

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Double K Kirby Farms,)	
)	
Complainant,)	
)	
vs.)	CASE NO. 18-0691-EL-CSS
)	
Ohio Edison Company,)	
)	
Respondent.)	
)	

SUMMARY OF THE TESTIMONY OF DANIEL DISMUKES

I. Background

- Owner of Precision Ag Automation;
- Have owned for the previous five years;
- Before owning Precision Ag Automation, was an Engineering Assistant for ATC Lighting and Plastics for one year;
- Before that, was a Technical Service for Hill Supply for 10 years;

II. Educational Background

- Graduated from Pymatuning Valley High School in 2001;
- Received an Associates Degree in Dairy Science in 2008 from The Ohio State University;
- Received an Associates Degree in Electrical Engineering in 2016 from Youngstown State University;

III. Double K Farms

- On or about October 30, 2017, I went to Double K Farms. Attached are photos taken on October 30, 2017. See Exhibit A attached;

- While at the Farm, I isolated a grounding rod at the Farm away from any buildings or bonded equipment. I attached a roll of #12 THHN wire to it and ran it into the barn and milk harvest areas to measure differences;
- Anytime I find voltage which exceeds .5 volts I recommend an isolation transformer be installed;
- I verified voltages were reaching over 1.0 volt during our testing procedure when we increased the total Farm load by energizing various 230V loads at the Farm. Attached are pictures of the readings;
- The meter in the pictures is reading in mV. Therefore, 500.0mV = .5Volts;
- I also took a picture of Michael Hintz's business card;
- I called Mr. Hintz because Double K Farms previously requested an isolation transformer be installed;
- The excessive stray voltage was causing damage to the cows at the Farm;
- I am familiar with stray voltage issues having seen that problem on multiple previous occasions;
- Installing an isolation transformer is an efficient and easy fix for the problem;
- I am aware Double K Farms offered to Ohio Edison to pay for the cost of an isolation transformer and pay Ohio Edison to install the transformer;
- Ohio Edison refused indicating no excessive stray voltage existed;
- Eventually Ohio Edison installed an isolation transformer and the problem with the cows has been solved;
- On November 7, 2017, because of Ohio Edison's initial refusal to install an isolation transformer, I called Mr. Hintz;
- I indicated to Mr. Hintz I was at the Farm and measured neutral to earth voltages of 1.1 and higher;
- I described the testing procedure I used and the equipment used to measure the voltage when I conducted my evaluation on October 30, 2017 in the hope of adding validity to the Farm's previous complaints to Ohio Edison;
- Mr. Hintz dismissed my findings indicating he was at the Farm personally and did not see voltages that high;

- Again, it is my opinion the excessive stray voltage caused damage to Double K's cattle in terms of detrimentally affecting the cows' health and milk production. Attached is an article which explains how stray voltage effects cattle and particularly cows. *See*, Exhibit B attached;
- If Ohio Edison installed the isolation transformer when first requested by Double K Farms, Double K Farms' cattle would not have been harmed due to the excessive stray voltage.

Respectfully submitted,

/s/ Brian M. Garvine

Brian M. Garvine (0068422)
Law Office of Brian M. Garvine, LLC
5 East Long Street, Suite 1100
Columbus, Ohio 43215
Tel: 614/223-0290; Fax: 614/221-3201
Email: brian@garvinelaw.com
Attorney for Complainant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following via electronic mail on this 19th day of July, 2021:

