

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of	)	
<b>MARJORIE D. KELSEY</b> against	)	Case No. U-14204
<b>THE DETROIT EDISON COMPANY.</b>	)	
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At the December 21, 2004 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chair  
Hon. Robert B. Nelson, Commissioner  
Hon. Laura Chappelle, Commissioner

**ORDER**

On June 10, 2004, Marjorie D. Kelsey filed a complaint against The Detroit Edison Company (Detroit Edison), alleging that Detroit Edison unlawfully overcharged her for electric services and for maintaining a faulty meter.

On July 26, 2004, the Commission served the complaint and Detroit Edison filed its response on August 16, 2004. A hearing was held on October 13, 2004 before Administrative Law Judge Barbara A. Stump (ALJ). At the conclusion of the hearing, the ALJ issued an oral Proposal for Decision (PFD) granting summary disposition for Detroit Edison.

Ms. Kelsey filed a formal complaint against Detroit Edison after a hearing was held before a utility hearing officer pursuant to R 460.2169. Ms. Kelsey invoked her right to make an informal appeal to the Commissions Staff (Staff), and the Staff issued an informal appeal decision (IAD) pursuant to R 460.2188. Ms. Kelsey attached a copy of the IAD findings to her formal complaint.

The IAD, in pertinent part, found that Detroit Edison should refund Ms. Kelsey \$500.00 of the \$627.65 charged to her for the January 13, 2003 billing period.

It is undisputed that, pursuant to the IAD, Detroit Edison paid Ms. Kelsey with a \$500 check and Ms. Kelsey accepted the payment by cashing the check. The ALJ found that this settlement agreement constituted a full accord and satisfaction for the events associated with the subject matter of the formal complaint.

The purpose of the informal proceeding is to facilitate resolution of disputes between parties through negotiation and settlement, without resorting to the formal channels. At the same time, a party who decides to take advantage of informal proceedings that ultimately prove unsuccessful is not foreclosed from filing a formal complaint. Detroit Edison and the Staff argued that the IAD providing for Detroit Edison to refund \$500 to Ms. Kelsey, was intended to settle any and all claims in the case. Conversely, Ms. Kelsey argued that the informal complaint was intended to address the dispute for the December 2000 to May 2001 time period. She further argues that Detroit Edison addressed the billing dispute for the 2002-2003 time period only and issues pertaining to the 2000-2001 time period were not settled and remain unresolved.

The ALJ determined that a review of the informal record showed that all issues were presented and intended to be resolved in the settlement agreement between the parties. The ALJ also found that the payment of \$500 to Ms. Kelsey and her acceptance by cashing the check settled her claims against Detroit Edison. As such, the ALJ found that pursuant to Rule 323, Ms. Kelsey failed to state a claim for which relief may be granted and recommended that the complaint be dismissed.

Ms. Kelsey filed exceptions to the PFD. However, even if the Commission were to view the exceptions in the light most favorable to Ms. Kelsey, the Commission finds that the exceptions fail to show that the ALJ erred in finding that the settlement agreement was intended as an accord and

satisfaction of any and all claims against Detroit Edison. Moreover, the record does not indicate that Ms. Kelsey complied with the notice requirements when filing her exceptions. Therefore, the Commission finds that the complaint should be dismissed.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.

b. The complaint should be dismissed with prejudice.

THEREFORE, IT IS ORDERED that the complaint of Marjorie D. Kelsey against The Detroit Edison Company is dismissed with prejudice.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

( S E A L )

/s/ J. Peter Lark

Chair

/s/ Robert B. Nelson

Commissioner

By its action of December 21, 2004.

/s/ Mary Jo Kunkle

Its Executive Secretary

/s/ Laura Chappelle

Commissioner

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Chair

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Its Executive Secretary

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