

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
BUCKEYE FRESH, LLC,**

COMPLAINANT,

CASE NO. 20-1607-EL-CSS

v.

OHIO EDISON COMPANY,

RESPONDENT.

ENTRY

Entered in the Journal on July 27, 2022

{¶ 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) is a public utility as defined in R.C. 4905.02. Accordingly, Ohio Edison is subject to the Commission's jurisdiction.

{¶ 3} On October 16, 2020, Buckeye Fresh, LLC (Complainant) initiated a complaint against Ohio Edison alleging that Ohio Edison has unnecessarily delayed approval of energy efficiency programs of Complainant and resulted in the potential loss of nearly \$400,000 in savings.

{¶ 4} Pursuant to Ohio Adm.Code 4901-9-01(B), a copy of the complaint was mailed to Ohio Edison on October 16, 2020, directing Ohio Edison to file its answer and any other responsive pleading within 20 days after October 16, 2020.

{¶ 5} Ohio Edison filed its answer on November 4, 2020. In its answer, Ohio Edison admits some allegations in the complaint and further states that it is without knowledge or information sufficient to form a belief as to the truth of certain other allegations. Ohio

Edison generally denies the remaining allegations. Further, Ohio Edison sets forth in the answer several affirmative defenses.

{¶ 6} A settlement conference was held on January 7, 2021; however, the parties were unable to settle this matter.

{¶ 7} An evidentiary hearing commenced on June 14, 2022, at the offices of the Commission. During the hearing, counsel for Complainant explained that Lonnie Curtis, one of Complainant's witnesses, was experiencing a medical emergency and was unable to travel to Columbus for the hearing. Following discussions between the parties and the attorney examiner, it was agreed on the record that each party would get through as much of their witness testimony and cross-examination as could be done without Mr. Curtis. Following the in-person hearing, a mutually agreeable date to reconvene the hearing would be determined and the hearing would be scheduled to reconvene via Webex virtual hearing technology. It was also agreed by the parties that Ohio Edison witness Diane Rapp would testify and be cross-examined that day but that she would also be permitted to resume her testimony after Mr. Curtis testifies.

{¶ 8} After discussing acceptable dates with the parties, the attorney examiner now finds that the evidentiary hearing should reconvene on August 29, 2022, at 10:00 a.m. The hearing will be held via Webex virtual hearing technology. Instructions for participation in the evidentiary hearing will be emailed to the parties. Additionally, all exhibits intended to be used on direct and cross-examination shall be marked and exchanged by the parties and provided to the attorney examiner via electronic means prior to the hearing. Individuals interested in attending the evidentiary hearing as a non-party can access the hearing using <https://bit.ly/20-1607-EVH> and entering the password PUCO, or by calling 1-408-418-9388 and entering the access code 2341 797 1157.

{¶ 9} As is the case in all Commission complaint cases, 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).

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the evidentiary hearing reconvene on August 29, 2022, and that it be held via Webex virtual hearing technology, as outlined in Paragraph 8. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon all interested persons and parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/David M. Hicks

By: David M. Hicks
Attorney Examiner

NJW/hac

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

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in

Case No(s). 20-1607-EL-CSS

Summary: Attorney Examiner Entry ordering that the evidentiary hearing reconvene on August 29, 2022, at 10:00 a.m. and that it be held via Webex virtual hearing technology electronically filed by Heather A. Chilcote on behalf of David M. Hicks, Attorney Examiner, Public Utilities Commission of Ohio