

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

RICHMOND HEIGHTS TOWN SQUARE )  
OWNER, LLC ) CASE NO.  
22815 Ventura Boulevard, Suite 310 )  
Woodland Hills, California 91364 )  
) **FORMAL COMPLAINT**  
)  
-vs- )  
)  
FIRST ENERGY CORP. )  
c/o CT Corporation System, Statutory Agent )  
4400 Easton Commons Way, Suite 125 )  
Columbus, Ohio 43219 )  
)  
and )  
)  
THE CLEVELAND ELECTRIC ILLUMINATING )  
COMPANY )  
c/o CT Corporation System, Statutory Agent )  
4400 Easton Commons Way, Suite 125 )  
Columbus, Ohio 43219 )

**PARTIES**

- 1) Plaintiff Richmond Heights Town Square Owner, LLC (hereinafter “RHTSO”) is a Delaware limited liability company duly registered with the Ohio Secretary of State and the record owner of the real property located at 621 Richmond Road, Richmond Heights, Ohio (the “Property”).
- 2) Defendant First Energy Corp. (hereinafter “First Energy”) is an Ohio corporation.
- 3) Defendant The Cleveland Electric Illuminating Company (hereinafter “Illuminating Company”) is an Ohio corporation and a subsidiary of First Energy.

**VENUE**

- 4) Venue is proper before the Public Utilities Commission of Ohio in accordance with Ohio Revised Code Section 4905.26.

**FACTUAL BACKGROUND**

- 5) On or about October 3, 2018, RHTSO purchased the subject Property from Sears

Roebuck & Co., which purchase included the structure located thereon that was formerly operated as a Sears Department Store at Richmond Town Square Mall.

- 6) Since the purchase of the Property, the Sears Department Store has remained vacant with minimal electrical consumption.
- 7) Upon RHTSO's purchase of the Property, Defendants continued to "estimate" electrical consumption as if the Sears Department Store remained in operation.
- 8) On May 1, 2019, after numerous discussions with Defendants, a meter-reader employed by Defendants visited the Property and performed an "actual" meter reading and reset the meter relative to Account No. 110133926482 (the "Account").
- 9) As a result of such "actual" meter reading, Defendants issued a Bill dated June 10, 2019 (for the billing period of May 8, 2019 through June 5, 2019), as attached hereto as Exhibit "A" and incorporated herein by reference, which evidences actual electrical consumption in the amount of \$1,260.07 for such billing period (based upon 5,400 KWH actual consumption).
- 10) As shown on the "Usage History" graphic of the Bill dated May 7, 2020, as attached hereto as Exhibit "B" and incorporated herein by reference, billing reverted back to "estimated" electrical consumption based on the prior use of the Property as a Sears Department Store from January of 2020 through May of 2020 (range of 49,200-58,200 KWH per month estimated consumption), which resulted in significantly inflated billing of more than \$25,000.00 and late payment charges.
- 11) Per Bill dated May 7, 2020 (for the billing period of April 3, 2020 through May 5, 2020), as attached hereto as Exhibit "B" and incorporated herein by reference, the total claimed

