

PUBLIC UTILITIES COMMISSION OF OHIO

Norma Nero, et al.,

Complainants,

v.

FirstEnergy Corp./The Cleveland Electric
Illuminating Company,

Respondents.

) Case No. 13-149-EL-CSS

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)

) **ANSWER AND AFFIRMATIVE**
) **RESPONSES OF RESPONDENTS,**
) **FIRSTENERGY CORP./THE**
) **CLEVELAND ELECTRIC**
) **ILLUMINATING COMPANY**

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) *Illuminating Company and*
) *FirstEnergy Corp.*

Respondents, The Cleveland Electric Illuminating Company (hereinafter “CEI”) and FirstEnergy Corp.¹ (hereinafter “Respondents”), for their answer to the Complaint of Norma and Richard Nero (“Complainants”) state as follows:

1. The Answering Respondents admit that Complainants notified CEI of their claim and that liability for this claim was denied. The remaining allegations in Paragraph 1 of the Complaint are denied.

2. The Answering Respondents admit that Complainants sustained an outage on October 29, 2012 due to a major storm that impacted the CEI service territory on that date. The Answering Respondents deny the remaining allegations in Paragraph 2 of the Complaint for want of knowledge.

3. The Answering Respondents admit that certain line and support personnel based in Ohio were, at certain times, sent to assist storm restoration efforts in New Jersey. However, the vast majority of utility workers remained in Ohio to respond to outages in CEI’s service territory. Mutual assistance plans were initiated that brought even more linemen into Ohio to assist with storm restoration. In addition, crews from The Toledo Edison Company and Ohio Edison Company operating companies were deployed to the Cleveland area as well as contractors from as far away as Missouri. Despite these efforts, the restoration process was hampered by the fact that strong sustained winds of 40 to 50 miles per hour continued for several days. As a result and for safety reasons, utility personnel could not be lifted into bucket trucks until the winds diminished. While CEI had sufficient personnel to conduct restoration work,

¹ Complainants named FirstEnergy Corp. as a Respondent in this case. FirstEnergy Corp. does not provide electric service and is not a public utility as defined by §4905.03(A)(4), Revised Code. Therefore, the Commission does not have jurisdiction over FirstEnergy Corp. and it is not a proper Respondent in this case. By filing this Answer, FirstEnergy Corp. does not submit itself to the jurisdiction of the Commission. FirstEnergy Corp. will be filing a motion to dismiss on these grounds.

such personnel were restricted in this manner until those sustained wind conditions had subsided to safe levels.

On/off lights were first reported by Complainant on October 29, 2012 at 11:53 p.m. CEI records indicate that varying conditions were reported by the Complainant on subsequent calls about the same outage until service was restored. The repairs were completed and full power was restored to the Complainant on November 2, 2012 at 11:32 p.m. The Answering Respondents deny the remaining allegations in Paragraph 3 of the Complaint for want of knowledge.

4. The Answering Respondents deny the allegations in Paragraph 4 of the Complaint. Due to the significant number of CEI workers remaining in Ohio; the mutual assistance plans that were employed and transfer of linemen from other operating companies, a sufficient number of utility workers remained in Northeast Ohio to provide adequate service to CEI's customers.

5. The Answering Respondents deny the allegations on page 2, Paragraphs 1 through 2 of the Complaint. CEI took reasonable precautions to restore adequate service to Complainant.

6. The Answering Respondents deny that they have responsibility to reimburse Complainant for the costs of repairs listed in page 2 of the attachment to the Complaint.

7. The Answering Respondents deny generally any allegations not specifically admitted or denied herein pursuant to Rule 4901-9-01(D) of the Ohio Administrative Code.

FIRST DEFENSE

8. The Complaint fails to state reasonable grounds for the cause of action.

SECOND DEFENSE

9. Respondents at all times acted in accordance with its tariffs on file with the Public Utilities Commission of Ohio as well as all rules and regulations as promulgated by the Public Utilities Commission of Ohio, the laws existing in the state of Ohio, and accepted standards and practices in the electric utility industry.

THIRD DEFENSE

10. Complaint fails to set forth reasonable grounds as Complainant has not alleged that CEI or FirstEnergy has violated any statute, rules or tariff provisions.

FOURTH DEFENSE

11. Complainant failed to mitigate its damages.

FIFTH DEFENSE

12. The claims are not within the subject matter jurisdiction of the Public Utilities Commission of Ohio.

SIXTH DEFENSE

13. The Public Utilities Commission of Ohio does not have jurisdiction over FirstEnergy Corp.

SEVENTH DEFENSE

14. Respondents reserve the right to raise additional defenses as warranted by discovery and further investigation conducted in this matter.

WHEREFORE, Respondents, respectfully requests an Order dismissing the Complaint and granting them all of the necessary and proper relief to which it is entitled.

Respectfully submitted,

/s/ Denise M. Hasbrook

Denise M. Hasbrook (0004798)

Emily Ciecka Wilcheck (0077895)

Carrie M. Dunn (0076952)

*Counsel for The Cleveland Electric
Illuminating Company and
FirstEnergy Corp.*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer and Affirmative Responses of Respondents, The Cleveland Electric Illuminating Company and FirstEnergy Corp. was sent by ordinary U.S. Mail, this 29th day of January, 2013, to the following:

Norma and Richard Nero
1084 San Marco Road
Marco Island, FL 34145

Respectfully submitted,

/s/ Denise M. Hasbrook

Denise M. Hasbrook (0004798)
Emily Ciecka Wilcheck (0077895)
Carrie M. Dunn (0076952)
*Counsel for The Cleveland Electric
Illuminating Company and
FirstEnergy Corp.*

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Case No(s). 13-0149-EL-CSS

Summary: Answer and Affirmative Responses of Respondents electronically filed by Mrs. Denise M. Hasbrook on behalf of The Cleveland Electric Illuminating Company