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PUCO

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)
Foods, Inc.; Miles Management Corp., et al.;)
Allianz US Global Risk Insurance Company,)
et al.; and Lexington Insurance Company, et)
al.,)

Complainants,)

Case Nos. 04-28-EL-CSS
05-803-EL-CSS
05-1011-EL-CSS
05-1012-EL-CSS

v.)

The Cleveland Electric Illuminating)
Company, Ohio Edison Company,)
Toledo Edison Company, and)
American Transmission Systems, Inc.,)

Respondents.)

11

REPLY MEMORANDUM IN SUPPORT OF RESPONDENTS' FIFTH MOTION TO
COMPEL DISCOVERY FROM THE LEXINGTON COMPLAINANTS

Complainants' response to the instant motion reflects a troubling trend in this case. Specifically, Complainants apparently believe that they should be able to produce witnesses at the hearing in this matter, but unilaterally be able to limit what discovery may be taken regarding those witnesses and the subject matter of their testimony.¹

Complainants acknowledge that they will introduce portions of their claim files at hearing to establish "coverage and payment of the claim for damages alleged to arise out of the outage." (See Letter from C. Tuffley to D. Kutik, dated July 24, 2007, attached as Exhibit MAW-1.)

¹ This notion by Complainants is not only expressed in their response to this motion, but also in their attempt to limit unilaterally the timing, manner and scope of discovery that Respondents should be allowed to take regarding Complainants' expert witnesses. This is the subject of another motion, filed on August 2, 2007. (See Mot. to Compel Disc. from the Lexington Complainants (Sixth Motion) and from the Allianz Complainants (Third Motion).)

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Technician SM Date Processed 8/3/07

Complainants also acknowledge that in order to do so, they must call witnesses at hearing to discuss and authenticate these documents. (See Complainants' Resp. at 5.) Respondents are entitled to know what these witnesses will say *before* they testify at hearing. Complainants have failed to show why they should not be required to produce these witnesses.

Although Complainants believe that depositions of their witnesses would yield only "pro forma testimony," the lingering questions raised by the claim files for remaining insureds suggest otherwise. For example, the claim files for some insureds either fail to show what happened to the insured or give conflicting explanations for the loss. (See MAW-2, which includes NATIONCLAIM 01153 (portion of file noting only that insured returned home on August 19 to find a leaking refrigerator but insured "does not know when started [sic] to leak or how"); TRVCLM00250-52 (portions of file alternatively attributing damage to outage or to storm); TRVCLM00375 (portion of file stating that "[t]he cause was related to be [sic] a surge to the bldg electrical power or possibly the compressor attempted to start on less than the required 3 legs of power").) If a claim is not even remotely related to the outage, it cannot remain in the case.²

In other instances, Complainants paid allegedly outage-related claims even though Respondents' information indicates that those insureds did not suffer a power outage. (See Aff. of Karl Fickey at ¶ 3, attached as Exhibit B³ (noting that Complainant-insureds Rebecca Mann, Merlin Hartman, Wendy Oancea and two Heinen's locations did not experience a power outage on August 14, 2003).) The questions raised by these claim files relate to fundamental standing

² Complainants must acknowledge this point, as they have already agreed to dismiss 37 insureds whose claims were not related to the outage. (See Notice of Voluntary Dismissal, dated July 16, 2007.)

³ Exhibit B is a faxed copy of Mr. Fickey's affidavit. The original affidavit will be provided to the Commission upon request.

requirements as set forth by the Attorney Examiner. Respondents should be afforded the opportunity to ask those questions of Complainants' representatives in depositions.

In addition to answering the questions described above, Complainants will have to demonstrate standing on behalf of *all* of their insureds. And as Complainants acknowledge, they will have to do so—for *all* 64 insureds—through the presentation of “the Declaration Page of the policy, Proof of Loss, Subrogation Receipt or other similar documents demonstrating coverage and payment of the claim for damages alleged to arise out of the outage.” (*See* Exhibit MAW-1.) Before those documents are presented at hearing, Respondents should be allowed to ask basic questions about them, such as what they are, who collected or generated them and how they relate to Complainants' claims. Contrary to Complainants' suggestion, these questions have nothing to do with damages. And although Complainants may believe that those documents are “obviously” authentic (and despite Complainants' criticism of Respondents for failing to recognize such authenticity), nothing about PUCO discovery rules requires Respondents to accept Complainants' representations in motion papers about what those documents are or where they came from.

