

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

BRUCE SNYDER)	
)	
Complainant,)	
)	Case No. 13-2031-EL-CSS
v.)	
)	<u>RESPONDENT,</u>
FIRSTENERGY SOLUTIONS CORP.)	<u>FIRSTENERGY SOLUTIONS</u>
)	<u>CORP.'S MOTION TO STRIKE</u>
Respondent.)	
)	
)	

Respondent, FirstEnergy Solutions Corp. (“FES”) hereby moves to strike all requests for an award of money damages in the Complaint brought forth by Bruce Snyder (“Complainant”). As set forth fully in the attached Memorandum in Support, the Commission does not have the authority to grant the relief sought by Mr. Snyder. Granting this motion will lessen the amount of discovery and also help narrow the issues in this proceeding in order to facilitate more meaningful and productive settlement discussions.

Respectfully submitted,

/s/ Scott J. Casto
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Attorney for FirstEnergy Solutions Corp.

MEMORANDUM IN SUPPORT

Complainant filed a complaint against FES on October 2, 2013, alleging that in May 2013 he applied for electric service from FES but his enrollment was rejected. FES filed an Answer on October 22, 2013.

In his Complaint, Complainant requests an award of money damages in the amount of \$15,000:

I am seeking compensation for 1) lost savings over the three years that the \$.0536/kWh rate was offered to me 2) time spent trying to resolve this issue while FES was not dealing in good faith 3) additional time I must now spend to sign up for electric service over next [sic] three years 4) phone calls made to FES 5) copying/mailling costs to file this claim and provide evidence to PUCO 6) travel to hearings in Columbus 7) time off work to resolve this issue 8) compensation for breaking the contract for electric service without my consent. This comes out to be approximately \$15,000.

The Commission, however, has no power to award the money damages Complainant requests. The Commission may only exercise the jurisdiction conferred upon it by statute. *Lucas County Commissioners v. Pub. Util. Commission of Ohio* (1997), 80 Ohio St.3d 344, 347. The Commission is not a court and has no power to ascertain and determine legal rights and liabilities. *DiFranco v. FirstEnergy Corp.* (2012), 134 Ohio St.3d 144, 148. Additionally, the Commission does not have the authority to award monetary damages to a complainant. *In the Matter of the Complaint of Delmer Smith v. Dayton Power & Light Company*, WL 1813877, slip op. at 1 (Ohio P.U.C. January 29, 2004). More specifically, the Commission only has authority to

determine whether or not there is a violation of a utility tariff, Commission rules, regulations and orders. *Id. See* Ohio Revised Code §4905.26.

While Complainant has every right to have his Complaint heard by the Commission, there is no corresponding right or authority for recovery of monetary damages. As a result, Complainant's request for money damages should be stricken. Granting this motion will lessen the amount of discovery and also help narrow the issues in this proceeding in order to facilitate more meaningful and productive settlement discussions.

WHEREFORE, Respondent respectfully requests that the motion be granted.

Respectfully submitted,

/s/ Scott J. Casto
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Respondent's Motion to Strike and Memorandum was served by U.S. Mail and Electronic Mail to the following person on this 19th day of November 2013.

Bruce Snyder
4461 Powder Horn Drive
Beavercreek, OH 45432

/s/ Scott J. Casto
Attorney for FirstEnergy Solutions Corp.

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Case No(s). 13-2031-EL-CSS

Summary: Motion to Strike and Memorandum in Support electronically filed by Mr. Scott J Casto on behalf of FirstEnergy Solutions Corp.