

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

ALAN JONES,)	
)	
Complainant,)	
)	CASE NO. 22-0016-EL-CSS
vs.)	
)	
THE CLEVELAND ELECTRIC)	
ILLUMINATING COMPANY,)	
)	
Respondent.)	

**THE CLEVELAND ELECTRIC ILLUMINATING COMPANY’S UNOPPOSED
MOTION FOR CONTINUANCE AND REQUEST FOR EXPEDITED TREATMENT**

Pursuant to Ohio Administrative Code Sections 4901-1-12 and 4901-1-13, Respondent, The Cleveland Electric Illuminating Company (“CEI” or the “Company”), respectfully moves the Commission for an Order continuing the Hearing currently scheduled for May 30, 2023 to accommodate the schedule of CEI’s expert witness. CEI’s witness is unavailable to participate in the currently scheduled hearing, either in person or remotely. Counsel for CEI spoke to Complainant on May 18, 2023, who stated he did not oppose the continuance.

CEI further requests expedited treatment of this Motion. A Memorandum in Support of this Motion is attached.

Respectfully submitted,

/s/ John W. Breig, Jr.

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Illuminating Company*

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**THE CLEVELAND ELECTRIC ILLUMINATING COMPANY’S MEMORANDUM IN
SUPPORT OF UNOPPOSED MOTION FOR CONTINUANCE AND REQUEST FOR
EXPEDITED TREATMENT**

I. FACTUAL AND PROCEDURAL BACKGROUND

Complainant filed a Complaint against Respondent The Cleveland Electric Illuminating Company (“CEI”) on January 5, 2022 alleging that CEI over billed his account as far back as 2016 through a mix metering situation at the duplex he owned. On January 25, 2022, CEI filed its Answer, in which it admitted, denied, or was without sufficient knowledge to ascertain the veracity of the substantive allegations in the Complaint. CEI also asserted several affirmative defenses.

After two unsuccessful settlement conferences, on April 17, 2023, the Attorney Examiner scheduled the evidentiary hearing for May 30, 2023. In preparation for the upcoming hearing, CEI worked diligently to identify a witness to provide expert testimony related to the allegations contained in Complainant’s Complaint. Due to the allegations in Complainant’s Complaint that his account was overbilled due to a mix metering situation, a CEI employee with knowledge of the Company’s billing practice and work done at Complainant’s service address is the best, and most appropriate, witness to testify to Complainant’s allegations. However, the witness is unavailable to attend the currently scheduled May 30, 2023 hearing, either in person or remotely.

On May 18, 2023, counsel for CEI called Complainant to obtain his consent for a short continuance of the hearing date. Complainant agreed to CEI's request and does not oppose this Motion.

II. ARGUMENT

CEI respectfully requests that the Commission continue the May 30, 2023 evidentiary hearing to a mutually agreed date in the near future in order to accommodate the availability of CEI's witness.

Ohio Administrative Code Section 4901-1-13(A) provides, in pertinent part, that "continuances of public hearings and extensions of time to file pleadings or other papers may be granted upon motion of any party for good cause shown[.]" The Commission has routinely found good cause to continue a hearing date when a witness is unavailable on the scheduled date.¹ Without the continuance, CEI will be prejudiced because its witness most suitable to address the allegations contained in the Complaint will be unavailable to testify. Complainant will not be prejudiced by a short continuation of the hearing date. No previous continuances have been requested. And Complainant does not oppose CEI's request.

Section 4901:1-1-12(C) of the Ohio Administrative Code permits a party to include a specific request for an expedited ruling in a motion provided that the grounds for such a request are set forth in the memorandum in support. Without an expedited ruling in this matter, this motion will not be ripe for consideration until after the scheduled hearing date.

¹ *In re Complaint of Cledith Palmer v. Ohio Cen. Rr., Inc.*, PUCO Case No. 04-1695-RR-CSS, 2005 WL 1017953, Entry, ¶¶ 3, 5 (Apr. 29, 2005) (unavailability of witness); *Surf Cincinnati, Inc. v. Cincinnati Gas & Elec. Co.*, PUCO Case No. 02-1253-EL-CSS, 2003 WL 21206000, Entry, ¶¶ 5-6 (Feb. 27, 2003) (unavailability of witness); *In the Matter of the Compl. of Steve and Tammy Dumeney and Sharon Felix v. Aquameter, Inc.*, PUCO Case No. 96-397-WW-CSS, 2000 WL 36092512, Entry ¶¶ 2-3 (June 19, 2000) (unavailability of counsel); *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained Within the Rate Schedules of The East Ohio Gas Company and Related Matters*, PUCO Case No. 87-30-GA-GCR, 1987 WL 1464052, Entry, ¶¶ 2, 4 (Aug. 28, 1987) (unavailability of witness); *In the Matter of the Compl. of James David Morrow*, PUCO Case No. 82-582-GE-CSS, 1982 WL 973163, Entry, ¶¶ 2, 4 (Oct. 1, 1982) (scheduling conflicts of counsel and witnesses).

III. CONCLUSION

For the foregoing reasons, CEI respectfully requests for a continuance of the hearing in this matter and for expedited treatment of this Motion.

Respectfully submitted,

/s/ John W. Breig, Jr.

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CERTIFICATE OF SERVICE

On May 19, 2023, the foregoing document was filed on the Public Utilities Commission of Ohio's Docketing Information System. The PUCO's e-filing system will electronically serve notice of the filing of this document on all parties of record in this proceeding. A service copy has been sent by email on this 19th day of May 2023 to the Complainant at the following:

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/s/ John W. Breig, Jr.
*An Attorney for The Cleveland Electric
Illuminating Company*

**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). 22-0016-EL-CSS

Summary: Motion Unopposed Motion for Continuance and Request for Expedited Treatment electronically filed by Mr. John W. Breig on behalf of The Cleveland Electric Illuminating Company.