

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF  
DAVID N. RANDALL,**

**COMPLAINANT,**

**v.**

**CASE No. 18-1851-EL-CSS**

**THE CLEVELAND ELECTRIC ILLUMINATING  
COMPANY,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on June 5, 2019

{¶ 1} Pursuant to R.C. 4905.26, the Commission has authority to consider a written complaint 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} The Cleveland Electric Illuminating Company (CEI or Respondent) is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On December 18, 2018, David N. Randall (Complainant) filed a complaint against CEI alleging, among other things, that, in September 2018, Complainant experienced a power surge that damaged his home and destroyed many appliances and other items within it. On January 7, 2019, CEI filed its answer to the complaint.

{¶ 4} The parties participated in a February 26, 2019 settlement conference but were unable to resolve the matter.

{¶ 5} By Entry issued May 6, 2019, the attorney examiner scheduled a June 18, 2019 hearing. The Entry directed that any direct expert testimony be filed with the Commission and served on the other party to the proceeding no later than June 11, 2019.

{¶ 6} On June 3, 2019, CEI filed a motion for continuance of the hearing and request for expedited treatment. CEI explains that, on May 8, 2019, CEI issued discovery requests to Complainant by U.S. Mail at the address listed in the complaint. Under the Commission's rules, Complainant's responses to these discovery requests were due no later than May 28, 2019. CEI avers that it did not receive responses by that date and, on June 3, 2019, counsel for CEI called Complainant to ask about the status of the responses to the discovery requests. During that phone call, Complainant indicated that he had not received CEI's mailing of the discovery requests, and further indicated that he frequently has issues with the U.S. Postal Service delivering his mail to the wrong address. Complainant also reported that he does not use electronic mail and does not have personal access to a facsimile machine.

{¶ 7} On June 3, 2019, CEI sent again the requests for discovery to Complainant, via Certified U.S. Mail. Complainant's responses are not due until June 23, 2019, which is 5 days after the scheduled hearing and 12 days after pre-filed expert testimony is due.

{¶ 8} CEI contends that it will be prejudiced if the June 18, 2019 hearing proceeds as scheduled, because CEI seeks information concerning facts alleged in the complaint, as well as the identity of Complainant's witnesses, written reports, and other evidence Complainant intends to rely upon to support his case. CEI asserts that, without an expedited ruling on its motion, it will have to pre-file its expert testimony without having received full and complete discovery responses from Complainant. CEI indicates that Complainant has consented to the motion for continuance.

{¶ 9} The attorney examiner finds CEI's request for a continuance to be reasonable and that it should be granted. Accordingly, the hearing previously scheduled for June 18, 2019, shall be postponed and rescheduled to commence, instead, on July 24,

2019, at 10:00 a.m., in Hearing Room 11-C of the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793. All parties should register at the lobby desk and then proceed to the 11th floor in order to participate in the hearing.

{¶ 10} Any party intending to present direct expert testimony should comply with Ohio Adm.Code 4901-1-29(A)(1)(h), which requires that all such testimony to be offered in this type of proceeding be filed and served upon all parties no later than seven days prior to commencement of the hearing.

{¶ 11} In complaint proceedings before the Commission, 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). Therefore, at hearing, it shall be Complainant's responsibility to appear and present evidence in support of the complaint.

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That in accordance with the above findings, the hearing previously scheduled for June 18, 2019, be postponed and rescheduled to commence, instead, on July 24, 2019, at 10:00 a.m., in Hearing Room 11-C of the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Daniel Fullin

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By: Daniel E. Fullin  
Attorney Examiner

JRJ/sc

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

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Summary: Attorney Examiner Entry rescheduling hearing to 07/24/2019 - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio