

Ebony L. Miller
Attorney330-384-5969
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January 28, 2009

***Via Federal Express
and Facsimile (614-466-0313)***

Ms. Renee J. Jenkins
Director, Administration Department
Secretary to the Commission
Docketing Division
The Public Utilities Commission of Ohio
180 Broad Street
Columbus, OH 43215-3793

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2009 JAN 29 AM 11:54
PUCO

Dear Ms. Jenkins:

**Re: *In the Matter of the Complaint of David T. Davis
v. Toledo Edison Company
Case No. 08-864-EL-CSS***

Enclosed for filing, please find the original and twelve (12) copies of the *Direct Testimonies of William Beutler, P.E. and Marvin Mantos* regarding the above-referenced case. Please file the enclosed *Testimonies*, time-stamping the two extras and returning them to the undersigned in the enclosed envelope.

Thank you for your assistance in this matter. Please contact me if you have any questions concerning this matter.

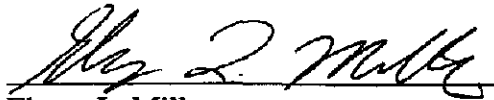
Very truly yours,


Ebony L. MillerELM/jhp
Enclosures

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business
Technician _____ Date Processed 1-29-09

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the Direct Testimonies of William T. Beutler and Marvin M. Mantos filed on behalf of The Toledo Edison Company was served by regular U.S. Mail, postage prepaid upon David Davis at 2841 Langenderfer Road, Swanton, Ohio 43558, this 28th day of July, 2008.

A handwritten signature in black ink, appearing to read "Ebony L. Miller", is written over a horizontal line.

Ebony L. Miller
Attorney

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

DAVID T. DAVIS,

Complainant,

v.


THE TOLEDO EDISON COMPANY,

Respondent.

CASE No. 08-0864-EL-CSS

**DIRECT EXPERT TESTIMONY FILED ON MARVIN MANTOS BEHALF OF
THE TOLEDO EDISON COMPANY**

Company Exhibit 1



Ebony L. Miller (077063)

Attorney

FirstEnergy Corp.

76 South Main Street

Akron, Ohio 44308

Phone: 330-384-5969

Fax: 330-384-3875

Attorneys for The Toledo Edison
Company

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. Marvin Mantos. 300 Madison Avenue Toledo, Ohio 43652

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by FirstEnergy Service Company. My title is Manager, Forestry Services.

Q. HOW LONG HAVE YOU BEEN EMPLOYED BY FIRSTENERGY SERVICE COMPANY?

A. I have been employed by FirstEnergy Service Company or one of FirstEnergy Corp.'s subsidiaries for the past 15 years.

Q. PLEASE BRIEFLY DESCRIBE YOUR WORK EXPERIENCE OVER THE 15 YEAR PERIOD.

I have been and I am currently responsible for budgeting, scheduling, and monitoring contractor and internal resources to implement the FirstEnergy Vegetation Management program at Toledo Edison. Prior to working at Toledo Edison, I performed similar duties at Ohio Edison Company.

Q. PLEASE EXPLAIN FURTHER YOUR JOB WITH RESPECT TO VEGETATION MANAGEMENT -- FIRST OF ALL, WHAT TERRITORY ARE YOU RESPONSIBLE FOR?

A. I am responsible for the Toledo Edison service territory.

Q. ARE YOU AWARE OF HOW MANY MILES OF DISTRIBUTION LINES/CONDUCTORS ARE IN YOUR TERRITORY?

A. Yes. Toledo Edison has approximately 6,000 miles of distribution line.

Q. PLEASE BRIEFLY DESCRIBE THE COMPANIES' VEGETATION MANAGEMENT PROGRAM?

A. Vegetation is routinely pruned, controlled or removed approximately every four years or as required, to maintain reliability and access, make repairs, or restore service. Branches contacting individual service or street light wires are pruned to provide at least one foot of clearance.

Q. AND YOU'RE FAMILIAR WITH DAVID DAVIS' CASE, CORRECT?

A. That's correct.

Q. WAS THE DISTRIBUTION LINE RUNNING FROM MR. DAVIS' PROPERTY PART OF A PRE-PLANNED VEGETATION MANAGEMENT WORK PLAN?

A. Yes.

Q. DID THE COMPANY FOLLOW ITS PROGRAM?

A. Yes.

Q. PLEASE EXPLAIN.

A. The line running from Mr. Davis' house to the Toledo Edison pole was part of Circuit 1106 Silica. That circuit was last maintained during October and November of 2004. The circuit was due for inspection and additional trimming if necessary on October 2008. In this case, Mr. Davis experienced problems before the next inspection date.

