

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

DONNA M. BELL

Complainant,

v.

THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY

Respondent.

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Case No. 18-1425-EL-CSS

MOTION TO DISMISS

Respondent, the Cleveland Electric Illuminating Company (“CEI”), hereby moves to dismiss the Complaint brought forth by Donna M. Bell (the “Complainant”). As set forth fully in the attached Memorandum in Support, the Complaint should be dismissed for failure to state a claim upon which relief can be granted.

Respectfully submitted,

/s/ Robert M. Endris

Robert M. Endris (0089886)

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*Attorney for The Cleveland Electric
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MEMORANDUM IN SUPPORT

Complainant filed a Complaint against CEI on September 13, 2018, alleging that a water heater in her home was damaged by a power outage. CEI timely filed its Answer on October 2, 2018.

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). As this Commission has found, to the extent a “complainant alleges that the quality of service was inadequate and that he has been harmed as a result of the alleged inadequate service, the request is equivalent to a request for damages, and thus, is beyond the jurisdiction of the Commission.” *In the Matter of the Complaint of Delmer W. Smith v. Dayton Power & Light Co.*, PUCO Case No. 03-2544-EL-CSS, *2 ¶3 (Jan. 24, 2004). Indeed, “[i]t is well-established and clear from precedent that the Commission does not have the authority to award monetary damages.” *In the Matter of the Complaint of Linda Kirby v. Ohio Edison Company*, PUCO Case No. 18-691-EL-CSS, *3 ¶10 (Nov. 13, 2018).

In the instant case, Complainant alleges that she has experienced one or more power outages that allegedly caused damage to a water heater in her rented home. All she seeks in the Complaint generically is for the issue to be “resolved.” While the Complainant has every right to have her Complaint heard by a court of competent jurisdiction, jurisdiction does not rest with the Commission. As a result, the Complaint should be dismissed.

WHEREFORE, Respondent respectfully requests that its motion be granted.

Respectfully submitted,

/s/ Robert M. Endris
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*Attorney for The Cleveland Electric
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss was served by U.S. mail to the following person on this 31st day of January, 2019.

Donna M. Bell
22850 Rockside Road #1104
Bedford, OH 44146

/s/ Robert M. Endris
*Attorney for The Cleveland Electric
Illuminating Company*

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/31/2019 4:57:03 PM

in

Case No(s). 18-1425-EL-CSS

Summary: Motion Motion to Dismiss of The Cleveland Electric Illuminating Company
electronically filed by Mr Robert M Endris on behalf of The Cleveland Electric Illuminating
Company