Further, the May 24 Entry cited by Complainants cannot be read to deny Respondents the requested discovery. In that Entry, the Attorney Examiner directed Respondents to review claim files to evaluate standing. (*See* May 24, 2007 Entry at ¶ 4(a).) Now, Complainants seek to prevent Respondents from asking follow-up questions about those very files, many of which are unclear or silent on important issues. The Entry simply does not leave Respondents in such an impossible position. Indeed, while the Entry purported to narrow the scope of discoverable information (e.g. denying access to underwriting files), it should not restrict Respondents' ability to ask questions about documents that have already been provided, particularly when

Complainants have already said that they will introduce the documents at hearing. Because Complainants' claim files do not "speak for themselves," Complainants should be required to produce representatives to testify about them in depositions.

CONCLUSION

For the foregoing reasons, Respondents' Motion to Compel should be granted.

Respectfully submitted,



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Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Memorandum was served by facsimile (without exhibits) and U.S. Mail (with exhibits) to the following persons this 3rd day of August, 2007.

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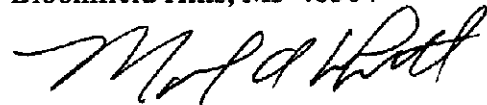
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Mark A. Whitt
An Attorney for Respondents

EXHIBIT A

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G.)
Foods, Inc.; Miles Management Corp., et al.;)
Allianz US Global Risk Insurance Company,)
et al.; and Lexington Insurance Company, et)
al.,)
)
Complainants,) Case Nos. 04-28-EL-CSS
) 05-803-EL-CSS
) 05-1011-EL-CSS
) 05-1012-EL-CSS
)
v.)
)
The Cleveland Electric Illuminating)
Company, Ohio Edison Company,)
Toledo Edison Company, and)
American Transmission Systems, Inc.,)
)
Respondents.)

AFFIDAVIT OF COUNSEL

STATE OF OHIO)
) ss:
COUNTY OF FRANKLIN)

Mark A. Whitt, being first duly sworn, states as follows:

1. I am a partner in the law firm of Jones Day and one of the counsel for Respondents.
2. Charles Tuffley, one of the counsel for Complainants, sent a letter dated July 24, 2007 to David Kutik, one of the counsel for Respondents, stating that Complainants will offer various portions of claim files at hearing in support of their standing claim. The attached Exhibit MAW-1 is a true and correct copy of that letter.


3. Complainants have produced claims files for most of the insureds listed in the attachments to the Complaints. I supervised the review of these claims files. Complainants' production included claim files for the claims of John Jackson, Ohio Canoe Adventures and Parma Heights Baptist Church. Portions of those claim files are attached collectively as Exhibit MAW-2.



Mark A. Whitt

Sworn to before me

this 3rd day of August, 2007.



Notary Public



REBECCA M. CULTICE
Notary Public
State of Ohio
My Commission Expires

11/7/09

EXHIBIT MAW-1

DENENBERG TUFFLEY, PL

Attorneys

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Bloomfield Hills, MI 48304

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Charles R. Tuffley
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July 24, 2007

Via Email dakutik@jonesday.com

David A. Kutik, Esq.
Jones Day
P.O. Box 165017
Columbus, Ohio 43216-5017

RE: S. G. Foods, Inc., et al. v The Cleveland Electric Illuminating Company, et al.
PUCO Case No. 04-28-EL-CSS, etc. (Consol.)

Dear Dave:

This will serve to respond to your letter of July 17, 2007 regarding discovery, expert summaries and scheduling.

Claim Files

The only exhibits which will be offered at the hearing will be the Declaration Page of the policy, Proof of Loss, Subrogation Receipt or other similar documents demonstrating coverage and payment of the claim for damages alleged to arise out of the outage. To conduct numerous depositions in order to have the deponent identify a few documents is not necessary for purposes of discovery when you have the existing documentation. We will not voluntarily produce witnesses for such purposes.

