

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

DELTA INDUSTRIAL SERVICES, INC.)	
)	
Complainant,)	
)	Case No. 18-1849-EL-CSS
v.)	
)	
THE CLEVELAND ELECTRIC)	
ILLUMINATING COMPANY)	
)	
Respondent.)	

MOTION TO DISMISS

The Cleveland Electric Illuminating Company (“CEI”) hereby moves to dismiss the above-captioned Complaint. As set forth fully in the attached Memorandum in Support, Complainant has failed to prosecute its Complaint.

Respectfully submitted

/s/ Scott J. Casto
Scott J. Casto (0085756)
Counsel of Record
FIRSTENERGY SERVICE COMPANY
76 South Main Street
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Attorney for the CEI

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Complainant,)	
)	Case No. 18-1849-EL-CSS
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THE CLEVELAND ELECTRIC)	
ILLUMINATING COMPANY)	
)	
Respondent.)	

MEMORANDUM IN SUPPORT

Complainant, Delta Industrial Services, Inc., (“Delta”) filed its Complaint on December 18, 2018. The Cleveland Electric Illuminating Company filed its Answer on January 7, 2019. On January 8, 2019, the Attorney Examiner scheduled a settlement conference for February 13, 2019. Counsel for CEI was present, as was the Attorney Examiner conducting the settlement conference. However, Delta failed to attend. CEI then filed a Motion, requesting that further settlement conferences be conducted via telephone and that if any in-person hearings are scheduled, Delta is required to confirm its attendance in advance.

On March 5, 2019, the attorney examiner scheduled a second settlement conference for April 2, 2019, this time via telephone, and also required notification by either party if they are unable to attend the settlement conference. On April 2, 2019, the attorney examiner conducting the settlement conference contacted counsel for CEI by phone and then attempted to contact Delta. Delta again failed to take part in the settlement conference. As of the date of this Motion, Delta has failed to abide by three separate attorney examiner directives:

1. Failure to attend the February 13, 2019 settlement conference;

2. Failure to notify the attorney examiner of its inability to attend the April 2, 2019 settlement conference and
3. Failure to attend the April 2, 2019 settlement conference.

CEI and Commission Staff have been forced to expend valuable resources related to this Complaint and CEI has abided by all attorney examiner entries. Because Delta has failed to show any willingness to pursue its Complaint, and to prevent further non-appearances and wasted time, CEI requests that the Complaint be dismissed for failure to prosecute.

Respectfully submitted

/s/ Scott J. Casto
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FIRSTENERGY SERVICE COMPANY
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Attorney for the CEI

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was served by U.S. mail to the following on this 11th day of April 2019.

Delta Industrial Services, Inc
5201 Denison Avenue
Cleveland, OH 44102

/s/ Scott J. Casto
Attorney for the Cleveland Electric
Illuminating Company

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in

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

Summary: Motion to Dismiss electronically filed by Mr. Scott J Casto on behalf of The Cleveland Electric Illuminating Company