

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

AMERICAN WIRE AND CABLE COMPANY,	)	Case No.: 13-1613-EL-CSS
)	
)	
	Complainant,	<u>MOTION TO COMPEL</u>
)	
	)	Denise M. Hasbrook (0004798)
vs.	)	Emily Ciecka Wilcheck (0077895)
	)	Roetzel & Andress, LPA
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,	)	One SeaGate, Suite 1700
	)	Toledo, OH 43604
	)	Telephone: 419.242.7985
	Respondent.	Facsimile: 419-242-0316
	)	Email: dhasbrook@ralaw.com
	)	ewilcheck@ralaw.com
)	
	)	and
)	
	)	Carrie M. Dunn (0076952)
	)	Counsel of Record
	)	FirstEnergy Service Company
	)	76 South Main Street
	)	Akron, Ohio 44308
	)	Telephone: (330) 761-2352
	)	Facsimile: (330) 384-3875
	)	Email: cdunn@firstenergycorp.com
)	
	)	<i>Attorneys for Respondent,</i>
	)	<i>The Cleveland Electric Illuminating</i>
	)	<i>Company</i>

Pursuant to Ohio Administrative Code ("O.A.C.") 4901-1-23 and Ohio Rule of Civil Procedure 37, Respondent, The Cleveland Electric Illuminating Company, respectfully moves

for an order compelling written discovery and depositions in the within action. A Memorandum in Support is attached hereto.

Respectfully submitted,

/s/Denise M. Hasbrook

Denise M. Hasbrook (0004798)

Emily Ciecka Wilcheck (0077895)

Carrie M. Dunn (0076952)

*Counsel for The Cleveland Electric
Illuminating Company*

MEMORANDUM IN SUPPORT

Respondent, The Cleveland Electric Illuminating Company requests that Complainant, American Wire and Cable Company, be compelled to completely respond to the First Set of Interrogatories and Requests for Production of Documents and produce four of its corporate witnesses for deposition. The Interrogatories and Requests for Production of Documents attached hereto as Exhibit A seek basic information on claims and alleged damages asserted in the Complaint. The depositions that Respondent seeks to schedule are witnesses that have been identified by Complainant as having factual information about the claims.

The First Set of Interrogatories and Requests for Production of Documents were served on August 9, 2013. Incomplete responses to the First Set of Interrogatories and Requests for Production of Documents were received on October 29, 2013 after considerable delay necessitating continuances of settlement conferences scheduled in September and October, 2013. On October 3, 2013, Respondent filed a Motion to Compel these responses because Complainant had not provided any information whatsoever. The Motion was withdrawn after responses to the Interrogatories and Requests for Production of Documents were eventually received. (See Responses to Discovery, Exhibit A). However, the responses were incomplete as several key questions were still not answered.

By written correspondence dated November 13, 2013, Complainant was notified that several of the responses were incomplete. (Denise Hasbrook Affidavit as Exhibit B, attachment 1). Request for Production No. 8 requested manufacturer's recommended voltage ranges for items listed in response to Interrogatory No. 10(b) identified as "Kaiser Air Compressors, Budzar Chiller and production lines 3, 4 and 5." Complainant responded to Request for Production No. 8 by indicating that the "manual for the Budzar Chiller is available." However, the manual

was not produced and Complainant did not provide any response whatsoever as it related to the Kaiser Air Compressors or the three production lines.

Requests for Production Nos. 13 and 14 sought drawings and schematics for grounding and circuit protection for the subject property in 2012 and 2013. Complainant responded to both requests by stating that the question was “Not applicable.” These issues are plainly important to the subject of protective devices that would have mitigated Complainant’s losses. No response was received from the November 13, 2013 letter detailing these deficiencies.

On November 22, 2013 Complainant was notified in writing that Respondent requested the depositions of four (4) representatives of American Wire and Cable Company listed in its discovery responses; Walter McClain, Richard McClain, Jay Venefra and Steve McKee. (Hasbrook Affidavit, Exhibit B, attachment 2). It was subsequently decided between the parties that these discovery depositions would not proceed until after the settlement pretrial took place on December 9, 2013.

At the December 9, 2013 pretrial, counsel for Complainant raised an “objection” for the first time to Request for Production No. 8 pertaining to production of the manual for the Budzar Chiller. Respondent responded by explaining why this information was relevant and followed with a written correspondence to opposing counsel dated December 10, 2013, again explaining why the manual for the Budzar Chiller was relevant. (Hasbrook Affidavit, Exhibit B, attachment 3). Significantly, Complainant did not object to Request for Production No. 8 when the question was originally asked. Instead, the response indicated, “Budzar Chiller manual is available, but has not been attached as it is too lengthy to copy.” Respondent agreed to pay all copying costs for the manual and deposition dates were again requested for Jay Venefra, Steve McKee, Walter McClain and Richard McClain in the December 10, 2013 correspondence because the pretrial

conference had now occurred. Proposed deposition dates were included within that correspondence.

Having received no response to the December 10, 2013 correspondence, a third letter was written on December 26, 2013 once again requesting that the supplemental information concerning Request for Production Nos. 8, 13 and 14 be produced and that deposition dates be provided for Jay Venefra, Steve McKee, Walter McClain and Richard McClain. (Hasbrook Affidavit, Exhibit B, attachment 4). This letter specifically stated that, if no response was received within seven (7) days, Respondent would have no alternative but to file an appropriate motion to compel this information. No response of any kind has been received to date.

This case has been pending since July 11, 2013. Without the basic information requested in the written discovery and depositions, Respondent cannot properly evaluate its claims and prepare its defense. Defendant has a right to take depositions of key personnel identified in Complainant's interrogatory responses and to receive complete, sworn responses to its Discovery. Despite multiple requests for dates in which the depositions could occur and complete discovery responses, Complainant has failed to make any arrangements for the depositions as agreed following the December 9, 2013 pretrial conference or supplement its earlier evasive discovery responses.

Pursuant to Ohio Administrative Code § 4901-1-23(c)(3), an Affidavit of counsel is attached as Exhibit B detailing counsel's efforts to secure this information.

WHEREFORE, Respondent seeks an order requiring Complainant to completely respond to Request for Production Nos. 8, 13 and 14 and provide mutually-agreeable dates upon which four (4) of its corporate representatives identified in discovery, Richard McClain, Walter

McClain, Jay Venefra and Steve McKee can be deposed or face dismissal or other appropriate sanctions as permitted under Ohio Administrative Code § 4901-1-23(f).

Respectfully submitted,

/s/Denise M. Hasbrook

Denise M. Hasbrook (0004798)

Emily Ciecka Wilcheck (0077895)

Carrie M. Dunn (0076952)

*Counsel for The Cleveland Electric
Illuminating Company*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Compel was sent by ordinary U.S.

Mail and via email, this 13th day of January, 2014, to the following:

James M. McClain, Esq.
105 Court Street, Suite 321
Elyria, OH 44035

Respectfully submitted,

/s/ Denise M. Hasbrook
Denise M. Hasbrook (0004798)
Emily Ciecka Wilcheck (0077895)
Carrie M. Dunn (00769)

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

AMERICAN WIRE AND CABLE
COMPANY,

Complainant,

vs.

THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY,

Respondent.

Case No.: 13-1613-EL-CSS

COMPLAINANT, AMERICAN
WIRE AND CABLE COMPANY'S
ANSWERS AND RESPONSES TO
RESPONDENT, THE CLEVELAND
ELECTRIC ILLUMINATING
COMPANY'S FIRST SET OF
INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF
DOCUMENTS



INTERROGATORIES

INTERROGATORY NO. 1:

Please identify the name, name of employer, title and last known address of each and every person who has knowledge of your claims (including damages) in the Incident at issue in this case. Briefly explain the type of knowledge each listed person possesses.

ANSWER:

Richard McClain, President
American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

Walter McClain, VP
American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

Steve McKee
Machine Operator
c/o American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

Jay Venefra
Machine Operator
American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

INTERROGATORY NO. 2:

Identify the name and address of each person whom you intend to call as an expert witness at the hearing in this matter.

ANSWER:

Walter McClain, VP
American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

INTERROGATORY NO. 3:

For each person whom you intend to call as an expert witness at the hearing in this matter:

- a. State the substance of each opinion on which the witness will testify;
- b. State all facts which provide the basis for each opinion on which the witness will testify;
- c. Provide a summary of the witness' background and qualifications;
- d. Identify each document supplied to, reviewed by, relied on, or prepared by the witness in connection with his or her testimony in this matter; and
- e. Identify by caption, agency or court, case name, and case number all other proceedings in which the witness has testified on the same or a similar topic in the past ten years.

ANSWER:

- a. Will testify concerning observed and metered fluctuations of voltage
- b. Personal and reported observations in the plant
Mr. McClain graduated High School and received a Bachelors' of Science, Electrical
- c. Engineering Ohio State University
- d. Documents have not been prepared at this time.
- e. None.

INTERROGATORY NO. 4:

Identify the name, title and last known address of each person with knowledge of the facts underlying any claim contained in the Complaint (including damages). Identify the fact that each person is believed to know.

ANSWER:

Richard McClain, President
American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

Voltage levels, testing and results, equipment protection device operation, production interruptions, Illuminating Company liaison, and production costs and losses sustained by the corporation due to electrical surges.

Walter McClain, VP
American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

Voltage levels, testing and results, equipment protection device operation production interruptions, Illuminating Company liaison. Mr. McClain is an electrical engineer and has knowledge concerning the effects of high voltage on the machinery, lights and other equipment and will testify concerning the production interruptions.

