Tariff Approval*, Case No. 07-551-EL-AIR, et al (Opinion and Order issued January 21, 2009) and *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Revised Code 4928.143 in the Form of an Electric Security Plan*, Case No. 08-935-EL-SSO, et al. (Second Opinion and Order issued March 25, 2009).

complainant rejected the notion that the Commission approved a rate increase of 300 percent. The complainant asserted that a rate increase of 300 percent is outrageous, is against the public interest, and, therefore, compels a hearing.

- (6) CEI filed a reply on March 23, 2010. CEI highlighted that the Commission did approve the rates in question. Acknowledging that there is a controversy concerning the rates, CEI noted that the Commission addressed those issues in Case No. 10-176-EL-ATA. CEI recommended that the complainant's issues be addressed in that proceeding and that CEI's motion to dismiss the complaint with prejudice should be granted.
- (7) On September 22, 2010, the Commission issued an entry suspending the instant proceeding pending a resolution of the issues presented in Case No. 10-176-EL-ATA.
- (8) On March 3, 2010, the Commission issued a finding and order approving FirstEnergy's application with certain modifications. Ultimately, after the filing of applications for rehearing, the Commission issued, on May 25, 2011, an opinion and order in Case No. 10-176-EL-ATA.
- (9) At this time, 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 process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.
- (10) Accordingly, a settlement conference shall be scheduled for February 13, 2013, at 1:30 p.m. in Room 1246 in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural

issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.

- (11) 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.
- (12) 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.*, 5 Ohio St. 2d 189, 214 N.E. 2d 666 (1966).

It is, therefore,

ORDERED, That a settlement conference be held on February 13, 2013, at 1:30 p.m. in Room 1246 in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. 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/ L. Douglas Jennings

By: L. Douglas Jennings
Attorney Examiner

jrj/vrm

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in

Case No(s). 10-0195-EL-CSS

Summary: Attorney Examiner Entry scheduling a settlement conference on February 13, 2013, at 1:30 p.m., electronically filed by Vesta R Miller on behalf of L. Douglas Jennings, Attorney Examiner, Public Utilities Commission of Ohio