

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THOMAS
GALLAGHER,**

COMPLAINANT,

v.

CASE NO. 21-864-EL-CSS

**THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY,**

RESPONDENT.

ENTRY

Entered in the Journal on September 13, 2021

{¶ 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 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On August 13, 2021, Thomas Gallagher (Mr. Gallagher or Complainant) filed a complaint against CEI, alleging that on April 5, 2021, CEI “noticed a problem” with the analog meter at his residence. Complainant asserts that the meter was replaced with a digital meter on April 14, 2021, and that CEI stated it would refund part of his bill based on usage indicated on the digital meter. Complainant contends that the estimated meter reading on the analog meter was 14,158 kWh from January 16, 2021, to April 14, 2021, while the actual meter reading from April 14, 2021 to August 5, 2021, was approximately 2,600 kWh. Mr. Gallagher explains that his home has only two residents and that CEI incorrectly claims that over 24,000 kWh of electricity was used. Complainant emphasizes that the analog meter did not work correctly from the time it was installed. Mr. Gallagher seeks a refund on his bill from the time that the analog meter was installed until it was

removed, as well as a refund of his \$351 security deposit, which he states that CEI requested because of his usage.

{¶ 4} CEI filed its answer on September 1, 2021. CEI states that an actual read was obtained on January 16, 2021, and that an estimated read did not take place until February 15, 2021. CEI notes that on April 9, 2021, Complainant provided an actual read of 26,810 kWh, which was higher than the March 17, 2021 estimated read of 23,920 kWh. CEI admits that a new meter was installed at Mr. Gallagher's home on April 14, 2021. In addition, CEI admits that it was contacted by Complainant to discuss billing and meter reading issues, and that the analog meter was replaced with a digital meter at Mr. Gallagher's request; CEI notes that the analog meter tested at 99.96 per cent accuracy. CEI notes that it informed Complainant of the analog meter's accuracy and that, therefore, high bills were caused by his usage; consequently, a refund on his bill was not warranted. CEI observes that Mr. Gallagher filed a similar complaint in 2016, in which Complainant alleged overcharges and inaccurate meter readings. CEI states that Complainant's 2016 complaint was dismissed after the parties agreed to a settlement. In CEI's opinion, Mr. Gallagher's complaint filed August 13, 2021, violates the 2018 Commission Entry dismissing his prior complaint, including terms and conditions of the confidential settlement agreement. CEI denies any other allegations made by Complainant.

{¶ 5} The attorney examiner finds that this matter should be scheduled for a settlement conference to be conducted by telephone. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution in lieu of an evidentiary hearing. In accordance with Ohio Adm.Code 4901-1-26, any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement process. However, nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference.

{¶ 6} Accordingly, a telephone conference shall be scheduled for September 23, 2021, at 10:00 a.m. The parties shall dial 1-614-721-2972 and enter conference code 112 923 753#. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.

{¶ 7} Pursuant to Ohio Adm.Code 4901-1-26(F) the representatives of the public utility shall investigate the issues raised on the complaint prior to the settlement conference, and all parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the authority to settle those issues.

{¶ 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 telephone settlement conference be scheduled on September 23, 2021, at 10:00 a.m., as indicated in Paragraph 6. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/James M. Lynn

By: James M. Lynn
Attorney Examiner

JRJ/hac

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in

Case No(s). 21-0864-EL-CSS

Summary: Attorney Examiner Entry ordering that a telephone settlement conference be scheduled on September 23, 2021, at 10:00 a.m., as indicated in Paragraph 6 electronically filed by Heather A. Chilcote on behalf of James M. Lynn, Attorney Examiner, Public Utilities Commission