

FILE



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December 14, 2009

Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street
Columbus, Ohio 43215-3793

RECEIVED-DOCKETING DIV
2009 DEC 15 PM 3:16
PUCO

RE: Forest Hill Supermarket, Inc., dba Konnis Family Foods v. The Cleveland Electric Illuminating Company
Our File Number: 9322-17-65758-09

To Whom It May Concern:

Enclosed herein please find the following to be filed with the Public Utilities Commission of Ohio regarding the above-captioned matter:

1. Motion for Leave to File First Amended Complainant Instanter;
2. Complainant's Request for Admissions to Respondent Cleveland Electric Illuminating Company;
3. Complainant's Request for Production of Documents to Respondent Cleveland Electric Illuminating Company;
4. Complainant's First Set of Interrogatories to Respondent Cleveland Electric Illuminating Company;

I have enclosed 11 copies of the Motion for Leave to File First Amended Complaint for your reference. Kindly return the additional copy, time-stamped, in the self-addressed stamped envelope enclosed for your convenience.

Regards.

Very truly yours,

REMINGER CO., L.P.A.

Fred S. Papalardo

Fred S. Papalardo

FSP/db

Enclosure

cc: Paul A. Colbert
Grant W. Garber
David A. Kutik
Mark A. Hayden

This is to certify that the images appearing are an accurate and complete reproduction of a case file document submitted with a Notice of Business.
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REMINGER CO., LPA

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CLEVELAND / COLUMBUS / CINCINNATI / AKRON / SANDUSKY / TOLEDO / YOUNGSTOWN / FLORENCE, KY / LEXINGTON, KY

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

FOREST HILLS SUPERMARKET, INC., dba
Konnis Family Foods

Complainant

-vs-

CLEVELAND ELECTRIC ILLUMINATING CO.

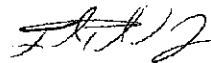
Respondent.

CASE NO. 09-800-EL-CSS

MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT INSTANTER

Now comes Complainant, Forest Hills Supermarket, Inc. dba Konnis Family Foods, ("Forest Hills") by and through counsel, and hereby respectfully moves this Commission for leave to file a First Amended Complaint *Instanter*. The basis for this motion is to amend the Complaint to include all damages suffered by Complainant as a direct and proximate result of Cleveland Electric Illuminating Company shutting off power to Forest Hills. Additional damages came to light during our most recent settlement conference on November 18, 2009. Accordingly, Complainant is amending its Complaint to include all damages to insure it is made whole. This motion is not meant to delay the proceedings and will not prejudice any party to this action. Therefore, Complainant request that it be granted leave of this Commission to file its First Amended Complaint. A proposed order is attached for this Commission's convenience.

Respectfully Submitted,



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E-mail: fpapalardo@reminger.com
Attorney for Forest Hills Supermarket, Inc.
dba Konnis Family Foods

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

FOREST HILLS SUPERMARKET, INC., dba)	
Konnis Family Foods)	
)	
Complainant)	CASE NO. 09-800-EL-CSS
)	
-vs-)	
)	
CLEVELAND ELECTRIC ILLUMINATING CO.)	<u>PROPOSED ORDER</u>
)	
Respondent.)	

It is hereby ordered that Complainant's Motion for Leave to File Amended Complaint *Instante* is hereby GRANTED.

COMMISSION

IN FRONT OF PUBLIC UTILITIES COMMISSION OF OHIO

FOREST HILLS SUPERMARKET, INC., dba)	
Konnis Family Foods)	CASE NO. 09-800-EL-CSS
)	
Complainant,)	
)	
-VS-)	
)	<u>COMPLAINANT'S FIRST AMENDED</u>
CLEVELAND ELECTRIC ILLUMINATING CO.)	<u>COMPLAINT ON SERVICE INSTANTER</u>
)	
Respondent.)	

Now comes Complainant, Forest Hills Supermarket, Inc., dba Konnis Family Foods, ("Forest Hills") by and through undersigned counsel and states the following for its Amended Complaint against Cleveland Electric Illuminating Company:

1. Forest Hills is a corporation licensed to conduct business in the State of Ohio.
2. Forest Hills operates a supermarket business located at 13598 Euclid Avenue, Cleveland Ohio 44112.
3. Cleveland Electric Illuminating Company is a duly licensed public utility company in the State of Ohio as defined by Ohio Revised Code §4905.02 and §4905.03.
4. Forest Hills is filing a Complaint on Service against Cleveland Electric Illuminating Company pursuant to Ohio Revised Code §4905.22 and §4905.26 under the jurisdiction of the Public Utilities Commission of Ohio ("PUCO").
5. On or about September 14, 2008, neighboring properties around Forest Hills lost power due to a storm or other unknown cause.
6. On or about September 14, 2008 Forest Hills power was unaffected by the storm or other unknown cause and Forest Hills continued to operate its business as usual.

7. On or about September 15, 2008 Cleveland Electric Illuminating Company shut off power to Forest Hills without any notice or warning to Forest Hills.

8. Cleveland Electric Illuminating Company did not restore power to Forest Hills until sometime in the evening of September 16, 2008.

9. As a direct and proximate result of Cleveland Electric Illuminating Company shutting power off to Forest Hills, Forest Hills suffered a loss to its inventory of frozen foods, produce, meats and other perishable goods in the amount of \$103,520.96.

10. As a direct and proximate result of Cleveland Electric Illuminating Company shutting power off to Forest Hills, Forest Hills suffered damages for loss of business, unnecessary payment of wages, and costs incurred in an attempt to purchase an emergency generator, the amount of which will be better determined at trial.

11. Forest Hills attempted to resolve this issue with Cleveland Electric Illuminating Company by filing a claim with its claims department on or about October, 2008.

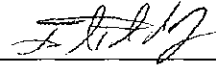
12. Upon information and belief Cleveland Electric Illuminating Company did settle claims with other utility customers resulting from the September 14, 2008 power outage, but refused to settle Forest Hills' claim.

13. Forest Hills seeks relief under the jurisdiction of the Public Utilities Commission of Ohio for its loss pursuant to Ohio Revised Code §4905.22 and §4905.26.

14. Forest Hills seeks treble damages under the jurisdiction of the Public Utilities Commission of Ohio for its loss pursuant to Ohio Revised Code §4905.61.

WHEREFORE, Forest Hills respectfully requests that the Public Utilities Commission of Ohio enter judgment against Cleveland Electric Illuminating Company in the amount of \$103,520.96 plus damages for loss of business, increased wages and attempted purchase of emergency generator which value will be better determined at trial, and treble damages as allowed by law.

Respectfully Submitted,



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*Attorney for Forest Hills Supermarket, Inc., dba Konnis
Family Foods*

CERTIFICATE OF SERVICE

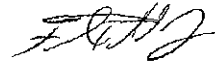
A copy of the foregoing Motion for Leave to File First Amended Complaint *Instante* has been sent by regular U.S. Mail this 14th day of December, 2009 to the following:

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