

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

JOHN STEWART

Complainant,

v.

THE CLEVELAND ELECTRIC  
ILLUMINATING COMPANY

Respondent.

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Case No. 18-1531-EL-CSS

**MOTION TO STRIKE**

Respondent, the Cleveland Electric Illuminating Company (“CEI”), hereby moves to strike certain portions of the Complaint brought forth by John Stewart (the “Complainant”). As set forth fully in the attached Memorandum in Support, the Commission does not have the authority to grant the relief sought by Mr. Stewart.

Respectfully submitted,

/s/ Emily V. Danford  
Emily V. Danford (0090747)  
Counsel of Record  
FIRSTENERGY SERVICE COMPANY  
76 South Main Street  
Akron, OH 44308  
(330) 384-5849  
[edanford@firstenergycorp.com](mailto:edanford@firstenergycorp.com)

*Attorney for The Cleveland Electric  
Illuminating Company*

## MEMORANDUM IN SUPPORT

Complainant filed a Complaint against CEI on October 9, 2018, alleging that he lost over \$400 worth of food during a power outage at his home, and further alleging inadequate service by CEI. Complainant appears to seek \$400 of monetary damages for the food he allegedly lost during the power outage. CEI filed its Answer on October 29, 2018.

The Complainant's claim for monetary damages must be stricken. The Commission may only exercise the jurisdiction conferred upon it by statute. *Lucas County Commissioners v. Pub. Util. Commission of Ohio*, 80 Ohio St.3d 344, 347 (1997). The Commission is not a court and has no power to ascertain and determine legal rights and liabilities. *DiFranco v. FirstEnergy Corp.*, 134 Ohio St.3d 144, 148 (2012). As this Commission has found, to the extent a "complainant alleges that the quality of service was inadequate and that he has been harmed as a result of the alleged inadequate service, the request is equivalent to a request for damages, and thus, is beyond the jurisdiction of the Commission." *In the Matter of the Complaint of Delmer W. Smith v. Dayton Power & Light Co.*, PUCO Case No. 03-2544-EL-CSS, \*2 ¶3 (Jan. 24, 2004). Indeed, "[i]t is well-established and clear from precedent that the Commission does not have the authority to award monetary damages." *In the Matter of the Complaint of Linda Kirby v. Ohio Edison Company*, PUCO Case No. 18-691-EL-CSS, \*3 ¶10 (Nov. 13, 2018). In cases such as this, a motion to strike a complainant's claim for money damages "must be granted." *Id.*

While the Complainant has every right to have his Complaint heard by the Commission, there is no corresponding right or authority for recovery of monetary damages. As a result, the portions of the Complaint that seek money damages should be stricken.

WHEREFORE, Respondent respectfully requests that its motion be granted.

Respectfully submitted,

/s/ Emily V. Danford  
Emily V. Danford (0090747)  
Counsel of Record  
FIRSTENERGY SERVICE COMPANY  
76 South Main Street  
Akron, OH 44308  
(330) 384-5849  
[edanford@firstenergycorp.com](mailto:edanford@firstenergycorp.com)

*Attorney for The Cleveland Electric  
Illuminating Company*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion to Strike was served by U.S. mail to the following person on this 7<sup>th</sup> day of December, 2018.

John Stewart  
35680 Ridge Rd.  
Willoughby, OH 44094

/s/ Emily V. Danford  
*Attorney for The Cleveland Electric  
Illuminating Company*

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**12/7/2018 11:24:23 AM**

**in**

**Case No(s). 18-1531-EL-CSS**

Summary: Motion to Strike electronically filed by Ms. Emily V Danford on behalf of The Cleveland Electric Illuminating Company