

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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Roger Lesh,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case No. 18-1519-EL-CSS
	:	
The Cleveland Electric	:	
Illuminating Company,	:	
	:	
Respondent.	:	

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PROCEEDINGS

before Mr. Michael L. Williams, Attorney Examiner, at  
the Public Utilities Commission of Ohio, via  
Telephone, called at 2:02 p.m. on Monday, July 12,  
2021.

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1 APPEARANCES:

2 Mr. Roger Lesh

3 On his own behalf.

4 FirstEnergy Service Company  
5 By Ms. Emily V. Danford  
6 and Ms. Kristen M. Fling  
7 76 South Main Street  
8 Akron, Ohio 44308

9 On behalf of the Respondent.

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Monday Afternoon Session,  
July 12, 2021.

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EXAMINER WILLIAMS: Let's go on the  
record, please.

The Public Utilities Commission of Ohio  
has assigned for hearing at this time and place Case  
No. 18-1519-EL-CSS in the Matter of Roger Lesh versus  
The Cleveland Electric Illuminating Company.

My name is Michael Williams and I am the  
Attorney Examiner assigned by the Commission to hear  
this case and we'll begin today with appearances of  
the parties.

Mr. Lesh, if you could just identify your  
full name and your address, sir.

MR. LESH: Roger J. Lesh, address is 7712  
Hillside Road, Independence, Ohio, 44131.

EXAMINER WILLIAMS: Thank you, Mr. Lesh.  
On behalf of the Company.

MS. DANFORD: Thank you, your Honor.  
Emily Danford and Kristen Fling, FirstEnergy Service  
Company, 76 South Main Street, Akron, Ohio 44308 on  
behalf of The Cleveland Electric Illuminating  
Company.

EXAMINER WILLIAMS: Thank you both. So

1 the only parties to today's hearing. As we begin  
2 today's hearing, I will note that this is being  
3 conducted via telephone in order to accommodate some  
4 medical issues of the parties that are documented in  
5 the record.

6 In light of the virtual nature of today's  
7 hearing, I will add some preliminary remarks for the  
8 record. First, if counsel or witnesses or any of the  
9 parties experience technical difficulties during the  
10 hearing, I'm asking that they please immediately  
11 contact me by phone at (614) 581-4334 or by e-mail.  
12 Obviously, Mr. Lesh, I think my phone would probably  
13 be where you would gravitate, but I will offer the  
14 e-mail as well.

15 In most respects this virtual hearing  
16 will proceed in the same fashion as an in-person  
17 hearing before the Commission. I will ask everyone  
18 to please be mindful of the court reporter. Please  
19 speak clearly, at a reasonable pace so that she can  
20 accurately transcribe the record. Please do your  
21 best to avoid speaking over each other by taking  
22 corrective actions like intentionally pausing at the  
23 end of questions if you think there is going to be  
24 some objections or connectivity lags. We've been on  
25 several calls together. I do not expect that to be

1 an issue.

2 During testimony I will ask the witnesses  
 3 have access only to the documents that they would  
 4 have if they were physically sitting in the witness  
 5 stand such as exhibits previously identified and  
 6 exchanged by counsel. There should be no attempts to  
 7 communicate through any means with anyone privately  
 8 during their testimony. The exhibits that are  
 9 ultimately admitted into the record, we'll address  
 10 this at the close of the hearing, if they are on the  
 11 docket, I will probably work with the parties and the  
 12 court reporter to simply bring them forward and make  
 13 them a part of the record, but we can address that,  
 14 versus potentially having to e-mail directly to the  
 15 court reporter at the close of the hearing.

16 Any questions regarding the comments?

17 MR. LESH: No.

18 EXAMINER WILLIAMS: All right, Mr. Lesh.

19 MS. DANFORD: No. I'm sorry. Not from  
 20 the Illuminating Company, your Honor.

21 EXAMINER WILLIAMS: Hey, you know, we  
 22 made it this far. These telephones are difficult  
 23 obviously without the visuals, so we are doing great.