- amount due on the Account was \$42,550.42, which included a claimed previous balance of \$36,433.16 and current charges, including a late payment charge in the amount of \$531.37, in the amount of \$6,117.26 (based upon 51,000 KWH estimated consumption).
- 12) Per Bill dated June 8, 2020 (for the billing period of May 6, 2020 through June 4, 2020), as attached hereto as Exhibit “C” and incorporated herein by reference, the total claimed amount due on the Account was \$43,860.97, which included a claimed previous balance of \$42,019.056 and current charges, including a late payment charge in the amount of \$607.18, in the amount of \$1,841.92 (based upon 5,400 KWH estimated consumption).
  - 13) Per Bill dated July 8, 2020 (for the billing period of June 5, 2020 through July 6, 2020), as attached hereto as Exhibit “D” and incorporated herein by reference, the total claimed amount due on the Account was \$46,527.71, which included a claimed previous balance of \$43,253.79 and current charges, including a late payment charge in the amount of \$616.60, in the amount of \$3,273.92 (based upon 4,800 KWH estimated consumption).
  - 14) From October of 2018 through April of 2020, RHTSO has remitted funds totaling \$55,086.56 to Defendants, which amounts were based upon “estimated” and inaccurate electrical consumption relative to the Account.
  - 15) To the extent that the June 10, 2019 Bill, as attached hereto as Exhibit “A”, accurately approximates monthly electrical consumption at the Property, total electrical charges for the period of October of 2018 through April of 2020 should approximate \$23,940.00, which has resulted in an overpayment of approximately \$31,146.56 to Defendants.
  - 16) To the extent that Bills from January of 2020 through May of 2020 are based on “estimated” consumption in excess of 4,800-5,400 KWH per month, current Bills are

inflated by more than \$25,000.00 and late payment charges thereon are not properly due and owing.

**COUNT I**

- 17) Plaintiff realleges and reavers the allegations contained in Paragraphs 1 through 16 of this Complaint as if fully rewritten herein.
- 18) Bills submitted from October of 2018 through April of 2020 was based upon “estimated” electrical usage as if the Property remained in operation as a Sears Department Store, which “estimated” billing practice has resulted in an overpayment to Defendants in the approximate amount of \$31,146.56.
- 19) The current balance of the Account, which includes “estimated” consumption from January of 2020 through May of 2020 in excess of 4,800-5,400 KWH per month and late payment charges thereon, is not properly due and owing.

WHEREFORE, Plaintiff Richmond Heights Town Square Owner, LLC demands judgment against Defendants First Energy Corp. and The Cleveland Electric Illuminating Company, jointly and severally, as follows:

- 1) On Count I, that Defendants provide an accounting of all amounts paid by RHTSO relative to the Account.
- 2) On Count I, that Defendants reimburse RHTSO for all overpayments made on the Account in the approximate amount of \$31,146.56, the exact amount to be determined at the Trial of this matter.
- 3) On Count I, that current amount due under the Account be recalculated at 4,800 KWH per month from October of 2018 to present.

- 4) On Count I, that all claimed late charges be removed from the Account.
- 5) On Count I, an Order directing that “estimated” billing is to remain at 4,800 KWH per month, subject to reconciliation upon an “actual” meter reading.
- 6) Pre- and post-judgment interest at the statutory rate.
- 7) Such other and further relief as this Commission deems just and equitable.

Respectfully submitted,

  
\_\_\_\_\_  
KENNETH J. FISHER (0001507)  
DENNIS A. NEVAR (0078563)  
KENNETH J. FISHER CO., L.P.A.  
50 Public Square, Suite 2100  
Cleveland, Ohio 44113  
(216) 696-7661  
(216) 696-0439 (facsimile)  
[kfisher@fisher-lpa.com](mailto:kfisher@fisher-lpa.com)  
[dnevar@fisher-lpa.com](mailto:dnevar@fisher-lpa.com)

Attorneys for Richmond Heights Town  
Square Owner, LLC



June 10, 2019

Account Number: 110 133 926 482

Amount Due: \$20,489.30

Due Date: July 01, 2019

Billing Period: May 08 to Jun 05, 2019 for 29 days  
Bill For: RICHMOND HEIGHTS TOWN SQUARE OWNER LLC  
DBA BELLE OAKS  
621 RICHMOND RD  
RICHMOND HEIGHTS OH 44143

To report an emergency or an outage, call 24 hours a day 1-888-544-4877. For Customer Service, call 1-800-589-3101. For Payment Options, call 1-800-686-9901. Pay your bill online at [www.firstenergycorp.com](http://www.firstenergycorp.com)

Bill issued by: The Illuminating Company, PO Box 3687, Akron OH 44309-3687

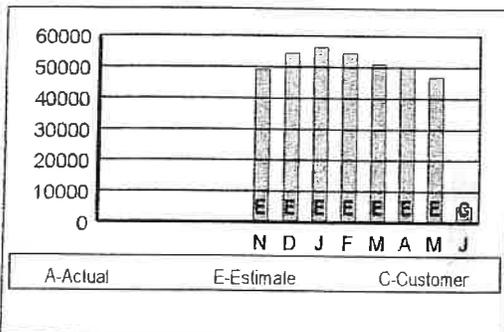
Messages	Account Summary	Amount Due
Your bill includes an amount that is under dispute. While this matter is under investigation, you are still required to pay any undisputed charges.	Previous Balance	19,232.39
The information below shows specific charges for the costs of energy efficiency, peak demand reduction, and renewable energy. These charges are not new, but are and previously were consolidated with other charges on your bill.	Payments/Adjustments	0.00
Energy Efficiency 5,400 KWH x 0.002150 \$11.61	<b>Balance at Billing on Jun 10, 2019</b>	<b>19,232.39</b>
Peak Demand Reduction 5,400 KWH x 0.000538 \$2.91	The Illuminating Company - Consumption	1,260.07
Renewable Energy 5,400 KWH x 0.001187 \$6.41	The Illuminating Company - Misc Charges	-3.16
Your next meter reading is scheduled to occur on or about Jul 08, 2019.	<b>Total Current Charges</b>	<b>1,256.91</b>
Our field representative was not able to read your meter due to the following reason - No Answer. We have used the reading that you supplied to calculate your bill.	<b>Amount Due by Jul 01, 2019</b>	<b>\$20,489.30</b>
Save energy and money by upgrading to energy-efficient equipment. Find out how your business can earn rebates and incentives from FirstEnergy's Ohio utilities at <a href="http://EnergySaveOH-Business.com">EnergySaveOH-Business.com</a> or by calling 833-261-9367.	<b>Usage Information for Meter Number A12284531</b>	
Pursuant to Ohio law, it is illegal for your electric meter and associated equipment to be tampered with to obtain unauthorized use of electricity. As specified in the Ohio Revised Code, persons found guilty of stealing electricity or tampering may be subject to jail sentences up to five years and fines up to \$10,000. Meter tampering is dangerous and could result in serious personal injury or damage to property. Ohio Law requires this message.	Jun 05, 2019 KWH Reading (Customer)	24,716
	May 08, 2019 KWH Reading (Estimate)	24,707
	Difference	9
	Multiplier	600
	KWH used	5,400
	Metered Load in KW	0.088
	Billed Load in KVA/KVA	52.8
	<b>Charges From The Illuminating Company</b>	
	Customer Number: 0806057903 1910001047	
	Rate: General Service Secondary CE-GSF	
	Customer Charge	7.00
	Distribution Related Component	684.17
	Cost Recovery Charges	274.83
	Bypassable Generation and Transmission Related Component	294.07
	<b>Current Consumption Bill Charges</b>	<b>1,260.07</b>
	Security Deposit Interest	-3.16
	<b>Total Charges</b>	<b>\$ 1,256.91</b>

JUN 11 2019

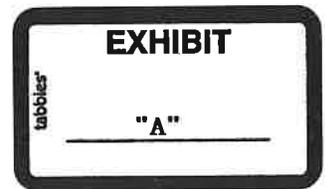
Additional messages, if any, can be found on back.

Usage History

Nov 18	49,200	May 19	46,800
Dec 18	54,600	Jun 19	5,400
Jan 19	56,400		
Feb 19	54,600		
Mar 19	51,000		
Apr 19	49,800		



Average Daily Use (KWH)	This Year	186
Average Daily Temperature		63
Days in Billing Period		29
Last 8 Months Use (KWH)		367,600
Average Monthly Use (KWH)		45,975



May 07, 2020

Account Number: 110 133 926 482

Amount Due: \$42,550.42

Due Date: May 28, 2020

Billing Period: Apr 03 to May 05, 2020 for 33 days  
Bill For: RICHMOND HEIGHTS TOWN SQUARE OWNER LLC  
DBA BELLE OAKS  
621 RICHMOND RD  
RICHMOND HEIGHTS OH 44143