Frank Talerico, CSR
The Illuminating Co.
Address Unknown
PH: (440) 717-5482

Aware of issue of voltage surges. Received customer reports and observed shut downs.

Greg Scott, Advance Engineer
The Illuminating Co.
6896 Miller Road, Ste. 101
Brecksville, OH 44141

Voltage levels, length of time issues went on, equipment outages at American Wire & Cable, Illuminating Company response, installed The Illuminating Co. meter and monitored results in January before the switch back to the original substation.

Matt Fichter
Claims Representative
First Energy Service Co.
76 South Main St., 15th FL
Akron, OH 44308

Claims correspondence.

Blake Eppler, Title Unknown
The Illuminating Co.
Address Unknown

Initial claim contact referred to by Greg Scott. Requested dollar amount and basis of claim on February 11, 2013. Specifically asked for short one sentence reply. Passed claim to corporate level via email on March 25, 2013

Tom Solenic, Title Unknown
(Greg Scott's supervisor)
The Illuminating Co.
Address Unknown

Posses knowledge of issue and length of time it went on.

Jay Venefra
Steve McKee
Machine Operators
Am.W.C.C.
c/o American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

Knowledge of outages and cause of outages.

INTERROGATORY NO. 5:

Identify each and every document, exhibit or item that supports your claims or that you intend to introduce into evidence or otherwise display at the hearing in this matter.

ANSWER:

Email correspondence
Phone notes of Walter McClain
Voltage Testing Results
Photos of meter display showing Max Voltage readings
Illuminating Co. Voltage Tolerance Specifications Supplied by Customer Service Representative (hereafter "CSR")
Effects of High Voltage on Motors, Electronics and Lighting Equipment
Production Record
Damage Calculations
Will supplement if additional documents become known.

INTERROGATORY NO. 6:

List the total amount of damages that you are claiming in this case and describe in detail each item that was damaged and how you calculated that total damage amount.

- (a) For each item listed, state the time, date and type of damage occurred;
- (b) Please state the make, model, serial number, date of purchase and purchase price for each item listed;
- (c) Please provide the name of the manufacturer, date and place of purchase for each item listed; and
- (d) Please state whether you are in possession of any manufacturer warranties, handbooks or manufacturer's specifications for each item listed.

ANSWER:

No compensation is being sought for equipment damages. Claim is for losses due to production shutdowns.

See attached calculation of damages. Total damages amount to \$71,947.20.

a) N/A

b) N/A

- c) Manual for Budzar Chiller is available.

INTERROGATORY NO. 7:

Identify if any damages in Interrogatory No. 6 above were reimbursed by an insurance company or entity. As to each, state the date of reimbursement, amount and name and address of the entity making the reimbursement.

ANSWER:

No reimbursement from any source has been received, and no insurance claim has been filed, nor will be filed.

INTERROGATORY NO. 8:

State the date(s) on which the conversation with CEI took place referred to in the second paragraph of page 2 of the Complaint. For the communication(s), state:

- (a) the person making the communication;
- (b) the date of the communication;
- (c) the substance of the communication;
- (d) the type of communication;
- (e) the name(s) of representatives of the Company involved in the communication;
and
- (f) the names and addresses of all persons who were present or who heard the communication when made.

ANSWER:

Specific dates were not recorded for the majority of the calls. It is believed that The Illuminating Company keeps records of all trouble calls. Information will be obtained from The Illuminating Company, if necessary. Initial call was placed to Frank Talerico by Walter McClain in November 2012. Frank Talerico referred the issue to Greg Scott. After initial conversation between Greg Scott and Walter McClain a number of e-mails track correspondence and telephone calls made. See attached documents.

Copies of these e-mails are provided. Copies of phone notes from Walter McClain and any of The Illuminating Company representative are provided.

INTERROGATORY NO. 9:

State the name, address and title of the person(s) most knowledgeable about voltage readings taken from November, 2012 through January 2013 at the Property.

ANSWER:

Greg Scott, Advance Engineer
The Illuminating Co.
6896 Miller Road, Ste. 101
Brecksville, OH 44141

Walter McClain, VP
American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

INTERROGATORY NO. 10:

Describe the conditions that led to the allegation in the first paragraph of the Complaint that in November, 2012 equipment at the AWACC facility began experiencing high voltage circuit protection interruptions.

- (a) State the date upon which the High Voltage circuit protection interruptions were first noted;
- (b) List the specific equipment that was affected by the high voltage circuit protection interruption;
- (c) List the equipment that is referred to in paragraph one of the first paragraph of the Complaint;
- (d) What is the date and period of "down time" that the equipment could not be restarted as alleged in paragraph one of the Complaint; and
- (e) Please state whether the conditions described in Interrogatory No. 10 occurred previously and if so, the date(s), time(s) and duration of the prior occurrences.

