

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S. G.)	
Foods, Inc.; Miles Management Corp., et al.;)	
Allianz US Global Risk Insurance Company,)	
et al.; and Lexington Insurance Company, et)	
al.,)	
)	
Complainants,)	
)	
v.)	Case Nos. 04-28-EL-CSS
)	05-803-EL-CSS
The Cleveland Electric Illuminating)	05-1011-EL-CSS
Company, Ohio Edison Company, Toledo)	05-1012-EL-CSS
Edison Company, and American)	
Transmission Systems, Inc.,)	
)	
Respondents.)	

ENTRY

The attorney examiner finds:

- (1) The complainants in these consolidated proceedings filed their complaints on January 12, 2004, June 21, 2005, and August 15, 2005. In each case, the complainants allege, *inter alia*, that the Cleveland Electric Illuminating Company, Ohio Edison Company, Toledo Edison Company, and/or American Transmission Systems, Inc. (collectively, the respondents) failed to furnish necessary and adequate service and facilities to the complainants and that the service and/or facilities provided by one or more of those respondents were at least partially responsible for causing a widespread blackout on August 14, 2003, thereby causing financial harm to the complainants.
- (2) By entry issued May 24, 2007, the attorney examiner, *inter alia*, denied an April 18, 2007, motion filed by the respondents to compel discovery from the complainants in Case Nos. 05-1011-EL-CSS and 05-1012-EL-CSS (insurance complainants). The motion was directed at the insurance complainants' responses to Interrogatory No. 4, which pertained to any backup power supply utilized by the insureds, and Request for Production No. 4, which asked for the insureds' underwriting files.

is to certify that the images appearing are an accurate and complete reproduction of a case file as presented in the regular course of business.

 Date Processed _____

- (3) On May 30, 2007, the respondents filed a motion to certify an interlocutory appeal of the attorney examiner's May 24, 2007, entry, pursuant to paragraph (B) of Rule 4901-1-15, Ohio Administrative Code (O.A.C.). In support of their motion, the respondents state, "[t]he [e]xaminer's decision is a departure from past Commission precedent and, if overturned at a later stage in these proceedings, would cause undue prejudice and expense to the parties in this case."
- (4) Paragraph (C) of Rule 4901-1-15, O.A.C., states, in part:

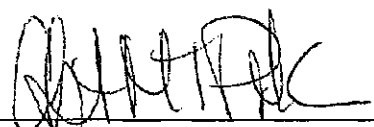
Any party wishing to take an interlocutory appeal from any ruling must file an application for review with the commission within five days after the ruling is issued. An extension of time for the filing of an interlocutory appeal may be granted only under extraordinary circumstances.
- (5) The respondents filed their motion to certify an interlocutory appeal of the examiner's entry on May 30, 2007, or six days after the issuance of the entry on May 24, 2007. Paragraph (C) of Rule 4901-1-15, O.A.C., requires that the motion be filed within five days of the ruling and an extension may only be granted in extraordinary circumstances. Respondents' motion was filed beyond the deadline set by the rule. Furthermore, the respondents made no argument that there were extraordinary circumstances that prevented them from timely filing the motion. Accordingly, the attorney examiner has no choice but to conclude that the respondents' motion to certify an interlocutory appeal of the examiner's May 24, 2007, entry should be denied.
- (6) The attorney examiner would note, however, that, even if the motion had been timely filed, the attorney examiner would have been prohibited from certifying it to the Commission. Paragraph (B) of Rule 4901-1-15, O.A.C. states, in part, that the appeal shall not be certified unless the appeal "presents a new or novel question of interpretation, law, or policy, or is taken from a ruling which represents a departure from past precedent" As thoroughly delineated in the May 24, 2007, entry, the examiner's ruling does not represent a new or novel question or a departure from previous Commission precedent.

It is, therefore,

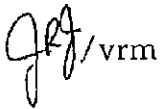
ORDERED, That the respondents' motion to certify an interlocutory appeal of the attorney examiner's May 24, 2007, entry denying respondents' motion to compel the insurance complainants be denied. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

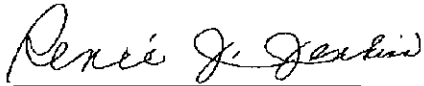


By: Christine M.T. Pirik
Attorney Examiner



Entered in the Journal

JUN 01 2007



Renee J. Jenkins
Secretary

Renee J. Jenkins
Secretary