

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of TRE Properties LLC,)	
)	
Complainant,)	
)	
v.)	Case No. 14-130-EL-CSS
)	
Ohio Edison Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On January 27, 2014, Complainant, TRE Properties LLC (TRE), filed a complaint against Respondent, Ohio Edison Company (Ohio Edison). TRE identifies itself as a property management company that owns no real estate, but manages properties for other entities. Among other things, the complaint pertains to whether TRE has been wrongfully billed and/or charged by Respondent for electric service on accounts that it claims it did not open, at properties that it manages, under lease provisions that hold tenants responsible for their own utilities.
- (2) On February 18, 2014, Respondent filed its answer, denying the Complainant's substantive allegations and setting forth affirmative defenses. Briefly summarized, Respondent's position appears to be that, in certain circumstances at issue in this case, it provided electric service that has not been paid for, and for which it believes it is legally entitled to receive payment, because such service was consumed at the properties involved while shared metering existed. Respondent also acknowledges that, in certain other circumstances where it has not been paid for service provided at one of the involved properties during a period in which it was mistaken in its belief that shared metering existed, it has agreed not to hold Complainant or any tenant(s) responsible for charges.
- (3) A settlement conference was scheduled for and held in this matter on June 3, 2014. However, the parties were unable to resolve the dispute at that time.

- (4) On July 14, 2014, Complainant filed a pleading it labeled Motion for Ruling on the Applicability of Ohio Adm.Code 4901:1-18-08 (Motion for Ruling), along with a memorandum in support of that motion. On July 29, 2014, Respondent filed a Memorandum in Opposition to Complainant's Motion for Ruling (Memorandum Contra). Complainant filed no Reply to Respondent's Memorandum Contra.
- (5) By its motion, Complainant seeks to have the Commission rule that Ohio Adm.Code 4901:1-18-08 does not apply to the electric service provided to two of the service addresses involved in this case. Complainant posits that this case involves two single family homes that have separate utility meters, but also share common pumps which are wired one to one home and one to the other. Complainant contends that, under such circumstances, there is no requirement that such properties be considered as "master-metered" under Ohio Adm.Code 4901:1-18-08. Additionally, Complainant seeks, by its motion, a Commission ruling that, regardless of whether Ohio Adm.Code 4901:1-18-08 applies, Respondent cannot unilaterally place utility service in a landlord's name without any agreement between the utility and the landlord.
- (6) In its Memorandum Contra, Respondent argues, among other things, that Complainant's Motion for Ruling is procedurally improper and deficient, and should be stricken. Respondent contends that the issues raised by the Motion for Ruling raise particular questions of fact, including, among other things whether the property at issue is joint-metered, and whether it is a multi-unit dwelling. Respondent contends that Complainant's motion is not supported by competent evidence and argues that, without some presentation of competent evidence, by way of hearing or through stipulation, Complainant's motion is legally deficient and cannot be ruled upon.
- (7) The attorney examiner finds that there is insufficient information of record upon which to base a grant of Complainant's Motion for Ruling. Therefore, it is denied.
- (8) The attorney examiner finds this case should be scheduled for a hearing on November 24, 2015, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Hearing Room 11-C, Columbus, Ohio 43215-3793.

- (9) All discovery requests should be conducted in accordance with Ohio Adm.Code 4901-1-16 to 4901-1-24.
- (10) Any party intending to present direct, expert testimony should comply with Ohio Adm.Code 4901-1-29(A)(1)(h), which requires that all such testimony to be offered in this type of proceeding be filed and served upon all parties no later than seven days prior to the commencement of the hearing.
- (11) 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.* (1966), 5 Ohio St.2d 189.

It is, therefore,

ORDERED, That a hearing be held as set forth in Finding (8). It is, further,

ORDERED, That discovery be conducted in accordance with Finding (9). It is, further,

ORDERED, That any party intending to present expert testimony comply with Finding (10). 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 E. Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/dah

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in

Case No(s). 14-0130-EL-CSS

Summary: Attorney Examiner Entry ordering that this case should be scheduled for a hearing on November 24, 2015, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Hearing Room 11-C, Columbus, Ohio 43215-3793; that discovery be conducted in accordance with Finding (9); and that any party intending to present expert testimony comply with Finding (10) -
electronically filed by Debra Hight on behalf of Daniel E. Fullin, Attorney Examiner.