ANSWER:

- a. November 19, 2012;
- b. Kaiser Air Compressors, Budzar Chiller and Production Lines 3, 4 & 5;
- c. Kaiser Air Compressors and Budzar Chiller;
- d. Reference attached calculation of damages; and
- e. These conditions had not occurred previously.

INTERROGATORY NO. 11:

State the date, the amount of money that was paid to purchase all items listed in Interrogatory No. 6 and whether you have receipts for each purchase.

ANSWER:

Not applicable. No equipment was replaced, and no claim for damage to equipment caused by high voltage is included in the calculation of damages, although it is a fact that using higher than the expected voltage for lights and electrical equipment shortens the life of the equipment.

INTERROGATORY NO. 12:

State the name, address and title of each person who has knowledge or information about the allegations in the second paragraph of the Complaint.

ANSWER:

See Answer To Interrogatory No. 4.

Additionally, there are various Illuminating Company personnel that visited the plant in response to the issue (names and contact information available from The Illuminating Company). There are also additional production employees and Machine operators at American Wire and Cable Co. who have knowledge of the equipment problem, down time and damages.

INTERROGATORY NO. 13:

Please state whether or not you have any photographs, drawings or other similar depictions of damage to the Property you reference in your Complaint.

ANSWER:

Yes, photographs were taken of the meters showing readings above the expected voltage norms.

INTERROGATORY NO. 14:

If the Answer to the Interrogatory No. 13 is in the affirmative, please identify, by name and address, the person who has the originals and/or copies of said drawings, depictions and/or photographs, the person who took or prepared said drawings, depictions and/or photographs, the dates upon which said drawings, depictions and/or photographs were made, and the subject matter of said drawings, depictions and/or photographs.

ANSWER:

Walter McClain, VP
American Wire & Cable
7951 Bronson Road
Olmsted Falls, OH 44138

INTERROGATORY NO. 15:

Identify the person(s) and/or name of the Company who repaired or replaced any damage to your Property as a result of the Incident.

- (a) State the date(s) upon which each activity took place;
- (b) Identify the person(s) who has custody of replaced or repaired items;
- (c) Identify all documents relating, referring to or generated in connection with repair or replacement of the items, including but not limited to emails and other correspondence; and
- (d) State the name and address of the employer or affiliated company of the person(s) identified in Interrogatory No. 16.

ANSWER:

Not applicable. No claim is made for damages or replacement of anything.

INTERROGATORY NO. 16:

Identify:

- (a) Any rule, regulation, or section of the Ohio Administrative Code that you allege was violated by the Company and for each such violation, identify each fact that you contend supports a finding of such violation;
- (b) Any order of the Public Utilities Commission of Ohio (including case number and date of the order) that you allege was violated by the Company and, for each such violation, identify each fact that you contend supports a finding of such violation;
- (c) Any industry standards you allege the Company did not comply with and, for each such alleged instance of noncompliance, identify each fact that you contend supports a finding of noncompliance; and
- (d) Any tariff provision you allege was violated by the Company and, for each such violation, identify each fact that you contend supports a finding of such violation.

ANSWER:

- a) The Defendant, Cleveland Electric Illuminating Company does not file regulations concerning power surges. These are caused by negligence; and are not a part of the regulations.
- b) There are no orders of the PUCO which cover power surges.
- c) Voltage level should be kept at a maximum of 504 Volts. Voltage exceeded this level multiple times and for varying durations. High voltage protection device activation, maximum voltage readings and voltage monitoring results show this level was exceeded. This maximum voltage level is show on a chart provided by Employees of CEI
- d) No tariff provisions are filed conveying the negligent provision of the power to customers.

INTERROGATORY NO. 17:

Describe how the interruptions in the first paragraph of the Complaint will "degrade equipment without causing immediate failure" as alleged in ¶ 1 of the Complaint:

- (a) Provide the name, address and title of the persons who have knowledge of this allegation; and
- (b) List the specific equipment referred to in this allegation.

ANSWER:

Excessively high voltage levels shorten the life expectancy of equipment due to additional heat breaking down insulating material and high voltage potential across insulating material breaking down the dielectric strength of the insulation. For motor high voltage will degrade the insulation on the windings by both excessive heating and breakdown of the dielectric

strength due to abnormal potential across the insulation. This shortens the life expectancy of the motor. Electronic circuits are affected in the same way, including capacitors, resistors and transistors on circuit boards and in motor drive units. Lighting is also affected by high voltage shortening the life time of light bulbs due to over excitation of the filament and the lifetime of control circuits due to higher temperatures affecting the electrical insulating material.

- a) Walter McClain.
- b) Miscellaneous motors, circuits and lighting throughout the plant. Note that the claimed damages were for production losses and although the allegations are true, it is not a part of any claim for damages.

