

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Michelle DiFiori,)	
)	
Complainant,)	
)	Case No. 18-1608-EL-CSS
v.)	
)	
THE CLEVELAND ELECTRIC)	
ILLUMINATING COMPANY,)	
)	
Respondent.)	

**THE CLEVELAND ELECTRIC ILLUMINATING COMPANY’S
RESPONSE IN OPPOSITION TO COMPLAINANT’S MOTION FOR PHONE
CONFERENCE AND REQUEST FOR EXPEDITED TREATMENT**

Pursuant to Ohio Administrative Code Section 4901-1-12(B) and (C), Respondent, The Cleveland Electric Illuminating Company (“CEI”), respectfully opposes Complainant’s Motion for Phone Conference. CEI also requests expedited treatment of this matter due to upcoming procedural deadlines in this proceeding. A Memorandum in Support is attached.

Respectfully submitted

/s/ Emily V. Danford
Emily V. Danford (0090747)
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*Attorney for The Cleveland Electric
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MEMORANDUM IN SUPPORT

I. Background

The Complainant filed a Complaint against CEI on October 25, 2018, alleging that she has received high bills from CEI and that CEI is overcharging her. On November 14, 2018, CEI filed its Answer, in which CEI denied that it is overcharging Complainant. CEI and Complainant attended a settlement conference on January 10, 2019. The parties have engaged in informal discovery since that time. On May 6, 2019, the Commission issued an Entry scheduling a Hearing in this matter for June 11, 2019. On May 9, 2019, CEI moved for a continuance due to a scheduling conflict. The continuance was granted on June 3, 2019, and the Commission rescheduled the Hearing for July 11, 2019. On June 21, 2019, Complainant filed a Motion for Phone Conference (the “Motion”), in which she requested that “all hearings . . . be done by phone[.]”

II. Law and Argument

CEI opposes Complainant’s Motion. In the Commission’s June 3, 2019 Entry scheduling the hearing in this matter, the Commission was clear that “at hearing, **it shall be Complainant’s responsibility to appear and present evidence in support of the complaint.**” *Id.* (emphasis added). In a formal complaint case like this, a complainant has the legal obligation to prosecute the complaint. *In re Lee v. Duke Energy Ohio, Inc.*, PUCO Case No. 18-445-EL-CSS, Opinion at ¶11 (May 15, 2019). A complainant also has the burden of proving the allegations in her complaint. *Grossman v. Public Util. Comm.*, 5 Ohio St.2d 189, 214 N.E. 2d 666 (1966). Upon information and belief, the Commission has never authorized a hearing in a formal complaint matter to be conducted by telephone.

Complainant’s Motion should be denied. The Commission has already made clear that Complainant must appear at the hearing in this matter and present evidence in support of her

Complaint, and it is clear from Commission precedent that complainants in formal complaint proceedings bear the burden of proof. In addition, CEI must have the opportunity to defend against the Complaint by offering its own testimony and evidence, cross-examining the Complainant, and otherwise prosecuting its defense, and would be prejudiced if required to do so telephonically. CEI also intends to offer confidential customer consumption data into evidence and will have to do so *in camera*, further complicating the logistics of a hypothetical telephonic hearing. Moreover, CEI has concerns about the impact of a telephonic hearing on compliance with Ohio's Public Meetings statute, R.C. 121.22.

CEI requests expedited treatment of Complainant's Motion and CEI's Response due to upcoming procedural deadlines in this matter. Specifically, the Hearing in this matter is currently scheduled for July 11th, making pre-filed testimony due on July 5th, after the upcoming holiday.

III. Conclusion

For the foregoing reasons, The Cleveland Electric Illuminating Company respectfully requests that the Commission deny Complainant's Motion for Phone Conference and issue an Order requiring that the hearing in this matter proceed in person in accordance with Commission precedent.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing The Cleveland Electric Illuminating Company's Response in Opposition to Complainant's Motion for Phone Conference and Request for Expedited Treatment was served by Regular U.S. Mail to the following person on this 26th day of June, 2019. A courtesy copy was also served on Complainant by electronic mail at michelledifiori@gmail.com.

Michelle DiFiori
3427 Norris Ave.
Parma, Ohio 44134

/s/ Emily V. Danford
*An Attorney for The Cleveland Electric
Illuminating Company*

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Case No(s). 18-1608-EL-CSS

Summary: Response in Opposition to Complainant's Motion for Phone Conference and Request for Expedited Treatment electronically filed by Ms. Emily V Danford on behalf of The Cleveland Electric Illuminating Company