

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF  
RUSSELL ENYART,**

**COMPLAINANT,**

**CASE NO. 18-1734-EL-CSS**

**v.**

**OHIO EDISON COMPANY,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on June 24, 2020

{¶ 1} 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.

{¶ 2} Ohio Edison Company (Ohio Edison or Respondent) is a public utility as defined in R.C. 4905.02. As such, Ohio Edison is subject to the Commission's jurisdiction.

{¶ 3} On November 28, 2018, Russell Enyart (Complainant) filed a complaint against Ohio Edison. Complainant alleges that Ohio Edison failed to adequately provide service to Complainant's commercial property, the result of which was significant property damage. On December 18, 2018, Ohio Edison filed an answer generally denying the allegations contained in the complaint and asserting several affirmative defenses.

{¶ 4} A settlement conference conducted on April 2, 2019, did not resolve the parties' dispute.

{¶ 5} On June 19, 2019, Respondent filed a partial motion to dismiss. The motion requests that the Commission dismiss any portion of the complaint seeking damages. On June 28, 2019, Complainant filed a memorandum contra Respondent's motion, to which Respondent replied on July 5, 2019.

{¶ 6} On October 29, 2019, Complainant filed a notice of voluntary dismissal of the requests for damages contained in his complaint. Complainant notes that the Commission's Rules of Practice and Procedure do not have a specific provision for voluntary dismissals and requests that the notice be treated as a voluntary dismissal under Ohio Civil Rule 41(A). Complainant also opines that the dismissal of the requests for damages renders moot Respondent's June 19, 2019 partial motion to dismiss. Respondent did not file a response to the notice or otherwise express disagreement with Complainant's suggestion that the partial motion to dismiss is moot. Upon review, the attorney examiner agrees that Complainant's voluntarily dismissal of any requests for monetary damages in the complaint renders Respondent's partial motion to dismiss moot. Accordingly, the motion should be denied.

{¶ 7} By various entries, the original procedural schedule established for this proceeding was continued and, eventually, stayed. Subsequently, by Entry dated March 10, 2020, the attorney examiner scheduled a hearing to commence on June 30, 2020 and directed that any additional pre-filed testimony, if needed, be filed not later than June 15, 2020.

{¶ 8} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order) declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. The Executive Order requires all state agencies to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding the public health emergency in order to protect the health and safety of themselves and others.

{¶ 9} Pursuant to R.C. 3701.13, the Ohio Department of Health has supervision of "all matters relating to the preservation of life and health of the people" and the "ultimate authority in matters of quarantine and isolation." On March 12, 2020, the Director of the Ohio Department of Health issued an Order indicating that "all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible."

{¶ 10} As a result of the Executive Order and the Director's March 12, 2020 Order, beginning March 13, 2020, the Commission reduced on-site staffing and most employees began working from home to reduce exposure to COVID-19. To date, all in-person evidentiary hearings have been rescheduled as the Commission determines the safest and most efficient manner in which to continue to conduct business on behalf of the citizens of Ohio.

{¶ 11} Given the current public health emergency, the attorney examiner finds it prudent to continue the June 30, 2020 hearing date. Having conferred with counsel regarding the availability of all participants, the hearing shall be rescheduled to commence on October 27, 2020, at 10:00 a.m. in Hearing Room 11-C at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793. If the hearing will be held remotely, the attorney examiner will provide additional details to the parties as those details emerge. Any additional pre-filed testimony, if needed, shall be filed no later than October 13, 2020.

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That the evidentiary hearing be continued to October 27, 2020, as stated in Paragraph 11. It is, further,

{¶ 14} ORDERED, That any necessary additional pre-filed testimony be filed no later than October 13, 2020. It is, further,

{¶ 15} ORDERED, That Respondent's partial motion to dismiss be denied as moot, as stated in Paragraph 6. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/*Patricia A. Schabo*

By: Patricia A. Schabo  
Attorney Examiner

NJW/hac

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**Case No(s). 18-1734-EL-CSS**

Summary: Attorney Examiner Entry continuing and rescheduling evidentiary hearing; ordering additional pre-filed testimony be filed no later than October 13, 2020; and, ordering Respondent's partial motion to dismiss be denied as moot electronically filed by Heather A Chilcote on behalf of Patricia Schabo, Attorney Examiner, Public Utilities Commission