

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Brian Menhorn and Amy Edwards)	
Menhorn)	
)	
Complainants,)	Case No. 18-1196-EL-CSS
)	
v.)	
)	
OHIO EDISON COMPANY)	
)	
Respondent.)	

MOTION TO DISMISS

Respondent, Ohio Edison Company (“Ohio Edison”) hereby moves to dismiss the Complaint brought forth by Brian Menhorn and Amy Edwards Menhorn (“Complainants”). As set forth fully in the attached Memorandum in Support, the Complaint should be dismissed for failure to state a claim upon which relief can be granted.

Respectfully submitted,

/s/ Scott J. Casto
Scott J. Casto (0085756)
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
(330) 761-7835
scasto@firstenergycorp.com

Attorney for Ohio Edison Company

MEMORANDUM IN SUPPORT

Complainants filed a complaint against Ohio Edison on July 26, 2018, alleging that excess voltage caused damage to numerous items in Complainants' home. Ohio Edison filed an Answer on August 14, 2018. A settlement conference was held on September 25, 2018.

The Commission may only exercise the jurisdiction conferred upon it by statute. *Lucas County Commissioners v. Pub. Util. Commission of Ohio* (1997), 80 Ohio St.3d 344, 347. The Commission is not a court and has no power to ascertain and determine legal rights and liabilities. *DiFranco v. FirstEnergy Corp.* (2012), 134 Ohio St.3d 144, 148. The Commission has dismissed complaints similar to the Complaint at issue. (*See In the Matter of the Complaint of Danny Lyons v. Columbus Southern Power*, 1988 Ohio PUC Lexis 533). In *Lyons*, the Complaint alleged that power surges caused damages to the complainant's home. Likewise, Complainants in the instant case allege that excess voltage, or a surge, caused damages to items in their home. The Commission dismissed the Complaint in *Lyons*, due in part because the Commission does "not have jurisdiction to award monetary damages for the loss of appliances or damages to the home." *Id.* At ¶4. The Complaint was dismissed for failure to state a claim upon which relief can be granted. *Id.* at ¶5.

While Complainants have every right to have the Complaint heard by a court of competent jurisdiction, jurisdiction does not rest with the Commission. As a result, the Complaint should be dismissed.

WHEREFORE, Respondent respectfully requests that its motion be granted.

Respectfully submitted,

/s/ Scott J. Casto

Scott J. Casto (0085756)

FIRSTENERGY SERVICE COMPANY

76 South Main Street

Akron, OH 44308

(330) 761-7835

scasto@firstenergycorp.com

Attorney for Ohio Edison Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was served by U.S. mail to the following on this 24th day of October 2018.

Brian Menhorn & Amy Edwards Menhorn
514 Kehner Rd.
Mogadore, OH 44260

/s/ Scott J. Casto
Attorney for Ohio Edison Company

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/24/2018 11:09:29 AM

in

Case No(s). 18-1196-EL-CSS

Summary: Motion to Dismiss electronically filed by Mr. Scott J Casto on behalf of The Ohio Edison Company