

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of	)	
Christopher Lemke,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 10-194-EL-CSS
	)	
The Toledo Edison Company,	)	
	)	
Respondent.	)	

In the Matter of the Complaint of Toby	)	
J. Eichman,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 10-198-EL-CSS
	)	
The Toledo Edison Company,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On February 16, 2010, Christopher Lemke and Toby J. Eichman (complainants) filed identical complaints against The Toledo Edison Company (TE), stating that complainants both have had difficulty reaching interconnection agreements with TE for wind generators installed at complainants' properties. Specifically, complainants state that, upon initially contacting TE, they were informed that they needed to install relay protection on their wind generators. Both complainants installed relay protection, but were then informed that they would need functional testing of the relay equipment, which TE offered to provide at a cost of \$1,350 to each complainant. Complainants also state that TE has informed them that it will be necessary to change complainants' electric meters, at a cost to complainants of \$295 per meter. Complainants state that

they have conformed to all initial requests and therefore, should be given an interconnect agreement.

- (2) On March 8, 2010, TE filed its answer in 10-194-EL-CSS, referencing both complaints' names. On August 18, 2010, TE filed an identical answer in 10-198-EL-CSS along with a motion for leave to file its answer. In support of its motion, TE states that it did not realize that the complaints, filed together on one document, were docketed as two separate cases; therefore, TE believed that it had answered both complaints. No memorandum contra was filed. The attorney examiner finds TE's motion to leave to file its answer is reasonable and should be granted.
- (3) In its answer, TE agrees that complainants installed relay protection on their wind generators, but states that complainants were still required to have functional testing of their relay equipment, which TE maintains is necessary. TE also asserts that it is necessary to changing out complainants' meters at a cost of \$295 per meter. In addition, TE argues that complainants have failed to state reasonable grounds for complaint, and that TE has complied with all applicable rules, regulations, and tariffs.
- (4) At a preliminary matter, the attorney examiner notes that the above captioned cases were filed as one case, and that only when these cases were docketed did the Commission's docketing division separate them. Accordingly, the attorney examiner finds that the above captioned cases should be consolidated.
- (5) 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 (O.A.C.), 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 any party from initiating settlement negotiations prior to the scheduled settlement conference.

- (6) Accordingly, a settlement conference shall be scheduled for November 10, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Room 1246, Columbus, Ohio 43215-3793. 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.
- (7) Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference and all parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.
- (8) 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 TE's motion for leave to file its answer is reasonable and should be granted. It is, further,

ORDERED, That the above-captioned cases be consolidated. It is, further,

ORDERED, That a settlement conference be scheduled for November 10, 2010, at 10:00 a.m., at the offices of the Commission. 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

/dah <sup>psd</sup>

Entered in the Journal

OCT 07 2010

Renee J. Jenkins

Renee J. Jenkins  
Secretary