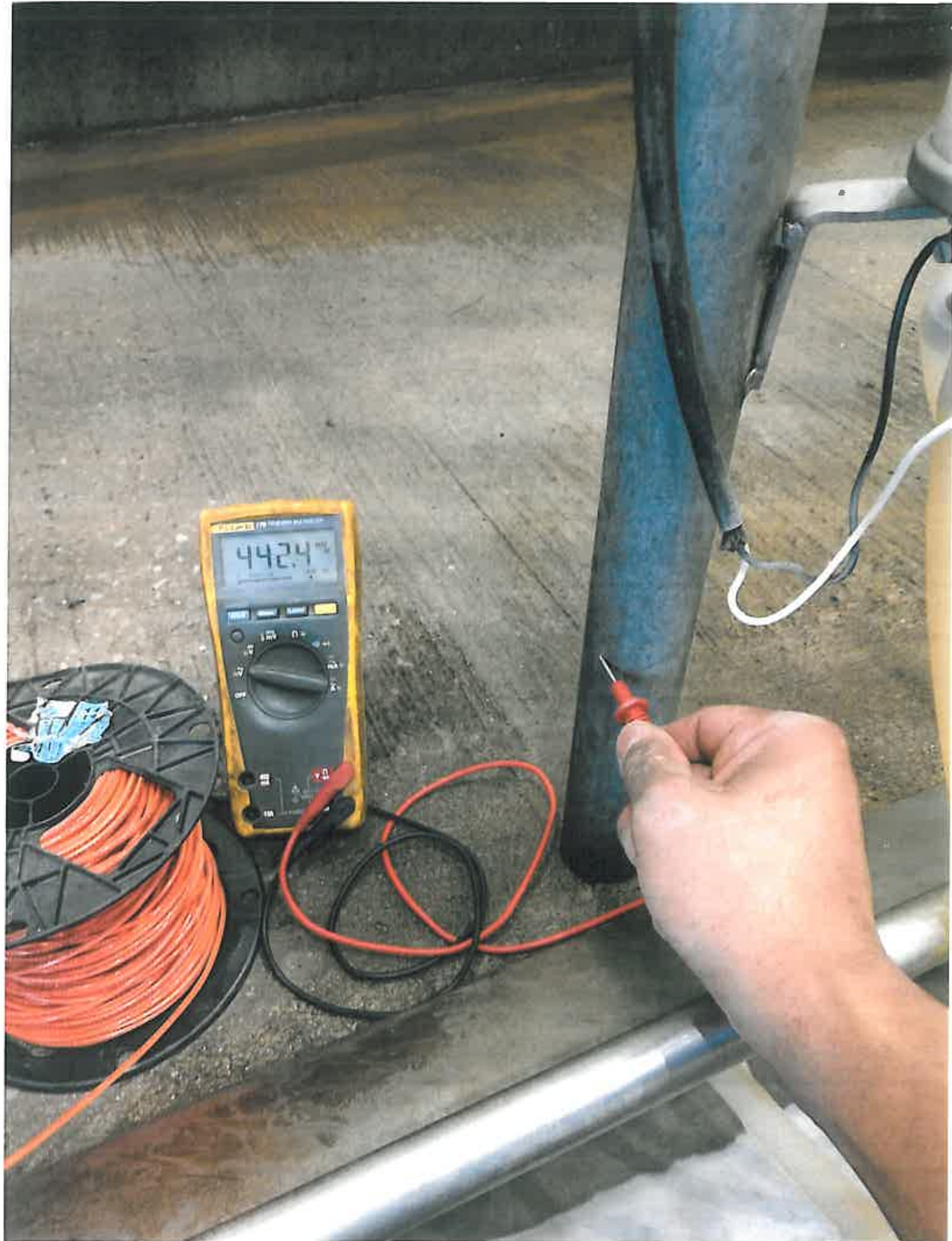
John W. Breig, Jr.
BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
200 Public Square, Suite 2300
Cleveland, Ohio 44114-2378
Telephone: 216.363.4500
Facsimile: 216.363.4588
jbreig@beneschlaw.com
Counsel for Ohio Edison Company

