

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 affecting 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) A settlement conference was held on October 18, 2009; however, the parties were unable to resolve the matter.
- (4) By entry issued November 24, 2009, the attorney examiner established the procedural schedule in this case. Specifically, March 2, 2010, was set as the date for the pre-hearing conference, as well as the deadline for the filing of direct expert testimony and each party's witness list. In addition, the attorney examiner scheduled the evidentiary hearing to commence on March 16, 2010.

- (5) On February 23, 2010, the parties filed a joint motion requesting an alteration of the procedural schedule. In support of the motion, the parties assert that additional time is necessary to conduct discovery and prepare for the hearing in this proceeding. The parties agreed to the following procedural schedule:
- (a) All expert testimony and each party's witness list should be filed with the Commission no later than May 13, 2010, and a prehearing conference will be held at 10:00 a.m. on May 13, 2010, in hearing room 11-C at the offices of the Commission.
 - (b) The hearing will commence on May 27, 2010, at 10:00 a.m., in hearing room 11-C at the offices of the Commission, 180 East Broad Street, 11th floor, Columbus, Ohio 43215-3793.
- (6) Accordingly, the attorney examiner finds that the parties' motion to modify the procedural schedule in this case is reasonable and should be granted. Therefore, the parties should file each party's witness list and all expert testimony, no later than May 13, 2010, and the prehearing conference will be held at 10:00 a.m. on May 13, 2010, in hearing room 11-C at the offices of the Commission, and, the hearing will commence on May 27, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th floor, Room 11-C, Columbus, Ohio 43215.

It is, therefore,

ORDERED, That the parties' motion for an alteration of the procedural schedule be granted and that the procedural schedule set forth in finding (6) be adopted. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

Katie L. Stenman
By: Katie L. Stenman
Attorney Examiner

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/dah

Entered in the Journal

FEB 24 2010

Renee J. Jenkins

Renee J. Jenkins
Secretary