

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**JACK TEUBNER,**

**Complainant,**

**v.**

**OHIO EDISON COMPANY,**

**Respondent.**

**Case No. 12-0891-EL-CSS**

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**OHIO EDISON COMPANY'S MOTION TO DISMISS FOR FAILURE TO PROSECUTE**

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Ohio Edison Company ("Ohio Edison") hereby moves to dismiss this matter due to Jack Teubner's ("Complainant's") failure to prosecute. Complainant has suggested by letter and confirmed during telephone calls with counsel for Ohio Edison and the Commission that he does not wish to pursue his case, which has been inactive for nearly a year. Complainant has ignored his obligation to prosecute. Accordingly, this case should be dismissed, at a minimum without prejudice.

Dated: July 17, 2013

Respectfully submitted,

*Allison E. Haedt*

Allison E. Haedt (0082243)

Counsel of Record

Jones Day

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EDISON COMPANY

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**MEMORANDUM IN SUPPORT**

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A complainant 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).* Complainant in this matter has failed to prosecute his case. In fact, he has affirmatively stated that he does not wish to go forward.

On July 22, 2012, Complainant sent a letter to counsel for Ohio Edison ("Counsel"), a copy of which is attached hereto as Exhibit A. The caption to the letter indicated that it was sent to the Commission. The letter largely summarized the grounds for Complainant's case and recapped the parties' settlement conference, which did not lead to a resolution. The letter concluded, however, with the statement: "I cannot continue alone." (Exhibit A.) The letter was not signed, so Counsel was not certain whether or not Complainant intended to send additional pages. Counsel was also not certain what Complainant meant by his concluding statement.

In an effort to gain clarity, Counsel called Complainant on or around August 31, 2012. During that telephone call, Complainant confirmed that he was no longer interested in pursuing his case. Counsel indicated that Complainant should contact the Commission to convey his decision to discontinue litigation. Shortly after the telephone call with Complainant, Counsel also called the Commission and relayed the contents of Counsel's call with Complainant.

Following the telephone calls described above, this matter was completely inactive. Complainant did not pursue discovery or request a hearing date. Complainant also did not communicate with Counsel. As a result, Counsel contacted the Commission on or around May 21, 2013, and re-iterated the contents of the letter and telephone call with Complainant the previous summer. The next day, May 22, 2013, Attorney Examiner Dan Fullin informed Counsel that he would confirm Complainant's desire to dismiss his case and ask Complainant to file a dismissal entry with the Commission. Fullin reported some difficulty with reaching Complainant. On or around July 9, 2013, however, Fullin informed Counsel that he had spoken to Complainant. Complainant re-stated during his conversation with Fullin that Complainant does not wish to go forward with his case, but indicated that he is unwilling to file a dismissal.

This matter is currently set for hearing on December 4, 2013, at 11:00 a.m. (*See* Entry dated July 9, 2013.) Given Complainant's failure to pursue his case for nearly a year and his affirmative statements that he does not wish to go forward, however, Ohio Edison respectfully requests that the Commission dismiss Complainant's case. *See, e.g., E&J Mobile Radio Service, Inc. v. The Ohio Bell Tel. Co.*, Case No. 90-566-TP-CSS, 1991 Ohio PUC LEXIS 1354, \*5 (Entry dated Nov. 21, 1991) ("[I]t is apparent that complainant does not wish to pursue this matter further. Accordingly, this matter [is] dismissed without prejudice.") Ohio Edison respectfully submits that dismissal is preferable to requiring Ohio Edison to expend the significant time and resources that would be necessary to perform discovery and prepare for a hearing that Complainant has indicated he does not want and, therefore, likely will not attend.

Dated: July 17, 2013

Respectfully submitted,

Allison E. Haedt

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Counsel of Record

Jones Day

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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 17th day of July 2013:

Jack Teubner  
5516 Catmere Dr.  
Medina, OH 44256

Allen E. Haselt  
An Attorney For Ohio Edison Company

# **EXHIBIT A**

To

07/22/2012

Ohio Governor  
Honorable John Kasich

Ohio Public Utilities Commission  
Chairman, Mr Todd Snitchler

Ohio Public Utilities Commission, Hearing Officer  
Ms Mandy Willey

First Energy Service Company  
Ohio Edison  
Ms Carrie M Dunn

Jones day, legal representation for First Energy  
Ms Allison Haedt, Counsel of record

From

Jack Teubner  
5516 Catmere Dr, Medina Ohio 44256  
330-7234747

REF: Ohio Public Utilities complaint # 12-0891-EL-CSS

This is to inform the above people that I am withdrawing any further attempt in pursuing a fair settlement in the complaint I filed on Ohio Edison in January 2012 with Ohio Public Utilities Commission. In 2009 I experienced a power surge into my home that caused the loss of my \$3,000 computer and printer. The cause of total damage was determined by a computer repair company as a power surge. Also at the very same time, my electric meter started to produce enormous readings causing electricity bills to rise to be three times the normal monthly bill, for three months. Now these abnormal readings were either a coincidence or coincided with the power surge I suffered that also affected the electric meter. Upon filing a complaint with Ohio Edison, they did not offer any explanation or cooperate in any investigation. The only thing Ohio Edison did was to immediately change the meter. The monthly electric bill for the next month after being changed out, immediately went back to normal. Now that again was either another coincidence or a common sense faulty meter. Ironically, Ohio Edison informed me that meter in question was tested and worked fine, go figure if the meter was faulty, Ohio Edison would owe me, between \$3,000 and \$4,000.

In a complaint filed with Ohio Public Utilities commission, Ohio Edison spared no expenses in using a legal firm in every step to protect itself from me, a disabled and retired electrician of 30 years with a public utility. After six months of back and forth actuations, a settlement hearing was held with the PUCO, Ohio Edison and myself. I, after hesitation, offered a settlement of \$200 in credit from Ohio Edison, and Ohio Edison turned that down to counter offer me nothing for my losses, forcing case to go to a court trial. Now again, Ohio Edison retains full control of the all evidence (the meter and testing of it) and their word as to the testing, and all I have is common sense logic. Ohio Edison has a legal firm to defend itself and a definite disadvantage again for me, kind of like using a sledge hammer it kill a fly. The lack of any progress or the hope of any has taken its toll on me, and I cannot continue alone.