

PUBLIC UTILITIES COMMISSION OF OHIO

Lynne Gwynn,) Case No. 13-666-EL-CSS
)
Complainant,)
)
v.) **ANSWER AND AFFIRMATIVE**
) **RESPONSES OF RESPONDENT,**
The Cleveland Electric Illuminating Company,) **THE CLEVELAND ELECTRIC**
) **ILLUMINATING COMPANY**
)
)
)
) Denise M. Hasbrook (0004798)
) Emily Ciecka Wilcheck (0077895)
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) and
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) Carrie M. Dunn (0076952)
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) FirstEnergy Service Company
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)
) *Counsel for The Cleveland Electric*
) *Illuminating Company*

Respondent, The Cleveland Electric Illuminating Company (“Respondent”), for its answer to the Complaint of Lynne Gwynn states as follows:

1. Respondent admits that it notified Complainant that trees located on the property at 4494 Silverdale Rd., North Omsted, OH 44070 needed to be cut.

2. Respondent admits that Eco Tree Service came to Complainant's address to remove such trees.

3. Respondent denies for want of knowledge Complainant's allegations regarding the date of such removal activities.

4. Respondent denies for want of knowledge Complainant's allegations that the ground was wet and it was raining at the time that Eco Tree Service came to the property to remove trees.

5. Respondent denies for want of knowledge Complainant's allegation that she and her husband were at work at the time that Eco Tree Service came to remove trees at the subject property.

6. Respondent denies for want of knowledge Complainant's allegations regarding the cracked and sunk condition of the driveway.

7. Respondent denies any liability for the alleged damage to Complainant's driveway.

8. Respondent denies generally any allegation not specifically admitted or denied herein pursuant to Rule 4901-9-01(D) Ohio Administrative Code.

FIRST DEFENSE

9. The Complaint fails to state reasonable grounds for the Complaint.

SECOND DEFENSE

10. Complainant is not the real party in interest.

THIRD DEFENSE

11. Plaintiff's damages, if any, were proximately caused by the negligent acts of other third parties who are beyond the jurisdiction of this forum and who are not parties to this litigation.

FOURTH DEFENSE

12. Respondent 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.

FIFTH DEFENSE

13. The Complaint fails to set forth reasonable grounds for a complaint, as Complainant has not alleged that Respondent has violated any statute, rule, or tariff provision.

SIXTH DEFENSE

14. Complainant failed to mitigate her damages.

SEVENTH DEFENSE

15. This matter is not within the subject matter jurisdiction of the Public Utilities Commission of Ohio.

EIGHTH DEFENSE

16. Respondent reserves the right to raise additional defenses as warranted by discovery in this matter.

WHEREFORE, Respondent, The Cleveland Electric Illuminating Company, respectfully requests an Order dismissing the Complaint and granting it all of the necessary and proper relief.

Respectfully submitted,

/s/Denise M. Hasbrook

Denise M. Hasbrook (0004798)

Emily Ciecka Wilcheck (0077895)

Carrie M. Dunn (0076952)

*Counsel for The Cleveland Illuminating
Company*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent by ordinary U.S. Mail and electronically, this 3rd day of April, 2013, to the following:

Lynne Gwynn
4494 Silverdale Rd.
North Olmsted, OH 44070

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*

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Case No(s). 13-0666-EL-CSS

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