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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

-Respondent

Case N. 17-1822-GC-CSS

**MEMORANDUM IN RESPONSE TO DEO's
MOTION CONTRA MOTION FOR RELIEF OF JUDGMENT AND REQUEST FOR A
NEW TRIAL**

Filed by:



Erin Dahl

Pro se

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CASE FACTS

On May 28, 2020, the Attorney Examiner of the Public Utilities Commission of Ohio (PUCO) re-opened case number 17-1822-GA-CSS, Erin Dahl v. Dominion East Ohio (DEO). This judgement was predicated upon my *Motion for Relief from Judgement for a New Trial*, also filed on the 28th. On June 12, 2020, the counsel for DEO filed a *Memorandum Contre* in response to this decision and my motion to the court, requesting for the court to uphold its original ruling made on September 26, 2019.

The most immediate facts and history to the case are as follows. A hearing was scheduled on February 25, 2019 with the PUCO. On February 22, 2019, I filed a *Motion for Continuance* due to a theft that occurred on February 16, 2019, which impacted both my transportation and finances. Since the Police who responded to the theft had the identity and footage of the incident, I thought the situation would be rectified immediately. When the police notified me that recovery of my property and money would not be timely, I filed the *Motion for Continuance* with the court as there was no feasible way that I could attend the hearing in Columbus. On September 26, 2019, the examiner granted DEO's request to dismiss my case citing a failure to prosecute.

In a clerical error, the Commission mailed the September 26, 2019, judgement to an address in Arizona and not to my address in Cleveland. 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. The week of February 6, 2020, I travelled to Arizona and found the letter from the PUCO, 5-months after the judgement was made and 1-month after the case was closed.

Therefore, the counsel for Dominion has predicated its argument to uphold the Examiner's original ruling (dismissal issued on 9/26/19) claiming that per O.R.C. 4903.10 the Commission lacks jurisdiction on the basis that my *Motion for Relief from Judgement for a Request for a New Trial* was filed after the 30-day time-frame put forth in the statute. The arguments put forth in this motion is in response to DEO's *Memorandum Contre* and counsel's arguments contained within.

ARGUMENT

Counsel's argument is jurisdiction and erroneous, including predicated upon timeliness.

As argued in my *Motion for Relief*, Ohio Civ.R. 60(A) and Ohio Civ.R. 60(A)(5) legally substantiate the Examiner's judgement to re-open the case (5/28/20). To reiterate:

Clerical mistakes. Clerical mistakes in judgments, orders of 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, as the court orders.

And:

Any other reason justifying relief from the judgement. 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.

Counsel states that "the Commission is not bound by the Ohio Rules of Civil Procedure" and must rule according to the selected portion of O.R.C. 4903.10 (p. 6). On the contrary, O.R.C. 4901.13 – *Publication of Rules Governing* states the following – **PUCO may adopt and publish rules to govern its proceedings.** Thus, the Commission has the authority to rule in the affirmative to my motion and to make the judgment to reopen my case with the PUCO.

My motion to the court for a new trial is pursuant to Ohio Civ.R. 59(A)(6), **Grounds for a new trial**, as substantiated in that filing. My request to the court for a new trial is further supported and substantiated by O.R.C. 4903.10 which states:

After any order has been made by the public utilities commission, any party who has entered an appearance in person or by counsel in the proceeding may apply for a rehearing in respect to any matters determined in the proceeding. Such application shall be filed within thirty days after the entry of the order upon the journal of the commission. Notwithstanding the preceding paragraph, in any uncontested proceeding or, by leave of the commission first had in any other proceeding, any affected person, firm, or corporation may make an application for a rehearing within thirty days after the entry of any final order upon the journal of the commission. Leave to file

an application for rehearing shall not be granted to any person, firm, or corporation who did not enter an appearance in the proceeding unless the commission first finds:

(A) The applicant's failure to enter an appearance prior to the entry upon the journal of the commission of the order complained of was due to just cause; and,

(B) The interests of the applicant were not adequately considered in the proceeding. Every applicant for rehearing or for leave to file an application for rehearing shall give due notice of the filing of such application to all parties who have entered an appearance in the proceeding in the manner and form prescribed by the commission. Such application shall be in writing and shall set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful.

As the criteria for points A and B have been agued, demonstrated and met in my *Motion for relief from Judgment and new trial* I will not reiterate them here. Both 4903.10, Ohio Civ.R. 60(A), Ohio Civ.R. 60(A)(5), and Ohio Civ.R. 60(A)(6) gives the court the jurisdictional authority to rule on my motion as well as to re-open the case accordingly.

As such, I am filing this motion with the Public Utilities Commission of Ohio to respectfully request that the court uphold its ruling to re-open case 17-1822-GA-CSS as the jurisdictional and timeliness arguments put forth in DEO's *Memorandum Contre* are erroneous and cannot be substantiated as a basis to overturn the court's judgment made in May 28, 2020.

Filed by:



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served by fax and mail to the following parties:

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