

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Timothy B. Duble, Sr.,)	
)	
Complainant,)	
)	
v.)	Case No. 10-1012-EL-CSS
)	
Ohio Edison Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) By entry issued on June 1, 2011, an evidentiary hearing in this matter was scheduled to occur on July 19, 2011. If the hearing goes forward as scheduled, the deadline for filing expert testimony in this case, under Rule 4901-1-29(A)(1)(h), Ohio Administrative Code (O.A.C.), is July 12, 2011.
- (2) On July 8, 2011, the respondent, Ohio Edison Company (Ohio Edison), filed a motion seeking to postpone the July 19, 2011 hearing until August 19, 2011, and also, to extend until August 12, 2011, the deadline for filing expert testimony in this case. The respondent has moved, pursuant to Rule 4901-1-12(C), O.A.C., for an expedited ruling on its motion to continue the hearing and extend the deadline for filing expert testimony.
- (3) In support of its motion to continue the hearing and extend the deadline for filing expert testimony, the respondent asserts that, in order to prepare for the hearing, it requires and is still awaiting responses to discovery requests that it served upon the complainant, Mr. Duble, on June 22, 2011. On July 5, 2011, Ohio Edison learned that Mr. Duble will not return from a trip outside of this country until July 9, 2011, and plans to provide his responses to the discovery requests upon his return. The respondent asserts that it would be unreasonable to assume that Mr. Duble will be able to gather responses to the discovery requests within three days after returning to

this country. The respondent is, thus, requesting the continuance of the hearing, and extension of the deadline for filing expert testimony, not for purposes of delay, but in order to allow a reasonable period for the parties to complete the discovery process and to adequately prepare for the hearing.

- (4) The respondent describes how it made several attempts to contact the complainant in order to learn his position on the motion to extend the hearing and the deadline for filing expert testimony, as well as the motion for an expedited ruling. However, all such attempts proved futile. Nevertheless, the respondent asserts that Mr. Duple's rights will not be affected and he will not be prejudiced in anyway by a grant of these motions.
- (5) The respondent has not certified that Mr. Duple has no objection to an expedited ruling on the motion to postpone the hearing and extend the deadline for filing expert testimony. Nevertheless, where the issuance of the expedited ruling will not adversely affect a substantial right of any party, Rule 4901-1-12(F), O.A.C., authorizes the attorney examiner to, upon his own motion, issue an expedited ruling on any motion, regardless of whether a memorandum concerning the need for such ruling has been filed by any party.
- (6) The attorney examiner finds that the respondent has set forth good cause for granting its motion to continue the hearing and extend the deadline for filing expert testimony. The attorney examiner also specifically finds that an expedited ruling on the motion at hand will not adversely affect a substantial right of any party to this case. For this reason, and also because the existing deadline for filing expert testimony is imminent, the attorney examiner finds it appropriate to grant, on an expedited basis, Ohio Edison's motion to continue the hearing and to extend the deadline for filing expert testimony in this case.
- (7) Accordingly, the hearing currently scheduled for July 19, 2011, should be postponed and rescheduled to occur, instead, on August 19, 2011. Likewise, the deadline for filing expert testimony shall be extended from July 12, 2011, to August 12, 2011.

- (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.* (1966), 5 Ohio St.2d 198.

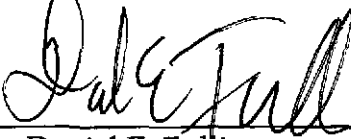
It is, therefore,


ORDERED, That, the hearing in this case currently scheduled to occur on July 19, 2011, is postponed and rescheduled to occur on August 19, 2011, at 10:00 a.m., in Hearing Room 11-C, on the 11th Floor of the Commission offices, 180 East Broad Street, Columbus, Ohio 43215-3793. It is, further,

ORDERED, That any party intending to present direct, expert testimony comply with Finding (7) and with Rule 4901-1-29(A)(1)(h), O.A.C., which requires that all such testimony to be offered in this type of proceeding be filed and served upon all parties no later than seven days prior to the commencement of the hearing. It is, further,

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

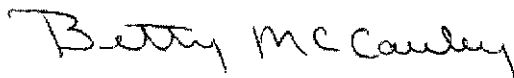
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Daniel E. Fullin
Attorney Examiner

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Entered in the Journal

JUL 11 2011.


Betty McCauley

Betty McCauley
Secretary