To report an emergency or an outage, call 24 hours a day 1-888-544-4877. For Customer Service, call 1-800-589-3101. For Payment Options, call 1-800-686-9901. Pay your bill online at www.firstenergycorp.com

Bill issued by: The Illuminating Company, PO Box 3687, Akron OH 44309-3687

**Messages Account Summary Amount Due**

**\*\*\* DISCONNECTION NOTICE \*\*\***

Our records indicate your electric service payment is past due. Your electric service could be disconnected unless payment of \$36,409.39 is made by 05/28/2020. If service is disconnected, you will be required to pay a reconnection fee \$35.00 and may be required to pay a security deposit to have power restored. Failure to pay charges for competitive retail electric service may result in the cancellation of your contract with the competitive retail electric service provider and return you to The Illuminating Company's standard-offer generation service. This amount due does not include charges for nonlarified products or services but may include charges for competitive retail electric service. Failure to pay charges for other nonlarified products or services may result in loss of those products or services. This provision applies only to accounts issued a consolidated bill for electric service. Please be aware that the due date of this notice does not void the due date on any notice previously sent to you regarding a past due amount.

To avoid a 1.50% Late Payment Charge being added to your bill, please pay the Amount Due by the Due Date.

The information below shows specific charges for the costs of energy efficiency, peak demand reduction, and renewable energy. These charges are not new, but are and previously were consolidated with other charges on your bill.

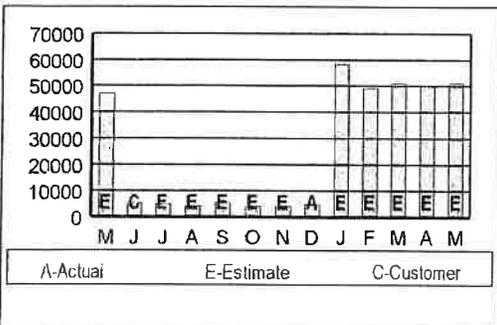
Energy Efficiency	51,000 KWH x 0.001852	\$94.45
Peak Demand Reduction	51,000 KWH x 0.000463	\$23.61
Renewable Energy	51,000 KWH x 0.000979	\$49.93

Your next meter reading is scheduled to occur on or about Jun 03, 2020.

We are required to include your name, address and usage information on a list of eligible customers that is made available to other competitive retail electric service providers. If you do not wish to be included, please contact us. Additional messages, if any, can be found on back.

**Usage History**

May 19	46,800	Nov 19	4,200
Jun 19	5,400	Dec 19	4,800
Jul 19	4,800	Jan 20	58,200
Aug 19	4,200	Feb 20	49,200
Sep 19	5,400	Mar 20	51,000
Oct 19	4,200	Apr 20	49,800
		May 20	51,000



Comparisons	Last Year	This Year
Average Daily Use (KWH)	1463	1545
Average Daily Temperature	55	48
Days in Billing Period	32	33
Last 12 Months Use (KWH)		292,200
Average Monthly Use (KWH)		24,350

Previous Balance	36,888.23
Payments/Adjustments	-455.07
<b>Balance at Billing on May 07, 2020</b>	<b>36,433.16</b>
The Illuminating Company	2,993.36
The Illuminating Company - Misc. Charges	-23.77
Energy Harbor (formerly known as FES) - Consumption	2,616.30
Late Payment Charges	531.37
<b>Total Current Charges</b>	<b>6,117.26</b>
<b>Amount Due by May 28, 2020</b>	<b>\$42,550.42</b>

Usage Information for Meter Number A12284531	
May 05, 2020 KWH Reading (Estimate)	25,194
Apr 03, 2020 KWH Reading (Estimate)	25,109
Difference	85
Multiplier	600
KWH used	51,000
Metered Load in KW	0.239
Billed Load in KW/KVA	143.4