Expert Summaries

I have shown your letter to each of the persons from our firm who participated in the pre-hearing conference. I have also reviewed their notes. None of them (three) agree with your contention that it was discussed or envisioned that the expert summaries would follow the

DENENBERG TUFFLEY, PLLC

David A. Kutik, Esq.

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July 24, 2007

Federal Court Rules format. Therefore, they have assured me that there were no such "shared expectations" as described in your letter.

We believe our expert summaries will be "meaningful" and we do not intend "to hide the ball." The summaries will, in accordance with the letter and spirit of the Scheduling Order, provide you with sufficient information to enable you to not only depose the experts but for your experts to offer responsive opinions.

Revised Schedule

Since we do not agree with your premise regarding the adequacy of our expert summaries, we do not believe that the staggered schedule you propose is necessary. Further, the proposed revised schedule would require us to file testimony 60 days sooner than the present Scheduling Order which resulted from our Motion to extend the dates. Therefore, we will not agree to a revised staggered schedule to file testimony and witness lists.

Very truly yours,

DENENBERG TUFFLEY, PLLC

Charles R. Tuffley

CRT/vmk

EXHIBIT MAW-2

All Activity Logs

Claim Key: 92 34 HP 421546 08142003 01

Policyholder: Jackson, John G

Claimant: N/A

Requester: SUBRO1

Print Date: February 13, 2007

Print Time: 4:15 PM

NATIONCLAIM 01149

All Activity Logs

Claim Key: 92 34 HP 421546 08142003 01
Policyholder: Jackson, John G
Claimant: N/A

Requester: SUBRO1
Print Date: February 13, 2007
Print Time: 4:15 PM

Date: 2005-12-17 **Time:** 07:01:59
Creator:
Assignee: OOR
Cov:
Claimant:

Claim moved to Tape

BJ20 0

Date: 2003-11-24 **Time:** 11:36:16
Creator: OOR
Assignee: OOR
Cov:
Claimant:

CLASSPlus Document Printed: Free Form Letter w/Claim Info-Standard - Claimant; Sent to John G Jackson from Jan Billman (Comments:) Mail

Date: 2003-11-24 **Time:** 11:34:16
Creator: OOR
Assignee: OOR
Cov:
Claimant:

CLASSPlus Document Saved. (Re:) Free Form Letter w/Claim Info-Standard - Claimant

Date: 2003-10-17 **Time:** 15:19:00
Creator: OOR
Assignee: OOR
Cov:
Claimant:

Loss cause changed from 105 to 150 by Jan Billman on check side 1.

Date: 2003-10-17 **Time:** 15:19:00
Creator: OOR
Assignee: OOR
Cov:
Claimant:

LDI changed from to 505 by Jan Billman on check side 1.

Date: 2003-10-17 **Time:** 15:19:00
Creator: OOR
Assignee: OOR
Cov: HOPRIM
Claimant: John G Jackson

Check for \$1713.53 payable to John G Jackson AND LIBERTY.HOME CONTRACTORS 24511 Electric Dr Bay Village OH 441402874 - Mechanical Posted by BILLMAJ

Date: 2003-09-03 Time: 09:40:19
Creator: OOR
Assignee: OOR
Cov:
Claimant:

0104 BLD EVALUATION... DRP estimate recd and approved via e-mail... Payment will be made upon repair completion. Estimate amount... \$1961.53

Date: 2003-09-03 Time: 00:01:00
To: Jan Billman
CC:
From: CLASS
Subject: First Claims Rep FWP

First Claims Rep FWP

Date: 2003-08-22 Time: 10:53:29
Creator: OOR
Assignee: OOR
Cov: HOPRIM
Claimant: John G Jackson

SUBROGATION closed for HOPRIM on John G Jackson

Date: 2003-08-22 Time: 10:53:15
Creator: OOR
Assignee: OOR
Cov:
Claimant:

redacted

Date: 2003-08-20 Time: 17:05:24
Creator: OOR
Assignee: OOR
Cov:
Claimant:

