

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

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PUCO

Cleveland Board of Education For The Cleveland)
Municipal School District,)

Complainant,)

Case No. 08-1236-EL-CSS

v.)

The Cleveland Electric Illuminating Company)
and FirstEnergy Corp.,)

Respondent.)

**ANSWER OF
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY**

Comes now the Respondents, The Cleveland Electric Illuminating Company ("CEI") and FirstEnergy Corp. ("FE"), by counsel, and for their Answer to the Complaint filed in the instant action says that:

1. CEI admits that it is a public utility, as defined by R.C. § 4905.03(A)(4), and is duly organized and existing under the laws of the State of Ohio. CEI admits that the Cleveland Municipal School District ("CMSD") is located within the electric service area of CEI. CEI also admits that CMSD and CEI entered into an Electric Service Agreement (the "Contract") which terminates in December, 2008. CEI specifically denies that Commission-approved tariff rates pursuant to which CMSD would take service from CEI in January 2009 and thereafter are oppressive, unjust and unreasonable and further denies that the rates paid could increase by up to 94%. CEI and FE deny any remaining allegations in the Preamble and paragraph 1 of the Complaint.

2. CEI admits that it is a party to Case No. 07-551 *et seq.* and Case No. 08-935, and states that the applications, pleadings, and motions filed in those cases speak for themselves. Upon information and belief, CEI further states that CMSD's reference to a 94%

increase in costs was based upon CMSD's estimate of the impact on CMSD of CEI's Short Term ESP proposal, which was not acted upon by the Commission within the required timeframe and is no longer relevant. CEI and FE deny any remaining allegations contained in paragraph 2 of the Complaint.

3. CEI and FE deny the allegations in paragraph 3 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.

4. CEI admits that the parties have not renegotiated the terms of the Contract. CEI and FE deny the remaining allegations in paragraph 4 of the Complaint.

5. CEI and FE state that paragraph 5 of the Complaint contains a request for relief to which no response is required and otherwise deny the allegations in paragraph 5 of the Complaint.

6. CEI and FE deny the allegations in paragraph 6 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.

7. CEI and FE admit the allegations in paragraph 7 of the Complaint.

8. CEI and FE admit the allegations in the first sentence of paragraph 8 of the Complaint and deny the allegations in the second sentence of paragraph 8 of the Complaint.

9. CEI and FE state that paragraph 9 of the Complaint contains legal conclusions to which no response is required and otherwise deny any allegations contained within paragraph 9 of the Complaint.

10. CEI admits that it provided electric service to CMSD under the terms of the Contract, and further states that the Contract speaks for itself and need not be characterized. CEI and FE deny any remaining allegations contained within paragraph 10 of the Complaint.

11. CEI admits that it provided electric service to CMSD under the terms of the Contract, and further states that the Contract speaks for itself and need not be characterized. CEI and FE deny any remaining allegations contained within paragraph 11 of the Complaint.

12. CEI and FE admit the allegations contained within paragraph 12 of the Complaint.

13. CEI and FE admit the allegations contained within paragraph 13 of the Complaint.

14. CEI admits that it filed in Case No. 08-935-EL-SSO an Application to Establish a Standard Service Offer Pursuant to R.C. § 4928.143 in the Form of an Electric Security Plan and further states that the pleadings and filings contained in Case No. 08-935-EL-SSO speak for themselves, and need not be characterized. CEI and FE deny any remaining allegations contained within paragraph 14 of the Complaint.

15. CEI states that the pleadings and filings contained in Case No. 07-551-EL-AIR and Case No. 08-935-EL-SSO speak for themselves, and need not be characterized. CEI admits that, if the Contract is not extended and CMSD elects to continue to take service from CEI, CEI will provide that service pursuant to the applicable Commission-approved tariff. CEI and FE deny any remaining allegations contained within paragraph 15 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.

16. CEI and FE deny the allegations contained in paragraph 16 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.

17. CEI states that it has discussed the expiration of the Contract with CMSD, and CEI and FE otherwise deny any remaining allegations contained in paragraph 17 of the Complaint.

18. CEI admits that the parties have not negotiated an extension of the Contract or entered into a new agreement. CEI and FE deny any remaining allegations in paragraph 18 of the Complaint.

19. As to paragraph 19 of the Complaint, CEI and FE hereby incorporate the preceding paragraphs as if fully restated herein.

20. CEI and FE state that the referenced Ohio Revised Code provision speaks for itself and need not be characterized, and otherwise deny the allegations in paragraph 20 of the Complaint.

21. CEI and FE deny the allegations in paragraph 21 of the Complaint.

22. CEI states that, if the Contract is not extended and CMSD elects to continue to take service from CEI, CEI will provide that service pursuant to the applicable Commission-approved tariff, and CEI and FE otherwise deny the allegations in paragraph 22 of the Complaint.

23. As to paragraph 23 of the Complaint, CEI and FE hereby incorporate the preceding paragraphs as if fully restated herein.

24. CEI and FE state that the referenced Ohio Revised Code provision speaks for itself and need not be characterized, and otherwise deny the allegations in paragraph 24 of the Complaint.

25. CEI and FE state that the referenced Ohio Revised Code provision speaks for itself and need not be characterized, and otherwise deny the allegations in paragraph 25 of the Complaint.

26. CEI and FE deny the allegations in paragraph 26 of the Complaint.

27. As to paragraph 27 of the Complaint, CEI and FE hereby incorporate the preceding paragraphs as if fully restated herein.

28. CEI and FE state that the referenced Ohio Revised Code provision speaks for itself and need not be characterized, and otherwise deny the allegations in paragraph 28 of the Complaint.

29. CEI and FE state that the referenced Ohio Revised Code provision speaks for itself and need not be characterized, and otherwise deny the allegations in paragraph 29 of the Complaint.

30. CEI states that pursuant to the Contract's terms it will terminate in December, 2008, and that, to the extent CMSD elects to continue to take service from CEI in January 2009 and thereafter, CEI will provide service to CMSD at non-discriminatory, Commission-approved tariff rates. CEI otherwise denies the allegations contained in paragraph 30 of the Complaint.

31. CEI denies all allegations set forth in the Complaint that were not otherwise specifically addressed hereinabove.

32. CEI affirmatively denies that the Commission has the statutory authority to grant CMSD the relief requested in paragraphs B and C of CMSD's Request for Relief.

For their affirmative defenses, CEI and FE further aver that:

1. CEI and FE have breached no legal duty or contractual obligation owed to Complainant.

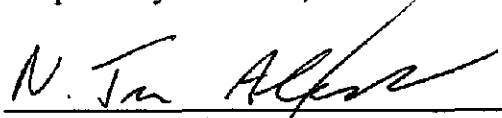
2. CMSD has failed to state reasonable grounds for this Complaint upon which relief may be granted.

3. CEI has acted at all times in accordance with the terms of the Contract, as well as all rules, regulations and Orders as promulgated and issued by the PUCO, the laws existing in the State of Ohio, and accepted standards and practices in the electric industry.

4. FE is not the proper real-party-in-interest such that the Commission lacks jurisdiction over CMSD's claims against FE because it is not a party to the Contract, is not establishing or seeking to establish rates which could apply to CMSD either now or in the future, and is not providing or seeking to provide any Commission-regulated service to CMSD either now or in the future.

WHEREFORE, having fully answered the Complaint, Respondents CEI and FE respectfully request that the instant action be dismissed, and that they be granted any other relief that this Commission may deem just and reasonable.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Answer was served by regular U.S.

Mail, postage prepaid, upon the following parties of record, this 9th day of December, 2008.

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