/s/ Brian M. Garvine

Brian M. Garvine, 0068422



EXHIBIT
A



FLUKE 179 TRUE RMS MULTIMETER

564.5 mV

AutoHOLD

C/F

HOLD

MINMAX

RANGE



mV

Ω \pm

V

V

OFF



mA

mA

A

400 mA

V Ω

FLUKE 179 TRUE RMS MULTIMETER

547.6

AutoHOLD

C/F

HOLD

MINMAX

RANGE



mV

Ω

μ V

mA

μ V

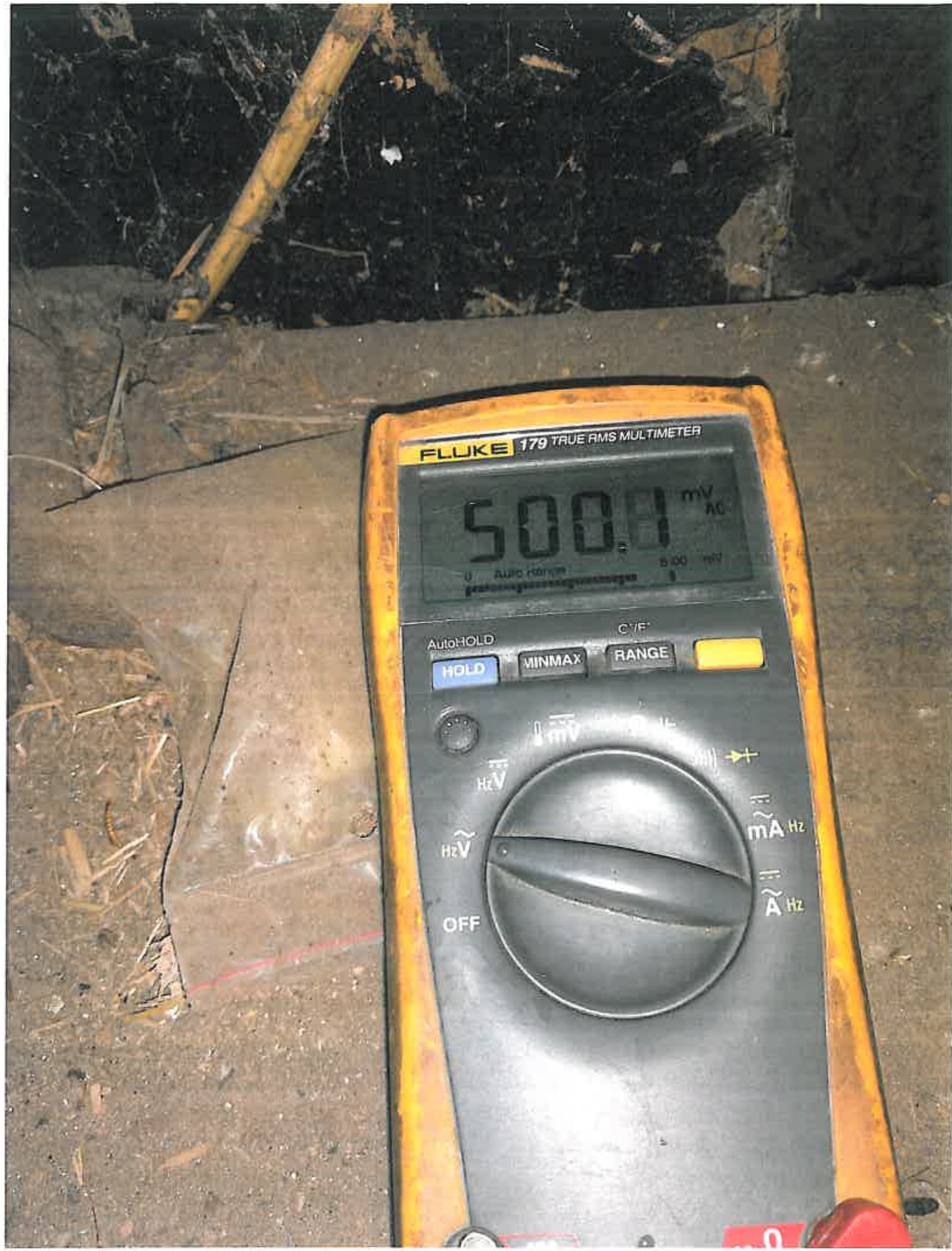
mA

OFF

A

400
mA

V Ω



FLUKE 179 TRUE RMS MULTIMETER

500.0 mV AC

AUTOHOLD

C/F

HOLD

MINMAX

RANGE



0 mV 10 V 100 V 1000 V

HzV

HzV

OFF



mA Hz

A Hz

OhioEdison

A FirstEnergy Company

Youngstown Service Building
730 South Avenue
Youngstown, Ohio 44502

Mike Hintz, P.E.

