

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Forest Hills)	
Supermarket, Inc., dba Konnis Family Foods,)	
)	
Complainant,)	
)	
v.)	Case No. 09-800-EL-CSS
)	
The Cleveland Electric Illuminating)	
Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On September 14, 2009, Forest Hills Supermarket, Inc., dba Konnis Family Foods (complainant) filed a complaint against The Cleveland Electric Illuminating Company (CEI) alleging that, after a power loss in the surrounding area not effecting the complainant, CEI improperly shut off complainant's power, without notice, resulting in a loss of refrigerated items.
- (2) On October 5, 2009, CEI filed its answer to the complaint, as well as a motion to dismiss, denying the allegations in the complaint, and stating that CEI has not violated any rule, regulation or tariff provision. CEI also asserts that the complainant has failed to set forth reasonable grounds for the complaint, and that because a single outage does not constitute inadequate service, complainant's allegations are insufficient as a matter of law.
- (3) At this time, the attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code, any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal

department will facilitate the settlement process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.

- (4) Accordingly, a settlement conference shall be scheduled for November 18, 2009, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Legal Conference Room 1247, Columbus, Ohio 43215-3793. The parties should bring with them all documents relevant to this matter. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.
- (5) 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.* (1996), 5 Ohio St.2d 189.

It is, therefore,

ORDERED, That a settlement conference be scheduled for November 18, 2009, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Legal Conference Room 1247, Columbus, Ohio 43215-3793. It is, further,

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

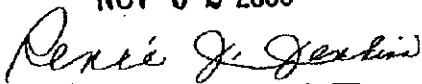
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Katie L. Stenman
Attorney Examiner

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Entered in the Journal

~~NOV 02 2009~~



Renee J. Jenkins
Secretary