Q. ARE YOU AWARE OF WHETHER VEGETATION MADE CONTACT WITH THE LINE RUNNING TO MR. DAVIS' HOUSE?

A. No, I am not. In most cases it takes approximately four or more years for vegetation, once cut back, to regrow near or into the Company's lines. However, tree regrowth can vary widely between species and in between trim cycles we rely on customers to alert us of potential tree problems if they identify them.

Q. IS IT POSSIBLE FOR THE COMPANY TO MAKE SURE VEGETATION NEVER MAKES CONTACT WITH THE COMPANIES LINES?

A. Short of cutting down all trees near the Company's lines. No. The Company maintains an aggressive cycle of removing vegetation. The Company cannot patrol every tree in the event it experiences usual growth within the Company's approved maintenance cycle.

Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

A. Yes, it does.

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

DAVID T. DAVIS,

Complainant,

v.

THE TOLEDO EDISON COMPANY,

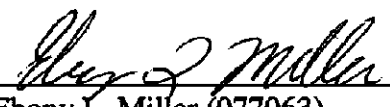
Respondent.

CASE No. 08-0864-EL-CSS

DIRECT EXPERT TESTIMONY OF WILLIAM T. BEUTLER, P.E.

FILED ON BEHALF OF THE TOLEDO EDISON COMPANY

Company Exhibit 2



Ebony L. Miller (077063)
Attorney
FirstEnergy Corp.
76 South Main Street
Akron, Ohio 44308
Phone: 330-384-5969
Fax: 330-384-3875
Attorneys for The Toledo Edison Company

1 **Q: PLEASE STATE YOUR NAME AND OCCUPATION FOR THE RECORD?**

2 A: My name is William T. Beutler, and I am an employee of FirstEnergy Service Company.

3 **Q: HOW LONG HAVE YOU WORKED FOR FIRSTENERGY SERVICE**
4 **COMPANY?**

5 A: I began my association with FirstEnergy in 1979.

6 **Q: WHAT ARE YOUR PROFESSIONAL QUALIFICATIONS?**

7 A: I am a registered Professional Engineer in the state of Ohio. I received a Bachelor of
8 Electrical Engineering in 1979 and a Masters of Business Administration in 1985.

9 **Q: WHAT HAS BEEN THE NATURE OF YOUR EMPLOYMENT WITH**
10 **FIRSTENERGY SERVICE COMPANY? SPECIFICALLY, WHAT POSITIONS**
11 **HAVE YOU HELD AND WHAT DUTIES HAVE YOU PERFORMED?**

12 A: The focus of my employment with FirstEnergy Service Company and its affiliate The
13 Toledo Edison Company ("Toledo Edison") has been as an engineer employed in the
14 areas of distribution design, power quality and reliability analysis. I am extremely
15 familiar with the manner in which Toledo Edison trains its personnel to construct and
16 maintain electrical power lines in compliance with the National Electrical Safety Code,
17 which is also known as NESC. I am also extremely familiar with PUCO regulations and
18 internal company policies and procedures as they relate to the complaint before the
19 PUCO.

20 After beginning my employment with FirstEnergy in 1979, I worked for fourteen (14)

21 years in the Distribution Engineering Unit as a Design Engineer where my job
22 responsibilities included designing specifications and standards for fuses, re-closers,
23 transformers and arresters. In 1993, I transitioned to the Power Quality Engineering Unit
24 to become the Supervisor of the Power Quality Unit. I was employed as the Supervisor
25 of the Power Quality Unit from 1993 to 1998, and my job responsibilities included
26 overseeing the work of five engineers and investigating customer power quality
27 complaints. From 1998 to 2007, I was a Senior Engineer in the Energy Delivery-
28 Distribution Operations Section, and my job responsibilities included overseeing
29 reliability data, coding of outages and providing corporate support for NESC and NEC
30 interpretations. In 2007, I was promoted to Manager of Reliability Support in the Energy
31 Delivery-Distribution Operations Section, where my job responsibilities include
32 overseeing transmission and distribution reliability data.

33 **Q: BASED UPON YOUR EXPERIENCE, WHAT CAN YOU TELL THE**
34 **COMMISSION ABOUT TOLEDO EDISON'S DISTRIBUTION SYSTEM?**

35 **A:** Toledo Edison constructs, maintains and operates its distribution system in accordance
36 with the National Electrical Safety Code and regulations of the Public Utilities
37 Commission of Ohio, which is also known as the PUCO. Moreover, Toledo Edison also
38 maintains its own engineering and construction standards that meet or exceed the NESC.
39 Pursuant to Toledo Edison's internal company policies and procedures, each year the
40 company invests substantial amounts of money to maintain and improve the reliability of
41 the distribution system. The company and its employees are continuously working to
42 anticipate and eliminate potential problems that may affect the distribution system.

