

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Middlefield Parkway Ltd. Partnership,)	
)
Complainant,)	
)
v.)	Case No. 14-1259-EL-CSS
)
The Cleveland Electric Illuminating)	
Company,)	
)
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On July 14, 2014, Middlefield Parkway Ltd. Partnership (Middlefield or Complainant) filed a complaint against the Cleveland Electric Illuminating Company (CEI or Utility). The complaint alleges that CEI has failed to install street lights and posts for Complainant's Woodsong Subdivision in the Village of Middlefield, Geauga County, Ohio, in accordance with a line extension agreement between the parties dated March 15, 2007, (Line Extension Agreement) for \$20,473. According to the complaint, Middlefield made an "up-front" payment of \$10,500 pursuant to paragraph 1 of the Line Extension Agreement, and CEI installed all underground wiring, including wiring for the street lights, but failed to install the street light posts or lamps. Middlefield alleges that it made verbal requests to CEI to complete the installation on May 31, 2013, January 29 and April 2, 2014, but were advised by CEI that installation could not be completed due to weather conditions. Thereafter, Middlefield asserts, the Complainant was informed by CEI that the Utility required additional payment of \$13,924.08 before installation would be completed. The complaint indicates that CEI attributes this price increase of \$3,951 over the stated price in the Line Extension Agreement to changes in CEI's tariff in 2009.
- (2) On August 4, 2014, CEI filed its answer, which generally does not deny the factual allegations made in the complaint, but asserts that Middlefield must pay \$13,924.08 prior to installing

streetlights in Complainant's subdivision, in accordance with CEI's Tariff Rate STL, which provides that "all installation costs for new street lighting investment that exceed the net book value of street lighting investment reflected in the rates below shall be billed to the customer." CEI argues that the complaint fails to cite any violation of a rule or statute, fails to set forth reasonable grounds as required by R.C. 4905.26, and fails to state a claim upon which relief can be granted. CEI also alleges that complaint was improperly filed by an individual who cannot legally represent a limited partnership in Commission proceedings.

- (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 Ohio Adm.Code 4901-1-26, 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 September 16, 2014, at 1:00 p.m., in Room 1246, at the Commission, 180 East Broad Street, 12th floor, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues, including discovery deadlines, possible stipulations of facts, and potential hearing dates.
- (5) Pursuant to Ohio Adm.Code 4901-1-26(F), the representatives of the 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.
- (6) As in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint.

Grossman v. Public Util. Comm., 5 Ohio St.2d 189, 214 N.E.2d 666 (1996).

It is, therefore,

ORDERED, That a prehearing conference be scheduled for September 16, 2014, at 1:00 p.m., in Room 1246 at the Commission. It is, further,

ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Richard M. Bulgrin

By: Richard M Bulgrin
Attorney Examiner

jrj/vrm

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in

Case No(s). 14-1259-EL-CSS

Summary: Attorney Examiner Entry scheduling a prehearing conference for September 16, 2014, at 1:00 p.m.; electronically filed by Vesta R Miller on behalf of Richard M. Bulgrin, Attorney Examiner, Public Utilities Commission of Ohio