24 So with the preliminary matters out of  
 25 the way, as we discussed off the record, I will turn

1 to you, Mr. Lesh, and I'll let you make your case.  
 2 Now, as I open that up, I do have documents that you  
 3 have filed together with your complaint. And if you  
 4 will bear with me, I have got a couple of screens  
 5 going here, and they are not my usual configuration,  
 6 so I might be a skosh slower than I otherwise would  
 7 be. But I have the documents you filed, Mr. Lesh,  
 8 five pages total, October 5 of 2018. And we'll  
 9 certainly work through those together to make sure we  
 10 have an understanding what they are and whether it's  
 11 your intention to have those moved to be considered  
 12 in the exhibits in the course of your case.

13 Before we begin, I assume you are going  
 14 to proceed largely by way of testimony; so, Mr. Lesh,  
 15 I'm going to ask you to raise your right hand and let  
 16 me know when you have done that. We are going to  
 17 swear you in, okay, sir?

18 MR. LESH: Okay. It's up.

19 (Witness sworn.)

20 EXAMINER WILLIAMS: Okay. Okay. Please  
 21 proceed, sir.

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ROGER LESH

being first duly sworn, as prescribed by law, was  
examined and testified as follows:

DIRECT EXAMINATION

THE WITNESS: Well, as everything that  
I've presented and answered all those questions that  
were sent to me by FirstEnergy, do I have to start at  
the beginning of what transpired? Is that the point  
here, like what I wrote in 2017?

EXAMINER WILLIAMS: Sure. It's a  
balance, sir, where on the one hand it's your case,  
and I want to make sure you have every opportunity to  
tell us everything that's pertinent to your case. On  
the other hand, obviously you don't have any  
experience and training of a lawyer, and so we are  
certainly going to work with you to make sure that  
you have every bit of a fair hearing and every  
opportunity to have assistance to make sure you get  
the information that this Commission needs before the  
Commission.

So I do have, as I indicated, your  
original complaint from October 5 of 2018. And I  
don't know if you have that in front of you or you  
can access that, sir?

THE WITNESS: Let's see which one that



1 was.

2 EXAMINER WILLIAMS: It's got a  
3 handwritten "Formal Complaint."

4 THE WITNESS: Where it says "In 2017"?

5 EXAMINER WILLIAMS: Yes, sir.

6 THE WITNESS: Yeah. Okay. That's one  
7 and then there was another one. Well, in 2017, I had  
8 a telephone conversation with CEI. I requested that  
9 the transformer supplying electricity power to our  
10 property be replaced. I was advised that it would be  
11 replaced within seven to nine months but a  
12 technician --

13 MS. DANFORD: Objection.

14 EXAMINER WILLIAMS: Basis?

15 MS. DANFORD: Hearsay.

16 EXAMINER WILLIAMS: I'm going to overrule  
17 your objection. He is going to be allowed to testify  
18 regarding who he communicated with and what his  
19 understanding of the call was.

20 Please proceed, Mr. Lesh.

21 THE WITNESS: Okay. Techs visited twice  
22 to view the transformer, but it was never replaced.  
23 On August 22, 2018, the faulty transfer --  
24 transformer, the pole that it was setting on burned  
25 and collapsed in the burned out area and caused the

1 power failure of August 22, 2018.

2 Several items in our household due to the  
3 power surge, or failure I have on that one, caused  
4 some damage. Okay?

5 And, let's see, and then on another  
6 statement of fact that I had written, I guess, for  
7 about one-and-one-half years I reported to the  
8 Illuminating Company that the transformer supplying  
9 electricity to our property was in poor and it looked  
10 failing condition and needed replacement.

11 Well, the inspectors were sent to check  
12 out the transformer. I was told no repairs or  
13 replacement were made. We did all we could do to  
14 help report the problem and thereby also protect --  
15 protect our property. There was no negligence on our  
16 part. Our warnings and requests for help were not  
17 heard, and the transformer failed as we warned.