Charges From The Illuminating Company	
Customer Number: 0806057903 1910001047	
Rate: General Service Secondary CE-GSD	
Customer Charge	7.00
Distribution Related Component	1,958.48
Cost Recovery Charges	1,027.88
<b>Current Consumption Bill Charges</b>	<b>2,993.36</b>
Late payment charge	531.37
Security Deposit Interest	-23.77
<b>Total Charges</b>	<b>\$ 3,500.96</b>

Charges From Energy Harbor (formerly known as FES)	
energy harbor	341 White Pond Drive, Akron, OH 44320-1119
	Customer Service: 1-888-254-6359
	Account Number: 136680026 Rate: FES-8113

Billing Period: Apr 03, 2020 to May 05, 2020		
Basic Charge	51,000 KWH x 0.051300	2,616.30
<b>Total Energy Harbor (formerly known as FES) Charges</b>		<b>2,616.30</b>

Detail Payment and Adjustment Information	
04/08/20 Reverse Late Payment Chg	-455.07

Account Balances by Company				
	Previous Balance	Payments/Adjustments	Current Charges	Amount Due
The Illuminating Company	29,217.79	22.99	3,500.96	32,741.74
Energy Harbor (formerly known as FES)	7,670.44	-478.06	2,616.30	9,808.68
<b>Total</b>	<b>36,888.23</b>	<b>-455.07</b>	<b>6,117.26</b>	<b>42,550.42</b>





June 08, 2020

Account Number: 110 133 926 482

Billing Period: May 06 to Jun 04, 2020 for 30 days

Bill For: RICHMOND HEIGHTS TOWN SQUARE OWNER LLC  
DBA BELLE OAKS  
621 RICHMOND RD  
RICHMOND HEIGHTS OH 44143

JUN 08 2020

Amount Due: \$43,860.97

Due Date: June 29, 2020

To report an emergency or an outage, call 24 hours a day 1-888-544-4877 For Customer Service, call 1-800-589-3101 For Payment Options, call 1-800-686-9901. Pay your bill online at www.firstenergycorp.com

Bill issued by: The Illuminating Company, PO Box 3687, Akron OH 44309-3687

Messages	Account Summary	Amount Due
<b>*** DISCONNECTION NOTICE ***</b>	Previous Balance	42,550.42
Our records indicate your electric service payment is past due. <b>Your electric service could be disconnected unless payment of \$41,993.70 is made by 06/29/2020.</b> If service is disconnected, you will be required to pay a reconnection fee \$35.00 and may be required to pay a security deposit to have power restored. Failure to pay charges for competitive retail electric service may result in the cancellation of your contract with the competitive retail electric service provider and return you to The Illuminating Company's standard-offer generation service. This amount due does not include charges for nonlarified products or services but may include charges for competitive retail electric service. Failure to pay charges for other nonlarified products or services may result in loss of those products or services. This provision applies only to accounts issued a consolidated bill for electric service. Please be aware that the due date of this notice does not void the due date on any notice previously sent to you regarding a past due amount.	Payments/Adjustments	-531.37
To avoid a 1.50% Late Payment Charge being added to your bill, please pay the <b>Amount Due</b> by the Due Date.	<b>Balance at Billing on Jun 08, 2020</b>	<b>42,019.05</b>
The information below shows specific charges for the costs of energy efficiency, peak demand reduction, and renewable energy. These charges are not new, but are and previously were consolidated with other charges on your bill.	The Illuminating Company	983.07
Energy Efficiency 5,400 KWH x 0.001852 \$10.00	The Illuminating Company - Misc. Charges	-25.35
Peak Demand Reduction 5,400 KWH x 0.000463 \$2.50	Energy Harbor (formerly known as FES) - Consumption	277.02
Renewable Energy 5,400 KWH x 0.000979 \$5.29	Late Payment Charges	607.18
Your next meter reading is scheduled to occur on or about Jul 02, 2020.	<b>Total Current Charges</b>	<b>1,841.92</b>
Pursuant to Ohio law, it is illegal for your electric meter and associated equipment to be tampered with to obtain unauthorized use of electricity. As specified in the Ohio Revised Code, persons found guilty <b>Additional messages, if any, can be found on back.</b>	<b>Amount Due by Jun 29, 2020</b>	<b>\$43,860.97</b>
	<b>Usage Information for Meter Number A12284531</b>	
	Jun 04, 2020 KWH Reading (Estimate)	25,203
	May 06, 2020 KWH Reading (Estimate)	25,194
	Difference	9
	Multiplier	600
	KWH used	5,400
	Metered Load in KW	0.088
	Billed Load in KW/KVA	52.8
	<b>Charges From The Illuminating Company</b>	
	Customer Number: 0806057903 1910001047	
	Rate: General Service Secondary CE-GSD	
	Customer Charge	7.00
	Distribution Related Component	654.04
	Cost Recovery Charges	322.03
	<b>Current Consumption Bill Charges</b>	<b>983.07</b>
	Late payment charge	607.18
	Security Deposit Interest	-25.35
	<b>Total Charges</b>	<b>\$ 1,564.90</b>
	<b>Charges From Energy Harbor (formerly known as FES)</b>	