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

All documents identified in response to the Company's First Set of Interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

See attached Exhibits 1 through 42. Note that these may be supplemented if further documents are discovered or generated.

REQUEST FOR PRODUCTION NO. 2:

A curriculum vitae and all reports for each expert witness(es) identified in Interrogatory Nos. 2 and 3.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

See response to Interrogatory No. 3(c).

REQUEST FOR PRODUCTION NO. 3:

All exhibits you intend to introduce at the hearing.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

See attached Exhibits 1 through 42.

REQUEST FOR PRODUCTION NO. 4:

All documents and communications supplied to, relied upon, reviewed by, or prepared by any expert witness identified in response to Interrogatory No. 2 in connection with his or her testimony in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Not applicable.

REQUEST FOR PRODUCTION NO. 5:

All documents reflecting, relating or referring to any communication between you and the Company concerning issues relative to the Incident or damage to your Property.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

See attached Exhibits 1 through 42.

REQUEST FOR PRODUCTION NO. 6:

All documents of whatever kind or nature reflecting, relating or referring to the value of damaged property or fixtures referred to in the Complaint described in Interrogatory No. 6, including any receipts for purchase, bills or invoices for repair concerning damages sustained by Complainant, including but not limited to any water damage that you claim.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Does not apply; see response to Interrogatory No. 17(b).

REQUEST FOR PRODUCTION NO. 7:

All documents of whatever kind or nature, including but not limited to warranties, purchase orders, repair records, maintenance logs, manufacturer's handbooks or manuals for each item listed in Interrogatory No. 6(a).

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

See attached Exhibits 41 and 42.

REQUEST FOR PRODUCTION NO. 8:

All documents, policies or handbooks of whatever kind or nature referencing manufacturer's recommended voltage ranges for each item listed in Interrogatory No. 6(a) and 10(b).

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Budzar Chiller Manual is available, but has not been attached, as it is too lengthy to copy.

REQUEST FOR PRODUCTION NO. 9:

Please produce all receipts for purchase of the items pursuant to Interrogatory No. 11.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Not applicable.

REQUEST FOR PRODUCTION NO. 10:

Produce each policy of insurance that provided coverage to reimburse you for your damages listed in Interrogatory No. 6.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Not applicable.

REQUEST FOR PRODUCTION NO. 11:

Produce the proof of loss form and complete claims file of any insurance company or company responsible to reimburse your damages relating to this Incident.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Not applicable.

REQUEST FOR PRODUCTION NO. 12:

Produce all documents demonstrating, analyzing or referring to data or readings on AWACC's voltage meters for November, 2013 through January, 2013.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

See attached Exhibits Nos. 17 through 38.

REQUEST FOR PRODUCTION NO. 13:

Please provide electrical drawings, schematics or as-built photographs showing the electrical services, grounding and circuit protection interruption devices for the Property in 2012 and 2013.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Not applicable.

REQUEST FOR PRODUCTION NO. 14:

Please provide the documents, policy or other standards describing maintenance, repair and installation of the equipment referred to in the schematics or diagram produced in response to Request No. 12.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Not applicable.

REQUEST FOR PRODUCTION NO. 15:

Produce the documents identified in Interrogatory No. 5.

RESPONSE TO REQUEST FOR PRODUCTION NO. 15:

See attached Exhibits 1 through 42.

REQUEST FOR PRODUCTION NO. 16:

All documents reflecting, relating or referring to any communications between you and any third party or the Company relating to the claims made in the Complaint.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

See attached Exhibits Nos. 1-38.

REQUEST FOR PRODUCTION NO. 17:

Produce all photographs, drawings, diagrams or other depictions identified in Interrogatories Nos. 13 and 14.

RESPONSE TO REQUEST FOR PRODUCTION NO. 17:

See attached Exhibit Nos. 10, 11 and 17 through 37.

REQUEST FOR PRODUCTION NO. 18:

All documents reflecting, supporting, or referring to your alleged damages.

RESPONSE TO REQUEST FOR PRODUCTION NO. 18:

See attached Exhibits Nos. 41 and 42.

REQUEST FOR PRODUCTION NO. 19:

All documents and files pertaining to investigations, root cause analysis, re-enactments or otherwise pertaining to the Incident alleged in the Complaint.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Not applicable.

REQUEST FOR PRODUCTION NO. 20:

All documents supporting any allegations that the Company violated any provision or rule of the Ohio Revised Code or the Ohio Administrative Code, any order of the Public Utilities Commission of Ohio, any industry standard, or any tariff provision.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

See attached Exhibits Nos. 39 and 40.

REQUEST FOR PRODUCTION NO. 21:

Any documents that allegedly support any allegation made in the Complaint.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

See attached Exhibits 1 through 42.