43 **Q: WHAT CAN YOU TELL THE COMMISSION ABOUT THE CIRCUIT THAT**
44 **SERVICES 2841 LANGENDERFER ROAD, THE COMPLAINANT'S**
45 **PROPERTY?**

46 **A:** I have reviewed the history and reliability of that circuit and the particular branch line
47 that services 2841 Langenderfer Road. Overall, the circuit and the branch line have been
48 very reliable.

49 **Q: NOW, LET ME DIRECT YOUR ATTENTION TO THE EVENTS OF MAY 19,**
50 **2008. YOU ARE AWARE THAT MR. DAVIS SUBMITTED A CLAIM TO**
51 **TOLEDO EDISON ALLEGING HE SUSTAINED PERSONAL PROPERTY**
52 **DAMAGE?**

53 **A:** Yes.

54 **Q: HAVE YOU FAMILIARIZED YOURSELF WITH COMPLAINANT'S CLAIM?**

55 **A:** Yes. I have reviewed documents submitted by Complainant describing the incident, and
56 Toledo Edison trouble records from May 19, 2008.

57 **Q: DOES TOLEDO EDISON HAVE ANY RECORDS OF THE COMPLAINANT**
58 **CONTACTING THE COMPANY ON MAY 19, 2008?**

59 **A:** Yes. On May 19, 2008, Toledo Edison received a claim reporting damage to certain
60 personal property.

61 **Q: HOW DID TOLEDO EDISON RESPOND?**

62 **A:** It is my understanding that lineman, Todd Marshall, was dispatched to investigate the

63 problem.

64 **Q. HAVE YOU SPOKEN WITH LINEMAN, TODD MARSHALL, AS TO THE**
65 **ROOT CAUSE OF THE PROBLEM?**

66 **A. Yes.**

67 **Q: BASED ON MR. MARSHALL'S ACCOUNT TO YOU, HAVE YOU ARRIVED**
68 **AT ANY CONCLUSIONS REGARDING THE CAUSE OF THE BROKEN**
69 **NEUTRAL AND COMPLAINANT'S ALLEGED EQUIPMENT DAMAGE?**

70 **A:** I am not certain what caused the equipment failure. I do know that our distribution
71 system is exposed to the weather and outside elements twenty-four hours a day, seven
72 days a week, 365 days a year that causes normal wear and tear to our equipment.

73 **Q: WHAT DOES TOLEDO EDISON DO TO MINIMIZE INCIDENTS LIKE YOU**
74 **HAVE JUST DESCRIBED?**

75 **A:** We design, build and construct our distribution system to specific standards of the NESC
76 and PUCO regulations.

77 **Q: EVEN IF TOLEDO EDISON DESIGNS, BUILDS AND CONSTRUCTS ITS**
78 **DISTRIBUTION SYSTEM TO SPECIFIC STANDARDS OF THE NESC AND**
79 **PUCO REGULATIONS, IS IT STILL POSSIBLE TO HAVE AN EQUIPMENT**
80 **FAILURE?**

81 **A:** Yes. There are many factors beyond Toledo Edison's control that can cause a connection
82 or other piece of equipment to fail. Our wires and equipment are not in a controlled

environment. They are constantly exposed to the weather and other forces.

Q: WHAT, IF ANYTHING, HAVE YOU CONCLUDED REGARDING TOLEDO EDISON'S EQUIPMENT SERVICING 2841 LANGENDERFER ROAD ON MAY 19, 2008?

A: I have concluded to a reasonable degree of engineering certainty that Toledo Edison's equipment was installed properly and that the Company could not foresee the equipment failure.

Q: YOU HAVE HEARD TOLEDO EDISON LINEMAN, TODD MARSHALL, DESCRIBE THE ACTIONS HE TOOK TO REPAIR THE BROKEN NEUTRAL, HAVE YOU REACHED AN OPINION REGARDING THE REASONABLENESS OF HIS ACTIONS?

A: Yes. His actions complied with company protocol. I have concluded to a reasonable degree of certainty that he acted reasonably and responsibly in troubleshooting to identify the cause of the customer complaint, identified the root cause and remedied the situation.

Q: DO YOU UNDERSTAND THAT SOME TIME ON OR ABOUT MAY 19, 2008, COMPLAINANT SUBMITTED A CLAIM TO TOLEDO EDISON SEEKING REIMBURSEMENT FOR ALLEGED EQUIPMENT DAMAGES?

A: Yes.

Q: DO YOU KNOW HOW TOLEDO EDISON RESPONDED TO COMPLAINANT'S CLAIM?