341 White Pond Drive, Akron, OH 44320-1119  
Customer Service: 1-888-254-6359  
Account Number: 136680026 Rate: FES-8113

Billing Period: May 06, 2020 to Jun 04, 2020

Basic Charge 5,400 KWH x 0.051300 277.02

**Total Energy Harbor (formerly known as FES) Charges 277.02**

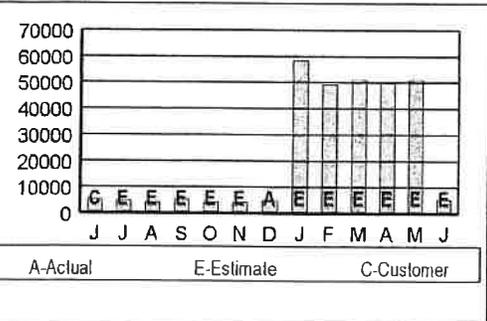
**Usage History**

Month	Usage	Month	Usage
Jun 19	5,400	Dec 19	4,800
Jul 19	4,800	Jan 20	58,200
Aug 19	4,200	Feb 20	49,200
Sep 19	5,400	Mar 20	51,000
Oct 19	4,200	Apr 20	49,800
Nov 19	4,200	May 20	51,000
		Jun 20	5,400

**Detail Payment and Adjustment Information**  
05/06/20 Reverse Late Payment Chg -531.37

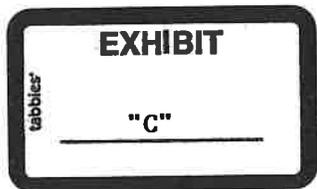
**Account Balances by Company**

	Previous Balance	Payments/Adjustments	Current Charges	Amount Due
The Illuminating Company	32,741.74	23.77	1,564.90	34,330.41
Energy Harbor (formerly known as FES)	9,808.68	-555.14	277.02	9,530.56
<b>Total</b>	<b>42,550.42</b>	<b>-531.37</b>	<b>1,841.92</b>	<b>43,860.97</b>



**Comparisons**

	Last Year	This Year
Average Daily Use (KWH)	186	180
Average Daily Temperature	63	60
Days in Billing Period	29	30
Last 12 Months Use (KWH)		292,200
Average Monthly Use (KWH)		24,350





July 08, 2020

Account Number: 110 133 926 482

Billing Period: Jun 05 to Jul 06, 2020 for 32 days

Bill For: RICHMOND HEIGHTS TOWN SQUARE OWNER LLC  
DBA BELLE OAKS  
621 RICHMOND RD  
RICHMOND HEIGHTS OH 44143

Amount Due: \$46,527.71

Due Date: July 29, 2020

To report an emergency or an outage, call 24 hours a day 1-888-544-4877. For Customer Service, call 1-800-589-3101. For Payment Options, call 1-800-686-9901. Pay your bill online at www.firstenergycorp.com