STATE OF OHIO

COUNTY OF CUYAHOGA

)
) SS: **VERIFICATION**
)

American Wire & Cable Company, by Walter McClain, Its Vice President, being first duly sworn, says that the foregoing Complainant, American Wire and Cable Company's Answers and Responses to Respondent, The Cleveland Electric Illuminating Company's First Set of Interrogatories and Requests for Production of Documents addressed to Respondent are true and correct to the best of its knowledge and belief.

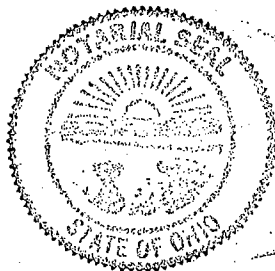
Walter McClain, VP American Wire & Cable

By: Walter McClain

Its: Vice President

SWORN TO AND SUBSCRIBED before me, a NOTARY PUBLIC, this 29th day of October, 2013.

James M. McClain
NOTARY PUBLIC



JAMES M. MCCLAIN
Attorney at Law
Notary Public - State of Ohio
My Commission has no expiration date.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complainant, American Wire and Cable Company's Answers and Responses to Respondent, The Cleveland Electric Illuminating Company's First Set of Interrogatories and Requests for Production of Documents was sent by ordinary U.S. mail, this 29th day of October, 2013, to the Attorney for Respondent, The Cleveland Electric Illuminating Company, Emily Ciecka Wilcheck, Roetzel & Andress, LPA, One SeaGate, Suite 1700, Toledo, OH 423604 and Attorneys for Respondent, The Cleveland Electric Illuminating Company, Carrie M. Dunn, FirstEnergy Service Company, 76 South Main Street, Akron, OH 44308 and by email on this date.



James M. McClain (0014011)

105 Court Street, Suite 321

Elyria, Ohio 44035

Phone: 440-322-0596

Facsimile: 440-322-8005

Email: mcclain2@windstream.net

Attorney for Complainant

American Wire & Cable Company

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

AMERICAN WIRE AND CABLE COMPANY,	)	Case No.: 13-1613-EL-CSS
)	
	)	<u>AFFIDAVIT OF COUNSEL</u>
Complainant,)	
)	
vs.)	
)	
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY,)	
)	
)	
Respondent.)	
STATE OF OHIO)	
)	
	) SS.	
COUNTY OF LUCAS COUNTY)	

Now comes Denise Hasbrook, of legal age and after having been duly sworn and states that the following is true:

1. I am counsel for The Cleveland Electric Illuminating Company in the above-referenced litigation filed by Complainant, American Wire and Cable Company.
2. On August 9, 2013, a First Set of Interrogatories and Requests for Production of Documents were served upon Complainant seeking basic information on the claims and alleged damages asserted in the Complaint.
3. After considerable delay in receiving responses to the discovery, a Motion to Compel was filed on October 3, 2013.
4. Pretrial conferences scheduled for September 26, 2013 and October 29, 2013 were rescheduled because the responses to discovery had not yet been received.



5. The responses to discovery were finally received on August 29, 2013 and the Motion to Compel filed on October 3, 2013 was subsequently withdrawn.

6. Following review of Complainant's responses to the First Set of Interrogatories and Requests for Production of Documents revealed that the responses to Request for Production Nos. 8, 13 and 14 were incomplete. Accordingly, a correspondence was sent on November 13, 2013 outlining these deficiencies. A true and accurate copy of the correspondence is attached here to as Exhibit 1.

7. On November 22, 2013 a correspondence was sent to opposing counsel requesting depositions of four (4) representatives listed in discovery responses as persons having knowledge of the claim. They were Richard McClain, Walter McClain, Jay Venefra, and Steve McKee. While this correspondence sought deposition dates from December 2, 2013 through December 9, 2013, it was subsequently agreed that the depositions would take place after the December 9, 2013 settlement conference. A true and accurate copy of this correspondence is attached as Exhibit 2.

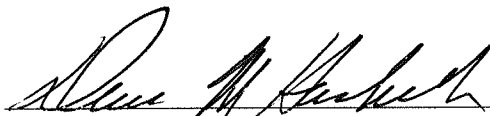
8. For the first time at the settlement conference of December 9, 2013, Complainant raised an objection as to Request for Production No. 8 pertaining to production of a manual for the Budzar Chiller. Counsel explained that, since this machine was alleged to have failed causing down time and other damages, protective devices and voltage information described in the manual were relevant. Within a follow-up written correspondence dated December 10, 2013, counsel for Respondent again explained its position as to why the documentation was necessary and pointed out that no prior objection had been raised. A true and accurate copy of the correspondence is attached as Exhibit 3. In fact, when responding to the question on October 29, 2013, Complainant stated that the Budzar Chiller manual "was available" but that it had not been

attached because it was too lengthy to copy. Within the correspondence of December 10, 2013, Complainant was told that Respondent would pay reasonable copying costs. No response was received from this correspondence. Also within the correspondence, a list of proposed dates was provided for the four (4) depositions of Complainant's representatives.