CLASSPlus Document Printed: Free Form Letter w/Claim Info-Standard - Claimant; Sent to John G Jackson from Jan Billman (Comments:) Mail

Date: 2003-08-20 Time: 17:03:34
Creator: OOR
Assignee: OOR
Cov: HOPRIM
Claimant: John G Jackson

RESERVE opened for HOPRIM on John G Jackson for \$1500.00 assigned to 92DRPLIBERTY

NATIONCLAIM 01151

Date: 2003-08-20 Time: 17:03:23
Creator: OOR
Assignee: OOR
Cov:
Claimant:

CLASSPlus Document Saved. (Re:) Free Form Letter w/Claim Info-Standard - Claimant

Date: 2003-08-20 Time: 10:10:56
Creator: OOR
Assignee: OOR
Cov: HOPRIM
Claimant: John G Jackson

Reinspection opened for HOPRIM on John G Jackson assigned to BILLMAJ

Date: 2003-08-20 Time: 10:10:42
Creator: OOR
Assignee: OOR
Cov: HOPRIM
Claimant: John G<Jackson

LOSS Reassigned for HOPRIM on John G<Jackson from PFISTEK

Date: 2003-08-20 Time: 10:10:42
Creator: OOR
Assignee: OOR
Cov: HOPRIM
Claimant: John G<Jackson

LOSS Reassigned for HOPRIM on John G<Jackson to 92DRPLIBERTY

Date: 2003-08-20 Time: 10:10:18
Creator: OOR
Assignee: OOR
Cov: HOPRIM
Claimant: John G Jackson

redacted

Date: 2003-08-20 Time: 10:10:02
Creator: OOR
Assignee: OOR
Cov:
Claimant:

redacted

Date: 2003-08-20 Time: 10:08:54
Creator: OOR
Assignee: OOR
Cov:
Claimant:

**0104 BLD/CON/ALE EVALUATION:...I called Liberty and they will handle floor.

NATIONCLAIM 01152

Date: 2003-08-20 Time: 10:08:30

Creator: OOR

Assignee: OOR

Cov:

Claimant:

**0102 INVESTIGATION/C&O:...8-19 Ph said he just moved in 11-02. The refrig wwas bought about 1 month ago from Best Buy and has extended warrantee. Ph out of town and came home to water leaking on floor 8-19. He does not know when started to leak or how. The wood floor is damaged and he wants DRP. I gave him Liberty.

Date: 2003-08-20 Time: 10:06:11

Creator: OOR

Assignee: OOR

Cov:

Claimant:

**0101 COVERAGE/COVERAGE QUESTIONS:...elite 250 deduct.

Date: 2003-08-20 Time: 10:05:40

Creator: OOR

Assignee: OOR

Cov:

Claimant:

**0100 REC/CONTACT/INSPECT:...8-19 talked with ph.

Date: 2003-08-19 Time: 11:48:11

Creator:

Assignee: OOR

Cov:

Claimant:

ISO - NOL SENT TO ISO

NOL SENT TO ISO

KEY - 9234HP4215460814200301

Date: 2003-08-19 Time: 11:36:34

To: KENNETH PFISTER

CC:

From: 92CCAPISC

Subject: ADDITIONAL INFO

HPHN: 440-808-9366

BPHN: 440-333-8334

BEST TIME:

POLICY NUM: F9234HP421546

PH NAME: JOHN JACKSON

CLAIM INFO: 9234421546HP2003081401

RELATION:

NATIONCLAIM 01153

MESSAGE:

CSR: NEEB MEMO DATE: 8/19/2003 MEMO TIME: 11:35:50 CALLER TYPE: POLICYHOLDER

Date: 2003-08-19 Time: 11:36:33

Creator: OOR

Assignee: OOR

Cov: HOPRIM

Claimant: John G Jackson

RESERVE HOLD for HOPRIM on John G Jackson assigned to PFISTEK - 91 Claims Services

