

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

ROBERT FERGUSON,

Complainant,

v.

**THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY,**

Respondent.

Case No. 12-2883-EL-CSS

**THE CLEVELAND ELECTRIC ILLUMINATING COMPANY’S MOTION TO
DISMISS**

Pursuant to Rule 4901-9-01(F), Ohio Administrative Code, The Cleveland Electric Illuminating Company (“CEI”) hereby moves to dismiss Complainant Robert Ferguson’s (“Complainant”) Complaint against CEI. Complainant alleges that CEI was attempting to charge him fees related to tampering and unbilled electricity usage. On February 13, 2013, CEI and Complainant attended a settlement conference. At that settlement conference, a settlement was reached. Counsel for CEI subsequently sent the settlement agreement to Complainant. Complainant failed to return the settlement agreement and joint motion to dismiss to CEI.

On September 6, 2013, CEI and Complainant attended a telephonic settlement conference and discussed the settlement agreement. Complainant indicated that he needed another copy of the settlement agreement. On that same day, counsel for CEI sent another copy of the settlement agreement. Despite the fact that CEI is ready, willing and able to comply with the settlement agreement, and satisfy Complainant’s Complaint, it has been unable to obtain a joint dismissal.

Under Rule 4901-9-01(F), Ohio Administrative Code, a public utility may file a motion asserting that a complaint has been satisfied. Complainant then has twenty (20) days to indicate

whether he agrees or disagrees with the public utility's assertion. *Id.* If a response is not timely filed, then the Commission may presume satisfaction and dismiss the complaint. *Id.*

Currently, a hearing is scheduled for this matter on December 11, 2013. As discussed above, CEI will comply with the settlement agreement and remove certain charges from Complainant's final bill alleviating any need for a hearing. In an abundance of caution, CEI is contemporaneously requesting a continuance of the hearing to allow for consideration of this Motion as well as due to a conflict. Nevertheless, as the complaint has been satisfied, under Rule 4901-9-01(F), CEI requests that the Commission dismiss Complainant's complaint at a minimum, without prejudice.

Respectfully submitted,

/s/ Carrie M. Dunn

Carrie M. Dunn (0076952)

FirstEnergy Service Company

76 S. Main Street

Akron, OH 44308

Telephone: (330) 761-2352

Facsimile: (330) 384-3875

E-mail: cdunn@firstenergycorp.com

ATTORNEYS FOR RESPONDENT THE
CLEVELAND ELECTRIC ILLUMINATING
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 7th day of November, 2013:

Robert Ferguson
1333 East Blvd. Apt. 4
Cleveland, Ohio 44106

/s/ Carrie M. Dunn
An Attorney for The Cleveland Electric
Illuminating Company

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/7/2013 11:20:18 AM

in

Case No(s). 12-2883-EL-CSS

Summary: Motion to Dismiss (Corrected) electronically filed by Ms. Carrie M Dunn on behalf of
The Cleveland Electric Illuminating Company