103 A: Complainant submitted a claim to Toledo Edison in May of 2008. Toledo Edison
104 investigated his claim and determined that it was not responsible for the alleged damages.
105 As such, Toledo Edison denied the claim because it does not reimburse for equipment
106 failure.

107 **Q: DID TOLEDO EDISON TREAT THE COMPLAINANT DIFFERENT FROM**
108 **ANY OTHER CUSTOMER?**

109 A: No. Toledo Edison does not guarantee, nor is it required to provide continuous service to
110 all customers. Toledo Edison is not an insurer for its customers. That is clearly set forth
111 in Toledo Edison's tariff PUCO No. 8 on file with the PUCO. I have regularly dealt with
112 the tariff during my employment and am familiar with its provisions.

113 **Q: CAN YOU DESCRIBE BRIEFLY TOLEDO EDISON'S ELECTRIC TARIFF?**

114 A: Toledo Edison's electric tariff contains the rates, rules and regulations under which
115 Toledo Edison provides service to its customers. In short, it contains the rules by which
116 the company provides billing information and handles utility services for all its
117 customers.

118 **Q: I AM HANDING YOU WHAT HAS BEEN PRE-MARKED COMPANY'S**
119 **EXHIBIT 3. CAN YOU PLEASE IDENTIFY COMPANY'S EXHIBIT 1 FOR**
120 **THE RECORD?**

121 A: Yes. Company's Exhibit 3 is a copy of the Toledo Edison electric tariff, which was
122 approved by the PUCO.

123 **Q: BASED UPON YOUR EXPERIENCE, WHAT SECTION OR SECTIONS OF THE**

**TARIFF ARE APPLICABLE TO TOLEDO EDISON'S DENIAL OF THE
COMPLAINANT'S CLAIM?**

A: In particular, sections IV. B entitled "Character of Service" and section X. B entitled "Customer's Wiring, Equipment And Special Services" are applicable. Section IV. B states:

Continuity: The Company will endeavor, but does not guarantee, to furnish a continuous supply of electric energy and to maintain voltage and frequency within reasonable limits. The Company shall not be liable for damages which the customer may sustain due to variations in service characteristics or phase reversals.

Further, Section X. B states:

Limitation of Liability: The Company shall not be liable for any loss, cost, damage or expense that the customer may sustain by reason of damage to or destruction of any property, including the loss of use thereof arising out of, or in any manner connected with interruptions in service, variations in service characteristics, high or low voltage, phase failure, phase reversal, the use of electrical appliances or the presence of the Company's property on the customer's premises whether such damages are caused by or involve any fault, failure or negligence of the Company or otherwise except such damages that are caused by or due to the willful and wanton misconduct of the Company. The Company shall not be liable for damage to any customer or to third persons resulting

146 from the use of the service on the customer's premises or from the
147 presence of the Company's appliance or equipment on the customer's
148 premises.

149 **Q: HOW DO YOU AND TOLEDO EDISON INTERPRET THOSE SECTIONS OF**
150 **THE TARIFF?**

151 A: That Toledo Edison does not guarantee, nor is Toledo Edison required to provide
152 continuous service to all customers. Toledo Edison is not an insurer for its customers.
153 Moreover, Toledo Edison is not responsible for voltage fluctuations or loss of service,
154 nor is Toledo Edison responsible for the property damage that was the result of these
155 events.

156 **Q: APPLYING THOSE PROVISIONS TO THE COMPLAINANT'S COMPLAINT**
157 **BEFORE THE PUCO, HOW DO YOU INTERPRET THAT LANGUAGE IN**
158 **RELATION TO HIS COMPLAINT?**

159 A: That Toledo Edison is not responsible for the alleged voltage fluctuation, equipment
160 failure and alleged equipment damage.

161 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

162 A. Yes, it does.

Ebony L. Miller
Attorney

January 28, 2009

330-384-5969
Fax: 330-384-3875

Attorney Examiner, Kerry Sheets
Public Utilities of Commission of Ohio
180 E. Broad Street
Columbus, Ohio 43215

Re: In the Matter of the Complaint of David T. Davis v. The Toledo
Edison Company

Case No. 08-864-EL-CSS

Dear Examiner Sheets:

You have requested The Toledo Edison Company to file a letter in the docket referenced above evidencing its intent to comply with Mr. Davis' request to have certain company personnel appear at the February 4, 2008 hearing.

Per your request, the Companies will make available the individuals that performed work at Mr. Davis' address the day that gives rise to his Complaint. Such company personnel are set forth below:

1. Todd Marshall
2. Eric Aschemeier
3. Sean Quinlivan
4. Scott Gonyer

Sincerely,


Ebony L. Miller

cc: David T. Davis