NATIONCLAIM 01154

AFO: 607 LD: BR CLM: B0B0373 J CMT: C-000-File Level INS: /OHIO CANOE ADVENTURES
 DOL: 08/14/2003 ST: OH Status: CLOSED CH/SUPV: DT/WW COL:

Date	Author	Topic	Subject	Free Form Subject	Clmt (Level)
08/26/2003 09:34:08	JZ -	General	NOTICE TAKER INFORMATION		000 FILE LEVEL
OFFICE : 284 - ORLANDO - CRC NOTICE TAKER: JZ - JACOB ZELAYA TELEPHONE : (407) 649-2875					
08/26/2003 09:34:24	D800 - 284	General	DESCRIPTION OF LOSS TAKEN BY 800 TEL REPORTING		000 FILE LEVEL
POWER SURGE- DUE TO STORM INSD HAD A POWER SURGE THAT DID DMG TO THE ALARM SYSTEM, HEAT PUMP AND 12 EMERGENCY EXIT LIGHTS					
08/26/2003 09:34:24	JZ - 607	General	CLAIMANT PROPERTY DAMAGE DESCRIPTION		001 INS - OHIO CANOE ADVENTURES, INC.;
ALARM SYSTEM, HEAT PUMP, 12 ER- LIGHTS					
08/26/2003 09:34:25	C800 - 284	General	REMARKS NOTE TAKEN BY 800 TELEPHONE REPORTING		000 FILE LEVEL
//TRAVPRO REMARKS: ***** BUILDING DAMAGE NOTES: ALARM SYSTEM, HEAT PUMP, 1 2 ER- LIGHTS					
CLAIM IN CNA STATUS. REASON: MISSING CAUSE OF LOSS					
TRVCLM00250					
QUIKFAX II					
08/26/2003 09:34:50	GENERATED NOTE - 607	Assignment	INITIAL ASSIGNMENT		000 FILE LEVEL

OFFICE: 607 ASSIGNED TO
 IN GROUP:

IN TERRITORY:

OFFICE ASSIGNMENT DETERMINED BY TRAVPRO

08/26/2003 10:14:09	DANNY OMAR RIVERA - 607	Assignment	REASSIGNMENT		000 FILE LEVEL
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OFFICE: 607 Re-assigned by: DR -DANNY OMAR RIVERA Transferred from: GDE -GARY EVANOFF to DE - DEBORAH TOWER

08/26/2003 10:14:10	DANNY OMAR RIVERA - 607	Assignment	REASSIGNMENT		001 INS - OHIO CANOE ADVENTURES, INC.:
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OFFICE: 607 Re-assigned by: DR -DANNY OMAR RIVERA Transferred from: GDE -GARY EVANOFF to DT - DEBORAH TOWER

08/26/2003 10:14:18	DANNY OMAR RIVERA - 607	Assignment	INITIAL ASSIGNMENT		000 FILE LEVEL
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OFFICE: 607 DEF SUPV - GROUP NOT FND

08/26/2003 12:15:24	DEBORAH TOWER - 607	Investigation		CONTACTED INSURED	000 FILE LEVEL
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COVERAGE FORMS: BM T1 57 08 02/BM T4 39 01 03/MB T3 72 01 02
 LIMITATIONS: \$775,000 TOTAL/\$600,000 PD/\$175,000 BI, EE/\$10,000 SPLG/
 \$100,000 OPSI/\$25,000 XP, ORD, AMM, WTR, HAZ
 DEDUCTIBLES: \$1,000 PD/24 HR BI, EE/\$1,000 SPLG/24 HR OPSI/10% OR
 \$1,000 AMM
 \$20/HP OR \$1,500 A/C OR REFRIGERATION EQUIPMENT

Spoke to Reece Fabro this date regarding loss details, damages and repairs necessary. Reece advised that this was not storm related damage but rather damage as a result of the northeast power outage on 8/14/03. Advised that Ohio Edison is the local utility. Power outage was from 4 pm 8/14/03 until 8 am 8/15/03; power was on the next morning when employees arrived but they had to close the store the previous evening. Outage caused damage to the alarm system, an a/c compressor and emergency lights. Had to replace the emergency lights and is still waiting for a diagnosis of the heat pump and alarm system and quotes for repair. Also incurred a business income loss as a result of the power outage. Repair firms involved are Delta 88, Tom Patrick, @ 440-288-500 (emergency/exit lighting), Stock Electronics, TomStock, @ 440-9843102 (security cameras/system), and Luxury Heating, Barry Racz, @ 440-366-0971 (a/c compressor).