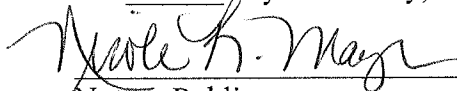
9. On December 26, 2013, the undersigned once again sent a letter requesting responses to the three (3) discovery requests that were still outstanding (Request for Production Nos. 8, 13 and 14) and deposition dates for the four (4) company representatives. A true and accurate of the correspondence is attached as Exhibit 4. Within this correspondence, Complainant was notified that, if responses to written discovery and dates for the depositions as requested were not received within seven (7) days, Respondent would have no alternative but to file an appropriate motion to compel this information with the Commission. No response was received.

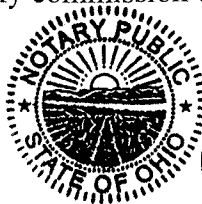
10. Complete discovery responses and depositions of the four corporate representatives are necessary in order for Respondent to fully prepare and evaluate its defenses in this matter.

FURTHER AFFIANT SAYETH NOT.


Denise M. Hasbrook

Sworn to and subscribed in my presence this 13th day of January, 2014.


Notary Public
My commission expires: 4/21/18



NICOLE R. MAYER
Notary Public, State of Ohio
My Commission Expires 4/21/18

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November 13, 2013

James M. McClain, Esq.
105 Court Street, Suite 321
Elyria, Ohio 44035

Re: *American Wire and Cable Company v. The Cleveland Electric Illuminating Company*
Before the Public Utilities Commission of Ohio
Case No. 13-1613-EL-CSS

Dear Mr. McClain:

Thank you for providing Complainant's Responses to Respondent's First Set of Interrogatories and Requests for Production of Documents. We have reviewed the Responses and request further clarification and supplementation on the following:

Request for Production No. 8

This request seeks documents related to the manufacturer's recommended voltage ranges for items listed in response to Interrogatory No. 10(b). Complainant identified Kaiser Air Compressors, Budzar Chiller and Production Lines 3, 4 and 5 in its response to Interrogatory No. 10(b). However, in response to Request for Production No. 8, Complainant indicated only that a manual for the Budzar Chiller is available but not included due to its length. No documents were identified or produced related to the Kaiser Air Compressors and Production Lines.

Please clarify whether Complainant is in possession of responsive documentation related to the recommended voltage ranges for the Compressors and Production Lines, and produce such documentation if available. Additionally, please produce the portion of the Budzar Chiller manual that sets forth the manufacturer's recommended voltage range.

Request for Production Nos. 13, and 14

Request for Production No. 13 seeks drawings, schematics or as-built photographs showing the electrical services, grounding and circuit protection interruption for the subject property in 2012 and 2013. Request for Production No. 14 seeks documentation describing the maintenance, repair and installation of equipment referred to in such schematics. Complainant responded to both Requests as "Not applicable." It is not clear whether Complainant responded in this manner because it is not in possession of such information, or because Complainant is contending that such documentation is not applicable to this dispute. Please clarify if

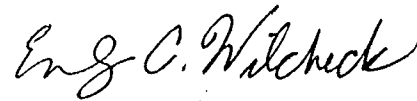
James McClain, Esq.
November 13, 2013
Page 2

Complainant is in possession of the requested documentation and, if so, please supplement Complainants' Responses with the documentation as requested.

I look forward to your response. Please feel free to contact me with any questions or concerns.

Very truly yours,

ROETZEL & ANDRESS, LPA

A handwritten signature in black ink, reading "Emily C. Wilcheck". The signature is written in a cursive, flowing style.

Emily C. Wilcheck

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November 22, 2013

James M. McClain, Esq.
105 Court Street, Suite 321
Elyria, Ohio 44035

**Re: *American Wire and Cable Company v. The Cleveland Electric Illuminating
Company***
Before the Public Utilities Commission of Ohio
Case No. 13-1613-EL-CSS

Dear James:

We would like to depose the four representatives from American Wire and Cable Company listed in the discovery responses as knowledgeable of the claim. They are Richard McClain, Walter McClain, Jay Venefra and Steve McKee. Additionally, we request to take the deposition of the person most knowledgeable of the costs outlined in Exhibits 41 and 42 of American Wire and Cable Company's discovery responses.

I believe that these depositions could be concluded in one day. Please advise of your client's availability for such depositions during the week of December 2 and December 9 so that we can arrange a mutually-agreeable date and time for the depositions.

Thank you in advance for your cooperation.

Very truly yours,

ROETZEL & ANDRESS, LPA


Emily C. Wilcheck

cc. Denise M. Hasbrook, Esq.

