

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of)	
ELLEN AND MARK MILLS against)	Case No. U-14205
THE DETROIT EDISON COMPANY.)	
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At the November 9, 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

OPINION AND ORDER

On July 22, 2004, Ellen Mills filed a complaint against The Detroit Edison Company (Detroit Edison), alleging that Detroit Edison disconnected her electric service despite offers to pay the outstanding balance on her account. On September 7, 2004, Detroit Edison filed a response denying the allegations contained in the complaint.

On September 16, 2004, pursuant to due notice, a public hearing was held before Administrative Law Judge Daniel E. Nickerson, Jr. (ALJ). At the hearing, the ALJ granted a motion to amend the complaint to include Mrs. Mills's husband Mark Mills, as a complainant.

Evidence presented at the hearing showed a conflict-laden and tenuous history between Mr. and Mrs. Mills and Detroit Edison. Problematic payment history and arrearages date back to 1998. It is undisputed that since 1998, Detroit Edison has disconnected electric service to the

Mills' residence for failure to pay on several prior occasions; the last occasion occurred on June 4, 2004.

Mrs. Mills testified that on June 4, 2004, Detroit Edison employees and a Lapeer County Deputy Sheriff arrived at her residence to disconnect electric service. In an attempt to prevent electric service from being disconnected, Mrs. Mills asked the Detroit Edison employees for a bill of the amount due. She stated that she was willing to pay the amount owed. Mrs. Mills stated that she was directed by the Detroit Edison employees to call a customer service or account representative because they did not have any knowledge about billing or payment procedures. Electric service was then disconnected.

Mrs. Mills testified that she called Detroit Edison on June 4, 2004 and was told that the outstanding balance on the account was \$1,736.86. Exhibit C-8 verifies that a Detroit Edison representative told Mrs. Mills that service would be restored if she paid the total amount past due of \$1,736.86, plus a deposit of \$113.00, and a reconnection fee of \$20.00, and an additional \$40.00 fee for paying with a credit card. Mrs. Mills made a credit card payment of \$1,909.86, and was given a confirmation number for making the payment and an event number for the work order. She was told that electric service would be restored to her residence that evening. Service was not restored, and over the course of the next several days, Mrs. Mills placed numerous calls to Detroit Edison inquiring about the reconnection of her electric service.

On June 7, 2004, Mrs. Mills was informed that, due to suspicion of energy theft, service would not be restored to her residence. Mrs. Mills testified that she had not received a bill from Detroit Edison in as long as two years. Exhibit C-10 was introduced into evidence representing a Detroit Edison electric bill. Postmarked June 8, 2004, the bill showed an account balance as of

October 14, 2002, of \$1,736.86. The bill also showed that current charges totaled \$2,442.21, bringing the account balance as of June 4, 2004, to \$4,179.07.

Detroit Edison argued that the amount paid by Mrs. Mills on June 4, 2004, was the past due amount for services rendered up to October 14, 2002. Detroit Edison maintained that it did not make any representations concerning the restoration of electric service to Mrs. Mills. It is also Detroit Edison's position that electric service to the Mills' residence was reconnected without authorization and that the Mills had received \$2,437.21 of electric service without paying from October 14, 2002 to the present.

Following the presentation of the evidence, Detroit Edison moved for summary disposition. The ALJ granted Detroit Edison's motion for summary disposition and issued an oral Proposal for Decision (PFD) recommending dismissal of the case.

Mrs. Mills is asking for restoration of electric service on the premise that she paid what was owed. The ALJ reasoned that, while Detroit Edison should not have represented that service would be restored as a result of the payment made on June 4, 2004, the evidence clearly showed that more was owed. Given the fact that money is still owed, the remedy the Mills are seeking is based on a theory of equitable relief outside the jurisdiction of the Commission. The ALJ found that Detroit Edison is entitled to receive the full amount due before restoring service. In addition, the ALJ stated that Detroit Edison was fully justified in its concern for the safety of its employees. The ALJ also indicated that the security measures proposed by Detroit Edison were reasonable under the circumstances.

Exceptions, if any, were to be filed on or before October 1, 2004. There were no exceptions filed.

Because the ALJ's PFD and recommendations are supported by the record, the Commission finds that the complaint should be dismissed with prejudice. However, since Detroit Edison collected a deposit and reconnection fee and service was not restored, the Commission finds that this amount (\$133.00) should be applied to the Mills' past due bill.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 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 of Ellen and Mark Mills against Detroit Edison should be dismissed with prejudice.

THEREFORE, IT IS ORDERED that the complaint of Ellen and Mark Mills 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
issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chair

(S E A L)

/s/ Robert B. Nelson
Commissioner

/s/ Laura Chappelle
Commissioner

By its action of November 9, 2004.

/s/ Mary Jo Kunkle
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

Chair

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Commissioner

By its action of November 9, 2004.

Its Executive Secretary