CLMTCfor Tom Patrick, Delta 88, this date regarding damages and repairs necessary to emergency lights/exit signs.

Spoke to BrentStock, Stock Electronics, this date regarding damages and repairs necessary to the security system. Advised that he had inspected the system and determined that one camera and the multiplexer and associated power supply had shorted out as a result of the power surge created when power was lost. Advised that both these items would have to be replaced but at the present time he does not know what the cost associated with the replacement will be. Will advise as soon as they determine costs.

CLMTC for Barry Racz, Luxury Heating, this date regarding damages and repairs necessary to the A/C compressor.

08/28/2003 10:24:12	DEBORAH TOWER - 607	Investigation		RECEIVED FROM CONTRACTOR	000 FILE LEVEL
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Received call from Tom Patrick, Delta 88, this date regarding damage and repairs necessary to the emergency light/exit signs. Tom advised that the transistorized circuit boards in the lights/signs that controls the trickle charge from the battery/back-up shorted out when the power went out on 8/14/03. The transistorized boards can not be replaced in these lights as it is more expensive to replace the boards than it is to purchase and install a new light. Replaced eight emergency lights/signs.

TRVCLM00251

08/29/2003 14:35:23	DEBORAH TOWER - 607	Investigation		PROPERTY CARRIER	000 FILE LEVEL
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				NOTIFICATION	
<p>Spoke to Anna Kessler, agent, this date regarding notification of property carrier. Property carrier was not notified but she will place them on notice for business interruption claim. Carrier is TIC.</p>					
09/29/2003 15:40:55	DEBORAH TOWER - 607	Investigation		CONTACTED INSURED	000 FILE LEVEL
<p>CLMTC for Reece Fabbro this date regarding status of repairs and itemized invoicing for same.</p> <p>CLMTC for Barry Racz, Luxury Heating, 9/10/03, 9/19/03 and this date regarding damages and repairs necessary to the A/C compressor. No return calls as of this date.</p>					
11/04/2003 11:22:49	DEBORAH TOWER - 607	Investigation		CONTACTED INSURED	000 FILE LEVEL
<p>CLMTC for Barry Racz, Luxury Heating, 9/10/03, 9/19/03, 9/29/03 and this date regarding damages and repairs necessary to the A/C compressor. No return calls as of this date.</p> <p>Spoke to Reece Fabbro this date regarding status of repairs and itemized invoicing. Reece advised that all repairs had been made and he had forwarded all of the bills for the repairs to Cheryl Siatkowski, TIC - Reading, the first week in October 2003 under claim #ALN3333. Stated that he has had no response from her regarding coverage. He will forward all invoices for repair to B & M as soon as possible via FAX. Also advised Reece that TIC had attempted numerous times to contact Barry Racz of Luxury Heating with no success and requested that he assist by contacting the contractor and instructing him to return our telephone calls. Reece advised that he would do this as soon as possible.</p> <p>Located property file #ALN3333 and determined that the file had been closed on 9/2/03 at the instruction of the agent with no further action taken. Agent indicated to property adjuster that claim was for BI only which the insured was not claiming and that all other damages would be handled under the B & M claim set up.</p> <p>Received itemized invoicing and proposals for repair this date from Insured and reviewed. Everything in order. Insured opted to replace the HVAC unit vs. repair it. Policy grants coverage for repair or replace, least expensive option. Coverage, if any, would extend to repair of unit only in the amount of \$1,877. Total claim would be \$3,489.22.</p>					
11/04/2003 15:03:04	DEBORAH TOWER - 607	Coverage		RESOLUTION	000 FILE LEVEL
<p>Review of coverage form BM T1 57 08 02 reveals coverage is afforded for shorting of equipment as a result of the power outage. Equipment shorted out when power was restored. Calculated Statement of Loss this date and issued payment to the Insured in the amount of \$3,489.22 less \$1,500 a/c deductible. Payment explanation letter sent to Insured/agent this date. File closed this date.</p>					

