

**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**

**THE CLEVELAND ELECTRIC  
ILLUMINATING COMPANY,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on May 29, 2019

**I. SUMMARY**

{¶ 1} The Commission grants The Cleveland Electric Illuminating Company's motion to dismiss for failure to prosecute.

**II. DISCUSSION**

{¶ 2} 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.

{¶ 3} The 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.

{¶ 4} 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 shut down, 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 cost of repairing the modules and controls and inconvenience.

{¶ 5} 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.

{¶ 6} 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.

{¶ 7} 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.

{¶ 8} By Entry issued March 5, 2019, the attorney examiner scheduled a second, telephonic settlement conference for April 2, 2019. The attorney examiner further ordered that should either party determine that they are unable to attend the settlement conference, the attorney examiner should be notified of such by end of business on April 1, 2019.

{¶ 9} On April 2, 2019, the attorney examiner contacted CEI by phone and then attempted to contact Complainant, but Complainant was unable to be reached and failed to participate in the settlement conference.

{¶ 10} On April 11, 2019, CEI filed a motion to dismiss for failure to prosecute. In support of its motion, CEI states that Complainant failed to attend both scheduled settlement conferences and also failed to notify the attorney examiner of its inability to attend the April 2, 2019 settlement conference.

{¶ 11} To date, Delta has neither responded to CEI's motion to dismiss nor contacted the attorney examiner to express its intent to pursue this matter further.

{¶ 12} Considering Complainant's failure to attend the scheduled settlement conferences and failure to notify the attorney examiner of its inability to appear, the Commission finds that CEI's motion to dismiss is reasonable and should be granted. Accordingly, this case should be dismissed and closed of record.


### III. ORDER

{¶ 13} It is, therefore,

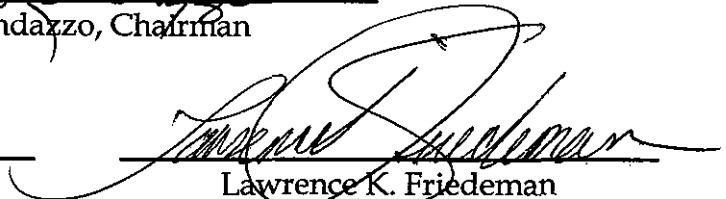
{¶ 14} ORDERED, That the complaint be dismissed for failure to prosecute and closed of record. It is, further,

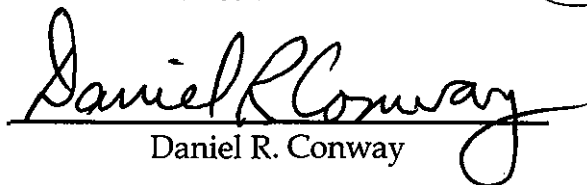
{¶ 15} ORDERED, That a copy of this Entry be served upon all parties of record.

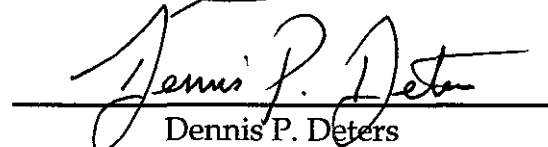
#### THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Sam Randazzo, Chairman

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M. Beth Trombold

  
Lawrence K. Friedeman

  
Daniel R. Conway

  
Dennis P. Deters

AS/TMS /mef

Entered in the Journal

MAY 29 2019



Tanowa M. Troupe  
Secretary