

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

ROGER LESH

Complainant,

v.

THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY

Respondent.

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Case No. 18-1519-EL-CSS

MOTION TO DISMISS

Respondent, the Cleveland Electric Illuminating Company (“CEI”), hereby moves to dismiss the Complaint brought forth by Roger Lesh (the “Complainant”). 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/ Emily V. Danford

Emily V. Danford (0090747)

Counsel of Record

FIRSTENERGY SERVICE COMPANY

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*Attorney for The Cleveland Electric
Illuminating Company*

MEMORANDUM IN SUPPORT

Complainant filed a Complaint against CEI on October 5, 2018, alleging that the transformer servicing his residence caught fire and caused a power outage. He further alleges that this power outage caused damage to numerous electronic items in his home. CEI filed its Answer on October 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). 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 the instant case, Complainant alleges that the failure of the transformer that services his residence resulted in a power outage that caused damages to appliances and electronics in his home. All he seeks in the Complaint is money damages for the allegedly damaged appliances and electronics. While the Complainant has every right to have his 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 it motion be granted.

Respectfully submitted,

/s/ Emily V. Danford
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss was served by U.S. mail to the following person on this 16th day of January, 2019.

Roger Lesh
7712 Hillside Rd.
Independence, OH 44131

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

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