TRVCLM00252

AFO: 607 LD: BR CLM: B0B0561 E CMT: C-000-File Level INS: /PARMA HEIGHTS BAPTIST CHURCH
 DOL: 08/14/2003 ST: OH Status: CLOSED CH/SUPV: RM/GDE COL:

Date	Author	Topic	Subject	Free Form Subject	Clmt (Level)
09/12/2003 16:28:32	DEBORAH TOWER - 607	Assignment	INITIAL ASSIGNMENT		000 FILE LEVEL
OFFICE: 607 ASSIGNED TO DWL - DERREL LOKEY IN GROUP: DEF SUPV - GROUP NOT FND IN TERRITORY: *OFFICE ASGN NOT DETERMINED USING IMPACT PROFILES-OFFICE RECEIV ED IS 607					
09/12/2003 16:28:33	DEBORAH TOWER - 607	General	ACCIDENT DESCRIPTION		000 FILE LEVEL
DURING BLACKOUT CENTRAL COMPRESSOR UNIT SHORTED OUT DUE TO POWER SURGE					
09/12/2003 16:28:45	DT -	General	NOTICE TAKER INFORMATION		000 FILE LEVEL
OFFICE : 607 - HO BOILER AND MACHINERY NOTICE TAKER: DT - DEBORAH TOWER TELEPHONE : (860) 954-4743					
09/12/2003 16:29:09	DEBORAH TOWER - 607	Assignment	REASSIGNMENT		001 INS - PARMA HEIGHTS BAPTIST CHURCH
OFFICE: 607 Re-assigned by: DT -DEBORAH TOWER Transferred from: DWL -DER REL LOKEY to RM - ROBERT MCCANN					
09/12/2003 16:29:09	DEBORAH TOWER - 607	Assignment	REASSIGNMENT		000 FILE LEVEL
OFFICE: 607 Re-assigned by: DT -DEBORAH TOWER Transferred from: DWL -DER REL LOKEY to RM - ROBERT MCCANN					
09/15/2003 15:03:28	ROBERT MCCANN - 607	Investigation		CONTACTED INSURED	000 FILE LEVEL
INSURED CONTACT -CALLED AND SPOKE WITH JOHN KOVACH ON 9/15/03 @ 2:00 PM -THE MONDAY MORNING AFTER THE NE BLACKOUT, THE A/C WAS NOT OPERATING AND THIS WAS EVIDENCED BY THE TEMP. IN THE BLDG -THE A/C TECH FOUND A BAD MOTOR IN THIS COMPRESSOR; THE WINDINGS HAD SHORTED TO GROUND AND THE COMPRESSOR WAS LOCKED UP -REPLACEMENT OF COMPRESSOR WAS THE ONLY WAY TO REPAIR THIS SYSTEM -THE CAUSE WAS RELATED TO BE A SURGE TO THE BLDG ELECTRICAL POWER OR POSSIBLY THE COMPRESSOR ATTEMPTED TO START ON LESS THAN THE REQUIRED 3 LEGS OF POWER -INUSRED WILL PROVIDE AN INVOICE THAT WAS LEFT OUT OF THE INFORMATION I RECEIVED RMCCANN					
09/15/2003 15:12:56	ROBERT MCCANN - 607	Damages/Verification		FILE STATUS	000 FILE LEVEL
-PLACED A CALL TO MARK LEONHARDT RE: THE DEDUCTIBLE -THE BMIC DEDUCT. OF \$500 IS CIRCLED BUT THE FILL-IN BLANK INDICATES \$2500 -ASKED FOR A CLARIFICATION FROM HIM; HAD TO LEAVE A VOICEMAIL RMCCANN					
09/18/2003 12:24:09	ROBERT MCCANN - 607	General		DEDUCTIBLE	000 FILE LEVEL
LEONHARDT ADVISED THAT THE DEDUCTIBLE IS \$2500 RMCCANN					

