

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
RICHMOND HEIGHTS TOWN SQUARE
OWNER, LLC,**

COMPLAINANT,

v.

CASE NO. 20-1493-EL-CSS

**THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY AND
FIRSTENERGY CORP.,**

RESPONDENT.

ENTRY

Entered in the Journal on October 5, 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} The Cleveland Electric Illuminating Company (CEI) is a public utility as defined in R.C. 4905.02. Accordingly, CEI is subject to the Commission's jurisdiction.

{¶ 3} On September 10, 2020, Richmond Heights Town Square Owner, LLC (RHTSO or Complainant) initiated a complaint against CEI and FirstEnergy Corp. (FE) alleging that the companies engaged in unfair billing practices. RHTSO allegedly assumed ownership of the structure formerly known as a Sears Department Store at Richmond Town Square Mall on or about October 3, 2018. The business location allegedly received its electric service from CEI before and after the acquisition – though RHTSO claims that the location

has remained vacant since the acquisition with only minimal electrical consumption. RHTSO claims that it has made numerous contacts with CEI regarding attempting to convert charges for the account from “estimated” to “actual” in order for billing to better reflect electrical usage related to the unused property. Despite these communications, RHTSO claims that CEI has erroneously billed the account based on estimated charges for all but one month since RHTSO’s assumption of the account. RHTSO claims that it overpaid for service in the approximate amount of \$31,146.56 for periods from October 2018 through April 2020, and that bills issued through July 2020 inaccurately reflect amounts due in excess of \$46,000 based on the billing improprieties.

{¶ 4} On September 30, 2020, CEI and FE filed an answer to the complaint. FE’s response is limited. Initially, FE notes that the complaint inaccurately identifies the company. FE goes on the state that to the extent that the company is the intended Respondent, FE denies being a public utility that is subject to the Commission’s jurisdiction under R.C. 4905.26. For the remainder of the answer, CEI admits that it provides non-residential service to Complainant, and that it is licensed to operate in the State of Ohio. CEI generally denies the remaining allegations. FE also joins CEI in asserting several affirmative defenses, including the Commission’s lack of jurisdiction over FE.

{¶ 5} Consistent with the Commission’s longstanding policy to encourage settlement discussions in complaint proceedings before it, the attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the settlement conference will be to explore the parties’ willingness to negotiate a resolution of this complaint. An attorney examiner from the Commission’s legal department will facilitate the settlement process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.

{¶ 6} Accordingly, a telephone settlement conference shall be scheduled for November 17, 2020, at 10:00 a.m. Eastern Standard Time. At the designated time of the conference, the attorney examiner assigned to mediate the case will call the parties to join in

the mediation event. If a settlement is not reached at the conference, the attorney examiner may conduct a discussion of procedural issues including potential hearing dates.

{¶ 7} Pursuant to Ohio Adm.Code 4901-1-26(F), the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference. All parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, the parties shall bring with them relevant documents that are necessary to cultivate an understanding of the issues raised in the complaint and to facilitate settlement negotiations.

{¶ 8} As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That a settlement conference be scheduled for November 17, 2020, as provided in Paragraph 6. It is, further,

{¶ 11} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Jacky Werman St. John

By: Jacky Werman St. John
Attorney Examiner

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 20-1493-EL-CSS

Summary: Attorney Examiner Entry scheduling a telephone settlement conference for 11.17.20 at 10:00 a.m. electronically filed by Kelli C. King on behalf of Jacky Werman St. John, Attorney Examiner, Public Utilities Commission of Ohio