Bill issued by: The Illuminating Company, PO Box 3687, Akron OH 44309-3687

Messages Account Summary Amount Due

\*\*\* DISCONNECTION NOTICE \*\*\*

Our records indicate your electric service payment is past due. Your electric service could be disconnected unless payment of \$43,230.02 is made by 07/29/2020. If service is disconnected, you will be required to pay a reconnection fee \$35.00 and may be required to pay a security deposit to have power restored. Failure to pay charges for competitive retail electric service may result in the cancellation of your contract with the competitive retail electric service provider and return you to The Illuminating Company's standard-offer generation service. This amount due does not include charges for nonratified products or services but may include charges for competitive retail electric service. Failure to pay charges for other nonratified products or services may result in loss of those products or services. This provision applies only to accounts issued a consolidated bill for electric service. Please be aware that the due date of this notice does not void the due date on any notice previously sent to you regarding a past due amount.

To avoid a 1.50% Late Payment Charge being added to your bill, please pay the Amount Due by the Due Date.

The information below shows specific charges for the costs of energy efficiency, peak demand reduction, and renewable energy. These charges are not new, but are and previously were consolidated with other charges on your bill.

Table with 3 columns: Category, Calculation, Amount. Rows include Energy Efficiency, Peak Demand Reduction, and Renewable Energy.

Your next meter reading is scheduled to occur on or about Aug 03, 2020.

For a brochure describing your customer rights and obligations, please call our Customer Service phone number.

Additional messages, if any, can be found on back.

Usage History

Usage History table with columns for Month, Actual (A), Estimate (E), and Customer (C) usage.

Account Summary table showing Previous Balance, Payments/Adjustments, Balance at Billing on Jul 08, 2020, and Total Current Charges.

Usage Information for Meter Number A12284531 table showing KWH readings for Jul 06, 2020 and Jun 05, 2020, along with various multipliers and billed loads.

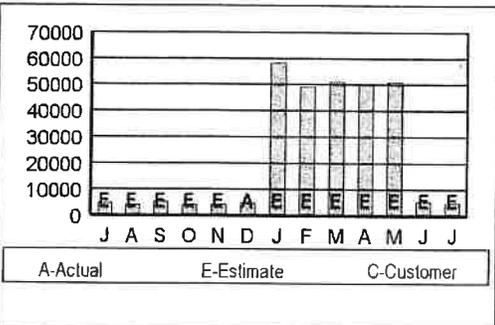
Charges From The Illuminating Company table listing Customer Number, Rate, Customer Charge, Distribution Related Component, Cost Recovery Charges, Current Consumption Bill Charges, Late payment charge, and Security Deposit Interest.

Charges From Energy Harbor (formerly known as FES) table listing energy harbor address, account number, and billing period.

Energy Harbor charges table showing Basic Charge and Total Energy Harbor (formerly known as FES) Charges.

Detail Payment and Adjustment Information table showing 06/05/20 Reverse Late Payment Chg.

Account Balances by Company table with columns for Previous Balance, Payments/Adjustments, Current Charges, and Amount Due for The Illuminating Company and Energy Harbor.



Comparisons table with columns for Last Year and This Year, comparing Average Daily Use (KWH), Average Daily Temperature, Days in Billing Period, Last 12 Months Use (KWH), and Average Monthly Use (KWH).



**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**9/10/2020 3:40:13 PM**

**in**

**Case No(s). 20-1493-EL-CRC**

Summary: Case Filed In the matter of the Complaint of Richmond Heights Town Square Owner, LLC against First Energy Corp. and The Cleveland Electric Illuminating Company alleging unfair and unjust billing practices. electronically filed by Mr. Kenneth J. Fisher on behalf of Richmond Heights Town Square Owner, LLC