TRVCLM00375

09/18/2003 12:34:52	ROBERT MCCANN - 607	General		CALL TO VENDOR	000 FILE LEVEL
-CALLED HDH TO GET A SIZE ON THE COMPRESSOR IN HP -LEFT A MESSAGE ON LARRY'S V-MAIL FOR THIS INFORMATION RMCCANN					
10/07/2003 18:01:20	ROBERT MCCANN - 607	General		COVERAGE ANALYSIS	000 FILE LEVEL
-THE COMPRESSOR MOTOR WAS SHORTED TO GROUND DUE TO A LARGE SURGE THAT OCCURRED AFTER RESUMPTION OF POWER LOST DUE TO THE NE BLACKOUT OF 8/14/03 -THE COVG FORM IS THE B SEB 100 -THE A/C COMPRESSOR MOTOR IS "COVERED EQUIPMENT"; IT IS COVERED PROPERTY THAT UTILIZES, TRANSMITS OR GENERATES ELECTRICAL OR MECHANICAL ENERGY; -THE LOSS WAS AN "ACCIDENT", AS THERE WAS A SUDDEN AND ACCIDENTAL BREAKDOWN WHICH RESULTED IN DIRECT PHYSICAL LOSS. -BREAKDOWN DOES INCLUDE ARCING, OTHER THAN LIGHTNING -THE ONLY SALVAGE WAS FOR THE CORE EXCHANGE ON THIS UNIT -THE DEDUCT. WAS CONFIRMED AT \$2500; THE NET PAYABLE CLAIM IS \$3165 -LETTER HAS GONE OUT TO BMIC, REQUESTING PAYMENT -WILL AWAIT FINALIZATION OF CLAIM RMCCANN					
01/08/2004 13:10:27	CHRISTINE PINEAULT - 607	Financial		PAYMENT HAS BEEN ISSUED TODAY FOR THIS CLAIM AND T	000 FILE LEVEL
PAYMENT HAS BEEN ISSUED TODAY FOR THIS CLAIM AND THE FILE HAS BEEN CLOSED.					
01/13/2004 11:32:05	ROBERT MCCANN - 607	Damages/Verification		FILE STATUS	000 FILE LEVEL
-THE COMPRESSOR MOTOR ON THIS UNIT WAS 15 HP -AT \$300 PER HP, PER THE PML GUIDELINES, PAGE 8, WOULD CONFIRM THAT THE UNIT ITSELF WAS PRICED REASONABLY AT \$4500; THE BALANCE OF THE COST WAS INSTALLATION LABOR AT \$55 PER HOUR AND OTHER MISC. MATERIAL -THE PHYSICAL FILE CAN BE CLOSED, AS PAYMENT AND CLOSING WAS PERFORMED ON 1/6/04 RMCCANN					

TRYCLM00376

EXHIBIT B

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S.G. Foods, Inc.; Miles Management Corp., et al.; Allianz US Global Risk Insurance Company, et al.; and Lexington Insurance Company, et al.,

Complainants,

Case Nos. 04-28-EL-CSS
05-803-EL-CSS
05-1011-EL-CSS
05-1012-EL-CSS

v.

The Cleveland Electric Illuminating Company, Ohio Edison Company, Toledo Edison Company, and American Transmission Systems, Inc.,

Respondents.

AFFIDAVIT

STATE OF OHIO)
) ss:
COUNTY OF SUMMIT)


Karl Fickey, being first duly sworn, states as follows:

1. I am Director of Distribution Operation at FirstEnergy Corp.
2. I have studied FirstEnergy's reliability records to determine whether the various customers in the above-captioned case experienced a power outage on August 14, 2003.
3. Based on my review of those records, I have determined that the following customers did not experience a power outage on August 14, 2003: Rebecca Mann, Merlin & Tracy Hartman, Wendy Oancea and Heinen's (Aurora and Twinsburg locations).


Karl Fickey

Sworn to before me

this 3rd day of August, 2007.


Notary Public

Kathleen Anne Grant
Notary Public, State of Ohio
Resident of Summit County
My Commission Expires Nov. 8, 2009.