

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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JASON M. HEBERT,

Complainant,

v.

THE CLEVELAND ELECTRIC  
ILLUMINATING COMPANY,

Respondent.

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Case No. 11-5990-EL-CSS

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**ANSWER OF RESPONDENT**  
**THE CLEVELAND ELECTRIC ILLUMINATING COMPANY**

Respondent The Cleveland Electric Illuminating Company ("CEI") for its Answer to the Complaint of Jason M. Hebert ("Complainant") states as follows:<sup>1</sup>

1. CEI admits that Complainant has been the customer of record at 16630 Munn Road in Chagrin Falls, Ohio ("the Property"), since July 2003. With respect to Complainant's allegations regarding his residence at the Property, CEI states that it is without knowledge or information sufficient to form a belief as to the truth of those allegations and denies those allegations on that basis.

2. CEI admits that, on August 7, 2011, a power line at the Property became disconnected and fell onto Complainant's asphalt driveway. CEI further admits that it dispatched a crew to the property on that same date, that the crew discovered the line was burning, and that Complainant's driveway sustained damage before the line could be de-

<sup>1</sup> Although Complainant did not present his allegations in individually-numbered paragraphs, CEI hereby responds to those allegations in paragraph form. As noted in ¶ 11, and pursuant to Ohio Administrative Code Rule 4901-9-01(D), CEI hereby denies generally any allegation not specifically admitted or denied herein.

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energized. CEI also admits that the crew worked to repair the line as quickly and safely as possible.

3. CEI admits that Complainant filed a claim with CEI on August 8, 2011, in an attempt to recover the cost of repairing the driveway at the Property. CEI further admits that, on that same date, Todd Leslie from CEI responded via a letter sent by U.S. Mail and that the letter indicated that CEI respectfully declined Complainant's request for compensation. CEI also admits that the letter stated that "the Illuminating Company can only consider claims that arise out of a willful or wanton act of a company employee."

4. CEI states that the quotes for the cost of repairs attached to the Complaint speak for themselves and denies all allegations inconsistent with those quotes.

5. CEI admits that, in the letter dated August 8, 2011, Mr. Leslie quoted two sections from CEI's tariff that relate to CEI's liability for equipment failure: (1) Section IV (Characteristics of Service) B (Continuity) and (2) Section X (Customer's Wiring, Equipment and Special Services) B (Limitation of Liability). CEI avers that its tariff is not organized into chapters, but that both sections were reproduced in full in the letter for easy reference.

6. CEI admits that the power line that fell was CEI's property and that Mr. Leslie indicated in his August 8, 2011, letter that the line fell due to a sudden and unforeseen equipment failure. CEI states that the statements regarding the applicability of Section IV (Characteristics of Service) B (Continuity) and Section X (Customers Wiring, Equipment and Special Services) B (Limitation of Liability) of CEI's tariff are legal conclusions, not factual allegations. To the extent a response to such statements is required, CEI denies those statements.

7. CEI states that the statement regarding whether Complainant's loss was the result of a negligent act are legal conclusions, not factual allegations. To the extent a response to such statements is required, CEI denies those statements.

8. CEI states that Ohio Administrative Code Rule 4901:1-10-02(G), cited by Complainant, speaks for itself and denies any allegations inconsistent with that Rule.

9. CEI states that the statements indicating that CEI has violated Ohio Administrative Code Rule 4901:1-10-02(G) are legal conclusions, not factual allegations. To the extent a response to such statements is required, CEI denies those statements.

10. CEI denies that Complainant is entitled to damages or any relief whatsoever.

11. CEI denies generally any allegation not specifically admitted or denied herein, pursuant to Ohio Administrative Code Rule 4901-9-01(D).

#### **FIRST DEFENSE**

12. The Complaint fails to set forth reasonable grounds for complaint.

#### **SECOND DEFENSE**

13. CEI at all times has complied with Title 49, Ohio Revised Code; the rules, regulations, and orders of the Commission; and CEI's tariff.

#### **THIRD DEFENSE**

14. The Commission lacks authority to award certain of the relief requested by Complainant, including monetary damages.

15. CEI reserves the right to raise additional defenses as warranted by discovery in this matter.

WHEREFORE, CEI respectfully requests an Order dismissing the Complaint and granting CEI all other necessary and proper relief.

DATED: January 9, 2012

Respectfully submitted,

*Allison E. Haedt*

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(Counsel of Record)

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ATTORNEYS FOR RESPONDENT  
THE CLEVELAND ELECTRIC  
ILLUMINATING COMPANY

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was sent by first class U.S. mail, postage prepaid, to the following persons this 9th day of January, 2012:

Jason M. Hebert  
16630 Munn Road  
Chagrin Falls, OH 44023

Alvin F. Haest  
An Attorney for Respondent