

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF  
DELTA INDUSTRIAL SERVICES, INC.,**

**COMPLAINANT,**

**v.**

**CASE NO. 18-1849-EL-CSS**

**CLEVELAND ELECTRIC ILLUMINATING  
COMPANY,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on March 5, 2019

{¶ 1} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice relating to any service furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory.

{¶ 2} Respondent, Cleveland Electric Illuminating Company (CEI), is a public utility as defined in R.C. 4905.02. As such, CEI is subject to the Commission's jurisdiction.

{¶ 3} On December 18, 2018, Delta Industrial Services, Inc. (Delta or Complainant) filed a complaint against CEI, alleging that it experienced fluctuations in its electric service on September 25, 2018, causing lights to flicker in its building, computers to go off, and telephones to stop operating. Complainant alleges that as a result of the fluctuations, it has suffered direct damages in the amount of \$600 for burned modules in its telephone system control panel and burned out electric controls on all six furnaces in its building. Complainant requests compensation for the costs of repairing the modules and controls and inconvenience.

{¶ 4} On January 7, 2019, CEI filed an answer. In the answer, CEI denied the allegations made by Complainant. Additionally, it set forth affirmative defenses including that Complainant fails to state reasonable grounds for complaint.

{¶ 5} By Entry dated January 8, 2019, the attorney examiner scheduled this matter for a settlement conference for February 13, 2019. However, Complainant failed to appear at the settlement conference.

{¶ 6} On February 13, 2019, CEI filed a motion for a telephonic settlement conference. In the motion, CEI states that it was forced to incur travel costs and expend resources for the settlement conference for which Complainant failed to appear. CEI also requests that any future settlement conferences be held telephonically.

{¶ 7} At this time, the attorney examiner finds that this matter should be scheduled for a second, telephonic settlement conference. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution of the complaint. As stated in Ohio Adm.Code 4901-1-26, any statement made in an attempt to settle this matter without the need for an evidentiary hearing is generally inadmissible 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.

{¶ 8} Accordingly, a settlement conference shall be scheduled for April 2, 2019, at 10:00 a.m. At that time, the attorney examiner will contact both parties via telephone. If either party is unable to attend the settlement conference, then they should inform the attorney examiner by the end of business on April 1, 2019.

{¶ 9} If a settlement is not reached at the conference, the attorney examiner may conduct a discussion of procedural issues including discovery deadlines, possible stipulations of fact, and potential hearing dates.

{¶ 10} 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. 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, the parties

shall bring with them relevant documents that are necessary to cultivate an understanding of the issues raised in the complaint and to facilitate settlement negotiations.

{¶ 11} As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 12} As an additional matter, the attorney examiner notes that Ohio Adm.Code 4901-1-08(A) provides, in part, that, with the exception of paragraph (D), any party not appearing on its own behalf, i.e., businesses and for-profit and not-for-profit corporations, shall be represented by an attorney authorized to practice law in the state of Ohio. Paragraph (D) of this same rule allows any person with the requisite authority to settle the issues in the case to represent a party at a prehearing conference. The complaint initiating this matter was filed by Mr. Louis A. Vitantonio, Delta's president. As Mr. Vitantonio has not indicated that he is licensed to practice law in the state of Ohio, the attorney examiner provides Complainant notice that it must secure legal counsel in order to proceed before the Commission beyond the prehearing state of this proceeding.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That a second, telephonic settlement conference be held in accordance to Paragraph 8. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon each party and interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Anna Sanyal

By: Anna Sanyal  
Attorney Examiner

JRJ/mef

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**3/5/2019 9:10:31 AM**

**in**

**Case No(s). 18-1849-EL-CSS**

Summary: Attorney Examiner Entry scheduling a telephonic conference for 4/2/19 at 10:00am electronically filed by Ms. Mary E Fischer on behalf of Anna Sanyal, Attorney Examiner, Public Utilities Commission