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December 10, 2013

VIA EMAIL & U.S. MAIL

James M. McClain, Esq.
105 Court Street, Suite 321
Elyria, Ohio 44035

Re: *American Wire and Cable Company v. The Cleveland Electric Illuminating Company*
Before the Public Utilities Commission of Ohio
Case No. 13-1613-EL-CSS

Dear Mr. McClain:

Please allow this to follow up on our recent correspondences concerning scheduling depositions and supplemental responses to written discovery.

I. WRITTEN DISCOVERY

On November 13, 2013, we identified three Requests for Production of Documents (Request for Production Nos. 8, 13 and 14) that required additional supplementation. We have received no response from this correspondence.

During the recent mediation/settlement conference of December 9, 2013, you raised for the first time a question as to whether it was necessary to respond specifically our Request for Production No. 8 pertaining to production of the manual for the Budzar Chiller. You had responded that it is available for inspection and copying but, you now raised the issue of whether the Budzar Chiller manual had to be produced in light of the fact that you are not claiming damage to this piece of equipment. As I indicated, the manual for Budzar Chiller is relevant because this is the equipment underlying your lost time claim. We are entitled to view the manufacturer's recommendations for surge protection for this equipment. When responding to our Request for Production No. 8 on October 29, 2013, you voiced no objection. Rather your response indicated "Budzar Chiller Manual is available, but has not been attached, as it is too lengthy to copy." We, therefore, formally request production of the portion of the Budzar Chiller Manual that pertains to voltage levels and surge protection. We will pay reasonable copying costs.

You have not responded to our inquiry in our November 13, 2013 correspondence regarding whether there is any further information to produce in response to Request for Production Nos. 13 and 14. As the discovery depositions cannot proceed until we have these

complete responses, we are, therefore, requesting your attention to these discovery matters as soon as possible.

II. DEPOSITIONS

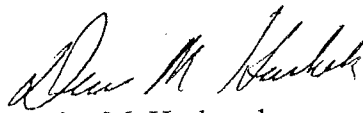
In our email to you of December 5, 2013, we proposed multiple dates for the depositions of Jay Venefra, Steve McKee, Walter McClain and Rick McClain. During the settlement conference on December 9, 2013, you requested to take depositions of Cleveland Electric Illuminating Company employees on the following day. In order to ascertain the availability of our witnesses, I need to know the specific names of the persons you wish to depose. Our list of proposed dates on December 5, 2013 contain multiple consecutive dates for these depositions. I will again outline them below:

- December 16, 17, 18
- January 3, 6, 7, 21, 22, 23, 24, 27, 28, 29, 30 and 31.

Please choose the two best dates that accommodate your calendar and I will ascertain whether the following day is available for the Cleveland Electric Illuminating Company witnesses you wish to depose. Because our schedules are rather busy, we should set the two dates for these depositions as soon as possible. I look forward to hearing from you so that we can proceed with the discovery phase of this matter.

Very truly yours,

ROETZEL & ANDRESS, LPA



Denise M. Hasbrook

DMH/nm

cc: Carrie Dunn, Esq. (via email)
Emily Wilcheck, Esq. (via email)



ROETZEL

FOCUSED ON WHAT MATTERS TO YOU

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December 26, 2013

VIA EMAIL & U.S. MAIL

James M. McClain, Esq.
105 Court Street, Suite 321
Elyria, OH 44035

RE: *American Wire and Cable Company v. The Cleveland Electric Illuminating Company*
Before the Public Utilities Commission of Ohio
Case No. 13-1613-EL-CSS

Dear Mr. McClain:

Please allow this to follow up on my correspondence to you dated December 10, 2013. Within that correspondence, I identified three (3) discovery requests that are still outstanding (Request for Production Nos. 8, 13 and 14) and explain the Company's position to respond to your inquiries during the mediation / settlement conference of December 9, 2013. I have received no response from that correspondence.

I have also requested deposition dates for Jay Venefra, Steve McKee, Walter McClain and Rick McClain. Again, I have received no response.

It is certainly not my preference to bring these discovery issues to the Commission. However, if I do not receive the requested responses to written discovery and dates for the depositions as requested within seven (7) days, I will have no alternative but to file an appropriate motion to compel this information with the Commission. It is hoped that your response will make such actions unnecessary.

Very truly yours,

ROETZEL & ANDRESS, LPA

Denise M. Hasbrook

DMH/maps

cc: Carrie Dunn, Esq. (via email)
Emily C. Wilcheck, Esq. (via email)

ROETZEL & ANDRESS
A LEGAL PROFESSIONAL ASSOCIATION

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EXHIBIT

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Case No(s). 13-1613-EL-CSS

Summary: Motion to Compel electronically filed by Mrs. Denise M. Hasbrook on behalf of The Cleveland Electric Illuminating Company