330-740-7594

~~1-888-809-8410, Ext. 7594~~

~~Fax: 330-740-7655~~

~~VM: 1-888-871-5633, Ext. 7594~~

~~Pager: 330-229-1503~~

E-Mail: hintzm@firstenergycorp.com

IOWA STATE UNIVERSITY

Center for Agricultural Law and Taxation

Stray Voltage and Dairy Farms Can Lead to Large Damage Awards

📅 May 16, 2018 | 👤 Mary Francque*

🐮 cows in a field

History of Stray Voltage Suits

Stray voltage causing damages to dairy farms is a problem that has been facing the dairy industry for year with damages cases dating back to 1984. Stray voltage is caused when a power line's neutral line is "leaking" electrical currents into the ground. A common cause of stray voltage is a neutral wire that is either too small or damaged and allows the current to go into the ground. Even when the stray voltage current is at a low level, specifically anything above 0.5 volt, it can still be harmful to livestock. These currents put stress on the animals, which in turn lowers their immune systems, leading to a variety of issues. Dairy cows have shown to be more sensitive to stray voltage than any other livestock. Voltage has been shown to cause decreased milk production, due to a lowered water intake and in turn a lowered feed intake. Farmers have also noted a range of issues relating to breeding and calving. Dairy farmers have even reported extremely sick cows, some of which have later died.

Since the 1980s farmers have been filing a variety claims against electrical utility companies across the United States relating to stray voltage, including claims for trespass, negligence, strict liability, and nuisance. Additionally, dairy farmers have filed suits against milk system suppliers for stray voltage. However, a majority of these suits have been unsuccessful or have resulted in limited relief due to the economic loss doctrine that prevents the collection of damages when it relates to a loss in profit due to defective goods. A majority of courts have held that unlike milking systems, the utility companies are providing a service rather than a good.

In suits relating strictly to electrical utility companies we have seen an evolution in damages from the 1980s to today. These suits have proven to be successful on multiple occasions and the awarded damages continue to grow.

Evolution of Damages in Stray Voltage Cases Heard throughout the United States

Since 1984 many farmers have received damages awards. However, those awards have grown from \$36,500 up to \$14 million. While there has been variation in damages awards throughout the years, there has been

trend overall. While some of this growth in awarded damages is due to growing farm sizes, a majority of the growth is due to an increase in understanding and research.

 mary's chart

 chart

Recent Stray Voltage Case in Iowa

The Iowa Court of Appeals recently decided in favor of a dairy farm awarding them \$500,000 in damages. Burdicks, a family dairy in Northern Iowa, filed suit against Interstate Power & Light Co. The Burdicks claimed that Interstate was negligent in its maintenance of its system, which caused stray voltage damages to the Burdicks' dairy herd. They also filed a nuisance claim against Interstate. The jury found for Burdicks on the issue of negligence, awarding them \$500,000. After the trial, Interstate filed a motion for a new trial claiming that Burdicks did not provide enough evidence for the jury to calculate the damages. The district court granted Interstate's motion for a new trial.

The case decided by the Iowa Court of Appeals found that if there is proof a party has sustained damages, then that party can recover, even if there is uncertainty in the amount of the damages. There must just be a basis from which the amount of damages can be inferred. While parties should still aim to provide detailed evidence showing damages, the court here allowed the party to recover even without such evidence.

Burdicks appealed the district court's grant of a new trial. The appellate court found for Burdicks, as Interstate's case-in-chief provided adequate information to support a determination of damages by the jury. In addition, Interstate did not appeal the jury's finding of its negligence. The court has held that "there is a distinction between proof of the fact that damages have been sustained and proof of the amount of those damages."^[1] The proof of the amount of damages only needs to be presented to a point where the jury can come to an approximate estimate of the loss, not to an exact mathematical conclusion.

Therefore, even though Burdicks failed to present significant evidence that would aid the jury in determining the *amount* of damages, there were no grounds for the court to order a new trial. This was especially true because Interstate's expert witness' testimony and admitted exhibits provide sufficient evidence. Previous courts have shown that the court must look at evidence presented in the whole trial, not just the evidence presented by one side.

Here, Interstate's expert submitted graphs which showed expense figures and other important financial data. This along with his testimony allowed the jury to determine an estimate of the loss. Therefore, the Iowa Court of Appeals upheld the jury's previous holding that Interstate was negligent for \$500,000 in damages.

The case was *Burdick v. Interstate Power & Light Co.*, No. 16-0821 (Iowa Ct. App. October 25, 2017).

[1] *Yost v. City of Council Bluffs*, 471 2d N.W. 2d 836, 840 (Iowa 1991).

*Mary Francque completed her second year of law school at Drake University in May of 2018. She served as an intern for CALT during the Spring 2018 semester.

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Summary: Testimony Summary of the Testimony of Daniel Dismukes electronically filed by Ms. Barb Ballard on behalf of Double K Kirby Farms