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August 13, 2009

The Public Utilities Commission of Ohio  
Docketing Division  
180 E. Broad Street  
Columbus, OH 43215-3793

RE: Hopewell Markets, Inc. vs. First Energy Corporation

Dear Sir/Miss:

09-725-EL-CSS

Please be advised that this firm represents Hopewell Markets, Inc. dba Frattaroli Sparkle Market.

Enclosed you will find an original and 11 copies of a Formal Complaint to be filed with the Public Utilities Commission of Ohio and processed according to Ohio Revised Code Section 4905.26 and other relevant portions of Ohio law.

The 11<sup>th</sup> copy is to be receipted and returned to me in the enclosed self-addressed stamped envelope. If there are any rules of practice or similar instructions, I would appreciate a copy or reference to an internet site that would contain them.

Should there be any questions or anything further required, please contact me directly. Otherwise, thank you very much for your cooperation in this matter.

Sincerely,

  
Leonard D. Schiavone

LDS/er  
Enc.

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BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO  
180 E. BROAD STREET  
COLUMBUS, OH 43215

HOPEWELL MARKETS, INC. dba  
FRATTAROLI'S SPARKLE MARKET  
982 Fifth Street  
Struthers, OH 44471

Against

FIRST ENERGY CORPORATION  
OHIO EDISON COMPANY  
76 S. Main Street  
Akron, OH 44308

CASE NO. 09-725-EL-CSS

FORMAL COMPLAINT

1. Hopewell Markets, Inc. dba Frattaroli's Sparkle Market (Hopewell) is a full service grocery store located in Struthers, Ohio and is a customer of Ohio Edison Company (OEC), Account No. 110015702936.

2. According to OEC, at some time in the late spring of 2008, OEC determined that there was a problem with the metering at the store and on or about May 28, 2008, OEC installed a test meter.

3. According to OEC, at some later point, the OEC Meter Department reported that birds had built a nest in the meter cabinet, breaking wires going to the potential transformers and causing the meter to read less than the actual demand and usage.

4. According to OEC, the damaged meter was replaced as of August, 2008, and on August 25, 2008, representatives of OEC met with the president of Hopewell to discuss the issue of thirteen (13) months of faulty readings.

5. At that meeting, the president of Hopewell advised that he had been reducing usage in the previous months, eliminating or switching to more efficient coolers and freezers, reducing air

conditioner usage and reducing lighting, and insulating coolers and freezers and the areas around them.

6. At that meeting of August 25, 2008, the president of Hopewell was advised that billing for the last thirteen (13) months would be recalculated and that there would be another meeting to review and discuss the results.

7. At some time in December, 2008, and without any meeting or other notice to Hopewell, OEC charged Hopewell \$107,569.22 as a past due amount and demanded payment of \$7,683.00, which was paid by Hopewell in early January, 2009. In March, 2009, OEC again billed Hopewell for the past due amount and demanded payment of \$7,683.00, as well as late charges of \$230.33, which was paid by Hopewell in early April, 2009.

8. On March 6, 2009, the promised meeting was held and the president of Hopewell was presented with a statement for \$107,569.22 as total past due charges to be paid back to OEC in twenty-four (24) monthly installments. No credit was given to Hopewell for the prior payment of \$7,683.00 and OEC did not disclose to Hopewell that the full amount had been billed and was then accruing late charges.

9. In late March, 2009, Hopewell obtained legal counsel to negotiate with OEC. At that point, the matter was referred to the OEC Legal Department. Contact was made and information was requested including all billing and collection related policies, procedures and protocols. On April 14, 2009, a series of spreadsheets were provided to Hopewell showing the calculations, but no policies, procedures and protocols were provided.

10. While negotiations were ongoing, on May 12, 2009, OEC sent to Hopewell a Disconnection Notice demanding payment in full of \$92,203.22 by June 2, 2009 and threatening collection procedures, including disconnection. In spite of protests by counsel for Hopewell,

OEC has refused to withdraw that Disconnection Notice but instead placed a ninety (90) day time limit to reach a resolution. To this date, however, no additional information as to billing comparisons or policies, procedures and protocols related to billing analysis, which had previously been requested, have been provided.

11. Negotiations continued and Hopewell provided OEC a listing of twelve (12) steps taken by the store to reduce electrical usage during the period in question, including but not limited to eliminating certain coolers and freezers and converting others to more energy efficient units, increasing store temperature during the air conditioning season, cutting back lighting and insulating various cooler and freezer units.

12. On July 23, 2009, OEC made a proposal to reduce the amount owed on the account to \$90,000.00 from the prior balance of approximately \$92,000.00 and to extend payments over thirty-six (36) months.

13. On July 31, 2009, Hopewell, through counsel, responded questioning whether the \$90,000.00 amount reflected the prior payments of \$15,596.33 and requesting an additional deduction of \$7,500.00 plus a credit for the \$15,596.33. OEC has failed to respond to either the question as to the application of the payment credit or as to the settlement proposal.

14. OEC has imposed an arbitrary, unjust and unreasonable charge against Hopewell, in violation of Ohio law and the rules and regulations of OEC. The billing analysis to determine the \$107,569.22 charge was based on taking an average of the September, 2008 and October, 2008 kilowatt hour usages and load factors and using those averages through the entire thirteen (13) month period of the faulty meter readings. No consideration was given to the energy saving methods adopted by Hopewell which would have had the greatest effect during the peak usage periods for summer and winter.

15. As no policies, procedures and protocols have been provided to Hopewell by OEC, it cannot be determined whether there are any further violations of law on the part of OEC, whether OEC has failed to follow its rules and regulations or whether it has discriminated against Hopewell, so that Hopewell reserves those claims until those items can be examined.

WHEREFORE, Hopewell Markets, Inc. request the following:

1. That all collection efforts of OEC and its agents and all late charges, interest and any other carrying charges be suspended until this matter has finally been concluded.
2. That if proper calculations can be done using the limited readings for each month, that the same be calculated.
3. That all energy saving measures undertaken by Hopewell Markets, Inc. be calculated as to energy savings that would have resulted and that those savings be reflected in the monthly calculations for the period in question.
4. That all policies, procedures and protocols of OEC relevant to the above matter be disclosed to determine whether the law has been violated or that rules and regulations on file with the Public Utilities Commission have been followed.
5. That any payment be extended over a reasonable time, giving consideration to the ongoing electrical expenses and all other business expenses of Hopewell Markets, Inc, that no late charges or interest be assessed and that all past late charges be reversed.
6. That full credit be given for all additional payments made by Hopewell Markets, Inc. since the metering has been repaired.
7. That the metering be tested to verify that in fact the repairs have been properly made.

8. Any other relief the Commission deems just and equitable.

FRIEDMAN & RUMMELL CO., L.P.A.

BY 

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Attorney for Hopewell Markets, Inc.

dba Frattaroli's Sparkle Market