

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Darryl Rosenberg,)	
)	
Complainant,)	
)	
v.)	Case No. 14-587-EL-CSS
)	
The Cleveland Electric Illuminating)	
Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On April 10, 2014, Complainant, Darryl Rosenberg, filed a complaint against Respondent, The Cleveland Electric Illuminating Company (CEI), alleging that, based on the actions Respondent took in removing and replacing Complainant's service meter, Respondent has overcharged for electric utility service to Complainant.
- (2) By entry issued April 28, 2014, Respondent was given an extension of time for filing its answer in this case. CEI timely filed its answer on May 20, 2014.

In its answer, CEI provides a description of the actions it took in responding to a suspected meter problem reported to it by Complainant in January 2014. These included removing and replacing Complainant's meter even though it was, according to CEI, functioning not only at the time of its removal but also at all times that it was in service. CEI claims that, because the replaced meter stopped after being removed, it neither was, nor could it be, tested. Consequently, says CEI, it was discarded in the ordinary of business within approximately one week of its removal from Complainant's residence. Further answering, CEI admits that it has: (1) estimated Complainant's usage; (2) made reasonable attempts to obtain actual readings of Complainant's meter; and (3) made an actual reading of Complainant's meter at least once each calendar year

(including specifically, 2013 and 2014), all in alleged conformance with Ohio Adm.Code 4901:1-10-05(I)(1). CEI states that, in each instance where Complainant's bills are based upon estimated usage, CEI reconciles its estimate(s) with Complainant's actual usage as determined at the next actual meter reading. Therefore, CEI denies that Complainant has been overcharged and also generally denies all of the other material allegations of the complaint. As part of its answer, CEI asserts several affirmative defenses including: (1) that reasonable grounds for complaint, as required by R.C. 4905.26, have not been stated; and (2) that the complaint fails to state a claim upon which relief can be granted.

- (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 statement 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 October 2, 2014, at 1:00 p.m. in Hearing Room 11-A in the offices of the Commission, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner may conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.
- (5) Pursuant to Ohio Adm.Code 4901-1-26(F), 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.

- (6) 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.*, 5 Ohio St. 2d 189, 214 N.E. 2d 666 (1966).

It is, therefore,

ORDERED, That a settlement conference be held on October 2, 2014, at 1:00 p.m. in Hearing Room 11-A in the offices of the Commission, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Daniel Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/dah

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in

Case No(s). 14-0587-EL-CSS

Summary: Attorney Examiner Entry that a settlement conference be held on October 2, 2014 at 1:00 p.m.; electronically filed by Debra Hight on behalf of Daniel E. Fullin, Attorney Examiner.