18 And for the Illuminating Company's  
19 failure to perform preventive maintenance, my wife  
20 and I suffered financial property damages and  
21 financial loss, and we had to endure considerable  
22 frustration and attempted to be fairly compensated  
23 for our losses. The damages to our property were  
24 instantaneously and were directly attributed to the  
25 failure in question.

On August 22, 2018, failure was not the result of an act of nature. There was adverse weather associated with the -- with the day of failure and then there is an Attachment A I guess we put on it. It was a direct result of failure to perform required preventive maintenance is what was repeatedly reported to be necessary.

Request of the Commission: We are requesting financial compensation for the following items that were damaged as a result of the August 22, 2018, power failure, a result that was neither an act of nature nor an unforeseen equipment failure per the mail response given by the Illuminating Company to Marilyn Cottrill Compliance/CS Specialist dated 9-24-2018.

There was an Attachment A, I believe, that was -- let me look at that. That was the weather of that day. It wasn't a considerable storm or anything of that nature. There was some rain but nothing that should have happened to this extent where that pole caught on fire and was smoking periodically but.

And then when I saw the fire coming after the pole -- the top of the pole fell off over the wires and caused the power surge in our house, big

1 long thing, I called the fire department to come and  
2 put out that fire on the pole and --

3 MS. DANFORD: Objection.

4 EXAMINER WILLIAMS: Okay.

5 MS. DANFORD: This is beyond the scope of  
6 the complaint.

7 EXAMINER WILLIAMS: Gives context to the  
8 circumstances surrounding the time leading into and  
9 the time of the alleged event so I am going to allow  
10 the testimony to continue.

11 Please continue, Mr. Lesh.

12 THE WITNESS: Okay. So after repeated  
13 calls and so -- well, they told me, CEI told me to  
14 contact my insurance company which I did. And then I  
15 had -- they told me that I have a deductible, okay,  
16 so that the deductible --

17 MS. DANFORD: Objection.

18 THE WITNESS: -- was more than --

19 EXAMINER WILLIAMS: I am going to  
20 overrule the objection. Please continue, Mr. Lesh.

21 THE WITNESS: And that the amount of the  
22 damage didn't come up to my deductible all the way.  
23 So then I called back CEI and in so many words, well,  
24 that's -- that's your problem in so many words, not  
25 their problem because they are not --

1 MS. DANFORD: Objection.

2 EXAMINER WILLIAMS: Okay. I am going to  
3 note the continuing objection to the deductible issue  
4 and the potential insurance. I am going to allow  
5 Mr. Lesh to continue a little bit longer. He is  
6 offering -- this is providing context as to the  
7 circumstances before and even during.

8 MS. DANFORD: Thank you, your Honor. May  
9 I preserve my -- the reason for my most recent  
10 objection for the record?

11 EXAMINER WILLIAMS: Of course. Please.

12 MS. DANFORD: I would just object that  
13 that's a mischaracterization of the records in this  
14 case.

15 EXAMINER WILLIAMS: Okay. So noted.

16 Mr. Lesh.

17 THE WITNESS: Yeah. Okay. So should  
18 I --

19 EXAMINER WILLIAMS: Yeah. It's fine.  
20 Certainly nothing in terms of objections. That's the  
21 nature of our formal hearing and the Company is well  
22 within its rights and they are certainly not doing so  
23 in a fashion that's intended to aggravate or to  
24 disturb your -- the preservation of the record, so  
25 everybody is doing what they need to be doing.

1     Everybody is playing fair here.

2                     But I will turn to you now.   So you had  
3     described after the event one or more phone calls  
4     with the Company and then calls with your insurance  
5     company and ultimately it sounded as though your  
6     level of deductible was above the level of poten --  
7     of lost or damaged property which is part of the  
8     context of why we are here; is that correct, sir?

