

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
CARL HEINL,**

COMPLAINANT,

CASE No. 22-764-EL-CSS

v.

**NORTHEAST OHIO PUBLIC ENERGY
COUNCIL AND THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY,**

RESPONDENTS.

ENTRY

Entered in the Journal on January 27, 2023

{¶ 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. As such, CEI is subject to the Commission's jurisdiction.

{¶ 3} The Northeast Ohio Public Energy Council (NOPEC) is certified to provide competitive retail electric service under R.C. 4928.08 and is subject to the jurisdiction of this Commission pursuant to R.C. 4928.16.

{¶ 4} On August 4, 2022, Carl Heinel (Complainant) initiated a complaint against CEI and NOPEC alleging that he is a customer of CEI and that NOPEC raised his supply rate, which increased his bill approximately 50 percent. He stated that he called NOPEC customer service on July 5, 2022 to cancel NOPEC service and asked for a bill adjustment. He stated that NOPEC refused to provide him with a bill adjustment.

{¶ 5} On August 19, 2022, NOPEC filed a motion for extension of time to file its answer, stating that it has been engaged in settlement discussions with Complainant. NOPEC requests an extension to file its answer by September 7, 2022. NOPEC requests expedited treatment of its motion and states that Complainant does not object to the extension.

{¶ 6} On August 22, 2022, Complainant and CEI filed a joint motion to dismiss CEI from the case. The motion states that Complainant has not alleged any unreasonable conduct by CEI and does not seek to pursue the matter against CEI. No memorandum contra was filed.

{¶ 7} At this time, the attorney examiner finds that CEI should be dismissed as a party from this case. The motion to dismiss indicates that Complainant does not wish to pursue a complaint against CEI, and no memoranda contra the motion was filed.

{¶ 8} On August 24, 2022, NOPEC filed its answer to the complaint. In its answer, it admits that Complainant was included in NOPEC's electric opt-out governmental aggregation program. NOPEC states that Complainant did request a price adjustment for electric service on July 5, 2022, and that NOPEC refused to adjust the price. NOPEC also admits that Complainant requested to end service with NOPEC, at which time NOPEC contacted CEI to request that Complainant be dropped from its aggregation program. NOPEC asserts several affirmative defenses, as well as a motion to dismiss because the complaint does not establish that NOPEC has failed to act in accordance with the law.

{¶ 9} The attorney examiner finds that NOPEC's August 19, 2022 motion for an extension of time should be denied as moot. NOPEC filed its answer timely, in accordance with Ohio Adm.Code 4901-9-01(B). Additionally, NOPEC requested the extension to allow for additional time to engage in settlement discussions, however, the parties are encouraged to engage in settlement discussions at any stage in the proceeding.

{¶ 10} 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.

{¶ 11} Accordingly, a telephone settlement conference shall be scheduled for February 21, 2023, at 10:00 a.m. ET. To participate in the settlement conference, the parties shall call 614-721-2972 and enter 316 876 728 # when prompted. If a settlement is not reached at the conference, the attorney examiner may conduct a discussion of procedural issues including potential hearing dates.

{¶ 12} 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.

{¶ 13} 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).

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That CEI be dismissed as a party from this case, as provided in Paragraph 7. It is, further,

{¶ 16} ORDERED, That NOPEC's August 19, 2022 motion for an extension of time be denied as moot, in accordance with Paragraph 9. It is, further,

{¶ 17} ORDERED, That a settlement conference be scheduled for February 21, 2023, as provided in Paragraph 11. It is, further,

{¶ 18} 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

MJA/mef

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1/27/2023 12:24:21 PM

in

Case No(s). 22-0764-EL-CSS

Summary: Attorney Examiner Entry scheduling a telephone settlement conference for February 21, 2023, at 10:00 a.m.; denying the motion for extension of time as moot; and dismissing The Cleveland Electric Illuminating Company as a party to this case electronically filed by Ms. Mary E. Fischer on behalf of Jacky Werman St. John, Attorney Examiner, Public Utilities Commission of Ohio