

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

AMERICAN WIRE AND CABLE COMPANY,	)	Case No.: 13-1613-EL-CSS
)	
)	
	)	<u>MOTION TO CONTINUE</u>
Complainant,	)	<u>SETTLEMENT CONFERENCE</u>
	)	<u>AND REQUEST FOR EXPEDITED</u>
vs.	)	<u>RULING</u>
)	
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,	)	Denise M. Hasbrook (0004798)
	)	Emily Ciecka Wilcheck (0077895)
	)	Roetzel & Andress, LPA
Respondent.	)	One SeaGate, Suite 1700
	)	Toledo, OH 43604
	)	Telephone: 419.242.7985
	)	Facsimile: 419-242-0316
	)	Email: dhasbrook@ralaw.com
	)	ewilcheck@ralaw.com
)	
	)	and
)	
	)	Carrie M. Dunn (0076952)
	)	Counsel of Record
	)	FirstEnergy Service Company
	)	76 South Main Street
	)	Akron, Ohio 44308
	)	Telephone: (330) 761-2352
	)	Facsimile: (330) 384-3875
	)	Email: cdunn@firstenergycorp.com
)	
	)	<i>Attorneys for Respondent,</i>
	)	<i>The Cleveland Electric Illuminating</i>
	)	<i>Company</i>

Pursuant to Rule 4901-1-12 of the Ohio Administrative Code ("O.A.C."), Respondent The Cleveland Electric Illuminating Company respectfully requests a continuance of the October 29, 2013 settlement conference scheduled for 1:00 p.m. for the reason that Complainant has not

yet provided responses to discovery that would allow meaningful case evaluation and settlement discussions to occur.

Rule 4901-1-12(c), O.A.C. provides:

Any motion may include a specific request for an expedited ruling. The grounds for such a request shall be set forth in the memorandum in support. If the motion requests an extension of time to file pleadings or other papers of five days or less, an immediate ruling may be issued without the filing of memoranda. In all other situations, the party requesting an expedited ruling may first contact all other parties to determine whether any party objects to the issuance of such a ruling without the filing of memoranda. If the moving party certifies that no party objects to the issuance of such a ruling, an immediate ruling may be issued. If any party objects to the issuance of such a ruling, or if the moving party fails to certify that no party has any objection, any party may file a memorandum contra within seven days after the service of the motion, or such other period as the commission, the legal director, the deputy legal director, or the attorney examiner requires. No reply memoranda shall be filed in such cases unless specifically requested by the commission, the legal director, the deputy legal director, or the attorney examiner. (emphasis added).

Moreover, Rule 4901-1-12(F), O.A.C. provides:

Notwithstanding paragraphs (B) and (C) of this rule, the commission, the legal director, the deputy legal director, or the attorney examiner may, upon their own motion, issue an expedited ruling on any motion, with or without the filing of memoranda, where the issuance of such a ruling will not adversely affect a substantial right of any party.

Respondent served its First Set of Interrogatories and Requests for Production of Documents upon Complainant on August 9, 2013 seeking basic information on the claims and alleged damages asserted in the Complaint. When the responses were not timely received on August 30, 2013 when due, Respondent sent the correspondence attached as Exhibit A dated September 17, 2013 to Complainant and also spoke to its principal agent, Walter McClain on September 19, 2013 to discuss when the responses to discovery would be received. Mr. McClain indicated on behalf of Complainant that the responses would be forthcoming, but said he had to speak with the corporation's legal counsel as to the timing of when the responses would be mailed.

A settlement conference had been scheduled in this case for September 26, 2013. Based upon the discussion with Complainant's representative, Respondent requested a continuance of the September 26, 2013 settlement conference for the reason that Compliant had not yet provided responses to discovery that would allow meaningful case evaluation and settlement discussions to occur. That motion was granted and the settlement pretrial was set for October 29, 2013.

However, as of this date, no responses to the discovery have been received. In an effort to secure the discovery, Respondent filed a Motion to Compel on October 3, 2013. Rather than serve responses to the now long overdue discovery, Complaint filed a Motion to Strike the Motion to Compel. In its Motion to Strike, Complaint vaguely indicated that the discovery responses would be served but did not indicate any date certain for the delivery of the discovery responses.

Without the information requested in the discovery, Respondent cannot properly evaluate the claims, alleged damages or engage in meaningful settlement and procedural discussions at the scheduled settlement conference on October 29, 2013 at 1:00 p.m.

The Cleveland Electric Illuminating Company is not requesting this continuance for purposes of delay, but rather based upon the legitimate reason that the responses to its discovery requests have not been received.

Therefore, Respondent, The Cleveland Electric Illuminating Company respectfully requests that the Attorney Examiner grant its request for a continuance of the October 29, 2013 settlement conference scheduled for 1:00 p.m. and that the conference be reset for a date after

which Respondent has received and had an opportunity to review Complainant's discovery responses.

Respectfully submitted,

/s/Denise M. Hasbrook

Denise M. Hasbrook (0004798)

Emily Ciecka Wilcheck (0077895)

Carrie M. Dunn (0076952)

*Counsel for The Cleveland Electric
Illuminating Company*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Settlement Conference and Request for Expedited Ruling was sent by ordinary U.S. Mail and via email, this 21st day of October, 2013, to the following:

Walter McClain
American Wire and Cable Company
7951 Bronson Road
Olmsted Falls, OH 44138
walter@awacc.com

Respectfully submitted,

/s/ Denise M. Hasbrook

Denise M. Hasbrook (0004798)
Emily Ciecka Wilcheck (0077895)
Carrie M. Dunn (00769)

One SeaGate
Suite 1700
Toledo, OH 43604
DIRECT DIAL 419.254.5243
PHONE 419.242.7985 FAX 419.242.0316
dhasbrook@ralaw.com

WWW.RALAW.COM

September 17, 2013

Walter McClain
American Wire and Cable Company
7951 Bronson Road
Olmsted Falls, OH 44138

Re: *American Wire and Cable Company v. The Cleveland Electric Illuminating Company*
Before the Public Utilities Commission of Ohio
Case No. 13-1613-EL-CSS

Dear Mr. McClain:

As you are aware, we have served a First Set of Interrogatories and Request for Production of Documents in this case several weeks ago. Your responses were due on August 30, 2013. Please provide the past due responses immediately or contact me to discuss when we will receive this requested information.

Your complete responses are necessary so that we can evaluate and investigate our position in a timely manner. Your cooperation is anticipated.

Very truly yours,

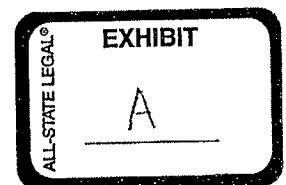
ROETZEL & ADDRESS, LPA

Denise M. Hasbrook/lrm

Denise M. Hasbrook

DMH/nm

cc: Carrie Dunn, Esq. (via email)



This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 13-1613-EL-CSS

Summary: Motion to Continue Settlement Conference and Request for Expedited Ruling electronically filed by Mrs. Denise M. Hasbrook on behalf of The Cleveland Electric Illuminating Company