

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

Empress Candace Kinyetta Spencer-Dey)	
)	
Complainant,)	
)	
vs.)	Case No. 15-1729-EL-CSS
)	
The Cleveland Electric Illuminating)	
Company)	
)	
Respondent.)	

**RENEWED MOTION TO DISMISS OF THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY**

Respondent The Cleveland Electric Illuminating Company (“CEI”) hereby renews its motion to dismiss the Complaint filed by Complainant Empress Candace Kinyetta Spencer Dey ("Complainant"). In its original Motion to Dismiss filed on October 27, 2015, CEI indicated that service had been restored to the premise located at 1610 West Royalton Rd. #5, Broadview Heights, Ohio 44147 and therefore the complaint had been resolved. Subsequently, Complainant filed an “Affidavit of Truth” purporting to allege a different complaint. CEI renews its motion to dismiss because not only has the complaint been resolved, Complainant’s Complaint fails to state reasonable grounds for relief in that it fails to allege any facts supporting a claim of inadequate service and does not allege that CEI has violated any statute, tariff provision, or any rule, regulations, or order of the Commission. For all those reasons, explained in detail in the attached Memorandum in Support, the Commission should dismiss this case.

Respectfully submitted,

/s/ Carrie Dunn

Carrie Dunn

FirstEnergy Service Company

76 S. Main Street

Akron, Ohio 44308

On behalf of The Cleveland Electric
Illuminating Company

MEMORANDUM IN SUPPORT

On October 7, 2015, Complainant Empress Candace Kinyetta Spencer Dey ("Complainant") filed a Complaint alleging that her electric service should be immediately restored. Complainant did not allege in her Complaint that The Cleveland Electric Illuminating Company ("CEI") provided inadequate service or that CEI has violated any statute, tariff provision, or any rule, regulations, or order of the Commission. Rather, Complainant indicated that she has "constitutionally protected rights to due process at the 7th Amendment which is Supreme over any rule or regulation." Moreover, in the twenty-four pages of documents she filed along with her Complaint, Complainant fails to allege that CEI has provided inadequate service or that CEI has violated any statute, tariff provision, or any rule, regulations or order of the Commission. Rather, Complainant cites to the United States Constitution and her rights as a purported member of "Indigenous Moor Empire." Complainant also seeks compensation from CEI between \$54,000 and \$11,000,000. In short, Complainant's Complaint is nonsensical and does not allege any facts over which to state a claim.

Nevertheless, CEI has restored service to Complainant's residence and any issue Complainant has with termination of service is now moot. On October 27, 2015, CEI filed a motion to dismiss indicating that service had been restored to the premise located at 1610 West Royalton Rd. #5, Broadview Heights Ohio 44147 where Complainant resides. Pursuant to Rule 4901-9-01(F), CEI requested that the complaint be dismissed. On November 4, 2015, Complainant filed an "Affidavit of Truth" which did not respond to CEI's motion to dismiss as required by the rule. Rather, Complainant admits that service has been restored to her residence but she complains that her mother (upon whose name service was restored) had been charged \$257.76 in order to restore service. Complainant further admits, however, that CEI had returned

her check to her for \$257.76. Therefore, Complainant has not been charged \$257.76 and there is nothing to refund to Complainant. To the extent that Complainant is complaining *on behalf of her mother*, Complainant lacks standing to do so. In either scenario, Complainant still fails to allege that CEI has provided inadequate service or that CEI has violated any statute, tariff provision, or any rule, regulations or order of the Commission. For all of those reasons, CEI moves to dismiss Complainant's Complaint.

LAW AND ARGUMENT

Complainant fails to state reasonable grounds for relief because her Complaint neither alleges any facts which would support a finding of inadequate service nor alleges that CEI has violated any statute, tariff provision, or any rule, regulation, or order of the Commission. Under R.C. 4905.26, a complaint that fails to set forth reasonable grounds must be dismissed. The mere act of filing a complaint does not automatically trigger a hearing before the Commission. Rather, “[r]easonable grounds for the complaint must exist before the Public Utilities Commission, either upon its own initiative or upon the complaint of another party, can order a hearing, pursuant to R.C. 4905.26 . . .” *Ohio Util. v. Pub. Util. Com’n* (1979), 58 Ohio St.2d, 153, paragraph 2 of the syllabus. “Reasonable grounds” under this standard necessarily requires that the complaint contain sufficient allegations of facts which could support a finding of inadequate service. *In the Matter of Petition of J. Earl McCormick, et al. v. The Ohio Bell Tel. Co., et. al.* (Sept. 27, 1990), PUCO Case No. 90-1256-TP-PEX, Entry ¶3; *In the Matter of Complaint of Ohio CARES v. FirstEnergy Corp.* (May 19, 1999), PUCO Case No. 98-1616-EL-CSS, Entry ¶7. A complaint that does not allege specific incidents of inadequate service must be dismissed. *Id.* Additionally, a complaint that fails to allege a violation of any statute, Commission rule, or order fails to state reasonable

grounds and should be dismissed. *In the Matter of Complaint of Ohio CARES v. FirstEnergy Corp.* (May 19, 1999), PUCO Case No. 98-1616-EL-CSS, Entry ¶¶6-7.

Here, the Complaint neither contains any allegation that CEI violated any statute, Commission rule, or order, nor sets forth any facts which would support a finding of inadequate service on the part of CEI. As discussed above, after parsing through Complainant's nonsensical allegations, her Complaint, supplemented by her November 4, 2015, "Affidavit of Truth" can only be seeking that CEI restore her electric service and a refund *to her mother* for money that Complainant has not paid. First, Complainant's request to have her electric service restored is moot because service has been restored to her residence. Second, Complainant is not entitled to a refund of monies that she admits she has not paid. Third, Complainant's request of a refund *to her mother* is improper because she lacks standing to file a complaint on behalf of her mother. None of these requests allege that CEI has violated any statute, Commission rule, or order. These requests also do not set forth any facts to support a finding of inadequate service. The remaining "allegations" in her Complaint likewise fail to state reasonable grounds for her complaint. For all of those reasons, the Commission should dismiss this Complaint.

Respectfully submitted,

/s/ Carrie Dunn

Carrie Dunn

FirstEnergy Service Company

76 S. Main Street

Akron, Ohio 44308

On behalf of The Cleveland Electric
Illuminating Company

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Motion to Dismiss was served by regular U.S. Mail, postage prepaid on November 13, 2015, upon Empress Candace Kinyetta Spencer-Dey, 1610 West Roylaton Road, #5, Broadview Heights Ohio 44147.

/s/ Carrie Dunn
Carrie Dunn

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Case No(s). 15-1729-EL-CSS

Summary: Motion to Dismiss (Renewed) electronically filed by Ms. Carrie M Dunn on behalf of
The Cleveland Electric Illuminating Company