

FILE

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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

ERIN DAHL,

Complainant,

v.

THE EAST OHIO GAS COMPANY D/B/A  
DOMINION ENERGY OHIO

Case No. 17-1822-GA-CSS

MOTION FOR RELIEF FROM JUDGMENT FOR A NEW TRIAL

2020 MAY 28 PM 1:56  
PUCO

Filed by:

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### **Motion for Relief of Judgment and Request for a New Trial**

A hearing date was scheduled by the attorney examiner of the Public Utilities Commission of Ohio for February 25, 2019. The hearing was the result of a complaint dispute filed with the PUCO between Dominion East Ohio and myself, Erin Dahl.

On February 22, 2019, I filed a *Motion for Continuance* due to a theft that occurred on February 16, 2019. The theft affected my transportation and finances, thus severely impeding my ability to make the trip to Columbus for the scheduled hearing on February 25, 2019. Upon notification that the situation would not be resolved timely, meaning the recovery of my transportation and money, I filed a motion for continuance with the PUCO on February 22, 2019 as a result.

Despite notifying the court in the motion for a continuance that I could not feasibly attend the hearing on February 25, 2019, the hearing on February 25, 2019 proceeded as scheduled. Dominion East Ohio's legal representative countered my motion for a continuance by filing a *Motion to Dismiss* my case on February 26, 2019. The motion cited '*a failure to prosecute*' as the premise for the dismissal request, ignoring and manipulating the facts of the circumstances.

On September 26, 2019, the Attorney Examiner made a ruling on the case and granted DEO's motion to dismiss for "failure to prosecute." Per the certificate of service and the attached photocopy of the envelope, the entry was sent to my address in Arizona, despite having notified the court of my address here and that I am here specifically for the purpose of this hearing and one other related legal matter.

On November 26, 2019, DEO's counsel withdrew from the case and on January 21, 2020 the PUCO closed case number 17-1822 GA-CSS. In February of 2020, I travelled to Arizona and found the letter from the PUCO, 5-months after the judgment was made and 1-month after the case was closed.

This motion to the PUCO is two-fold. Pursuant to Ohio Civ.R. 59 & Ohio Civ.R. 60 I am motioning for Relief from a Judgment and requesting a new trial. Ohio Civ.R. 60(A) states:

**Clerical mistakes.** Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time on its own initiative or on the motion of any party and after such notice, if any, as the court orders.

This clerical error in mailing affected the timeliness in which I had to appeal the judgement ruling of September 26, 2019, and as such I also file this motion predicated upon Ohio Civ.R. 60(A)(5):

Any other reason justifying relief from the judgment.  
The motion shall be made within a reasonable time,  
and for reasons (1), (2) and (3) not more than one year  
after the judgment, order or proceeding was entered  
or taken.

The motion for a new trial is pursuant to Ohio Civ.R. 59(A)(6):

**Grounds for new trial.** A new trial may be granted  
to all or any of the parties and on all or part of the  
issues upon any of the following grounds: . . . (6) The  
judgment is not sustained by the weight of the  
evidence; however, only one new trial may be granted  
on the weight of the evidence in the same case;

There has been no failure to prosecute as deemed by DEO's counsel and the court. The facts are as follows:

1. A settlement conference was scheduled for October 25, 2017 for which I was not present as I did not receive notification. Also, had I received notification of this hearing, it would have resulted in a motion to delay the date due to my position with TSA in Arizona. The preceding fact remains that I did not receive notification of the hearing or else I would have handled it in the appropriate legal manner required. Even up to this point, I had already made reliable efforts to resolve the fraudulent billing issue with Dominion and the PUCO, on and off the record. There has never been a failure to prosecute.
2. Other dates were scheduled to which I did not receive notification. It was not until I received a call from the court that this issue was resolved. Thus, a tele-conference was scheduled for June 20, 2018, and occurred between the then Attorney Examiner, the counsel for DEO and myself. An agreement could not be made during this tele-conference and hearing was scheduled for August 30, 2018.
3. During the tele-conference, I agreed to the date of August 30, 2018. I had returned to Ohio On June 3, 2018 and was in Ohio for the tele-conference. After the hearing was scheduled, I was subpoenaed to Arizona for other legal proceedings as a witness and then subsequent restitution hearing. The first hearing was scheduled for August 16, 2018 and the second in October. As such I returned to Arizona and filed a motion for continuance with the PUCO

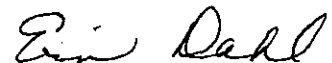
predicated upon these circumstances which were outside of my control and should not be considered as a 'failure to prosecute'. Conflicting legal procedures which were based on a subpoena requiring my presence in another state is not neglect or a failure to prosecute.

4. The court date scheduled for November 9, 2019 did not occur as my mother passed away on that date. This cannot be considered as failure to prosecute.
5. The court date scheduled for January 31, 2019 required a motion for a continuance, as the hearing itself was predicated upon fraudulent billing. Both Dominion and the PUCO had been notified that all of my records for the case were stuck in other unrelated litigation in Arizona and that I had no access to the records upon which the PUCO hearing and my complaint against Dominion was predicated upon. As such, and before the January 31, 2019 hearing was scheduled, I made numerous requests to the Dominion on and off the record for copies of the statements in question in preparation for hearing. They were never sent, despite repeated claims that they would send me the records. This circumstance is detailed repeatedly in my motions to the PUCO, so for the purpose of brevity in this motion I will not include the history and argument here. This records issue is not failure to prosecute. I had even requested that the PUCO order Dominion to send the requested and required statements, as I had such difficulty obtaining them on my own accord from Dominion.
6. The continuance was granted, and the hearing was scheduled for February 25, 2019. Dominion had finally sent me the billing records that I requested, and preparation was now final for the February 25, 2019 hearing.
7. On February 16, 2019, my transportation was stolen. The theft affected both my transportation and finances. As the Police had footage and a lead, I expected the issue to be resolved immediately so that I could recuperate the money that I had to put forth, which impacted my ability to travel to Columbus for the hearing. It was not, so I filed the motion for continuance with PUCO on February 22, 2019. This circumstance is not 'failure to prosecute' and in fact, I am the only party to this case who is continually and adversely affected throughout.

These facts and substantiations to the extenuating circumstances of this case are pursuant to Ohio Civ.R.59(A)(3) which states that states: "all or part of the issues upon any of the following grounds . . . (3) Accident or surprise which ordinary prudence could not have guarded against."

As such, I am filing this motion with the Public Utilities Commission of Ohio to request relief from the judgment filed on September 26, 2019, which dismissed my case stating a failure to prosecute and to also request a new trial pursuant to Ohio Civ.R. Rule 59.

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of this Memorandum was served by fax to the Public Utilities Commission of Ohio on May 28, 2020 at the following address of the PUCO's Docketing Division and by fax:

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