9                     THE WITNESS:   That's correct.   But one  
10    thing that I did send, I got to start -- should have  
11    a picture of it, is that pole that holds the  
12    transformer was on and if you look at that pole, you  
13    could also see the transformer, the old one.   CEI, I  
14    believe, got a copy -- a picture of this too and you  
15    could see the rust that was all around it and then  
16    you could see how it was even running down that pole  
17    but this is --

18                    EXAMINER WILLIAMS:   I am going to cut you  
19    off just simply to make sure we are all -- if we were  
20    in person, this would be a simple process.   Page 5 of  
21    the October 5, 2018, file that we have referenced has  
22    a picture that somebody has written as Attachment C.  
23    It appears to be a picture of a pole and a  
24    transformer on it.   I assume that's the picture you  
25    are referencing?

1 THE WITNESS: That's it where it burnt  
2 off and then fell on the lines.

3 EXAMINER WILLIAMS: Okay. I just wanted  
4 to make sure we are all looking at the same picture.

5 THE WITNESS: Right. And as you can see,  
6 it didn't look in good shape and that's why I was  
7 calling from the very beginning to have this issue  
8 addressed before something did happen with this, and  
9 I was basically concerned about leakage, you know,  
10 because they say that stuff is no good to breathe or  
11 something.

12 But -- and that's -- that's some of the  
13 things that were damaged with the power surge along  
14 with my stovetop that I couldn't replace with the  
15 actual one that I had on there. I had to get a  
16 smaller one and not as good, but I replaced it  
17 anyway. I had to replace it.

18 And that's basically, you know, all that  
19 I have to say.

20 - - -

21 EXAMINATION

22 By Examiner Williams:

23 Q. Okay, sir. A couple of things to clarify  
24 for my understanding and then I will turn to the  
25 Company and they are entitled to ask questions of

1 you. It's called cross-examination and we will let  
2 them preserve their right to cross-examination and  
3 you will have the chance and, as we discussed before,  
4 the parties have been together on multiple calls. I  
5 expect this hearing to continue to proceed amicably  
6 as it is to this point. And after the  
7 cross-examination or to the extent you need to, you  
8 can offer further explanation on what would  
9 essentially be your direct testimony.

10 So a couple of questions I had, you  
11 described that you had made an advanced call before  
12 the event of August 21, August 22, 2018, about the  
13 transformer. What was -- what was the nature of the  
14 call? What was the problem in your eyes with the  
15 transformer?

16 A. Well, there was a couple of issues there.  
17 It's like I say, when you look at that pole as to  
18 when it actually happened, it was looking that way  
19 for a long time, and I became concerned about that  
20 transformer leaking the material that's in it because  
21 I saw where that's no good for you. And the age of  
22 that transformer was old, so I started calling on  
23 June 28 of 2017 to request an update of that  
24 transformer, you know, to -- because I saw they were  
25 replacing them periodically throughout the city, the



1 smaller ones like I had.

2 And it was a concern all the trees that  
3 were around it growing around it were going to fall  
4 on it, on the lines. And here instead of the trees  
5 falling on it at that time it happened to just be  
6 this burnt catching on fire and burning. And as a  
7 matter of fact, the top that they cut off, I know  
8 this is out of order, maybe it's still laying on the  
9 ground there. They never even took it away but --

10 MS. DANFORD: Objection.

11 A. Yeah. Okay.

12 Q. We'll let the testimony stand, Mr. Lesh.  
13 That's okay. So you were calling because of  
14 discoloration around the transformer that you  
15 perceived as leakage; is that correct?

16 A. Correct. And down the pole, you could  
17 actually see the discoloration down the pole. And  
18 then the trees too they trimmed so they didn't fall  
19 and not fall on the -- on the wires again, you know,  
20 or the first time but. And they were out several  
21 times before this all constantly replacing that --  
22 there is a fuse up there. And, man, that thing would  
23 bang sometimes and had just let go and then --

24 MS. DANFORD: Objection.

25 A. Okay.

1 EXAMINER WILLIAMS: Basis for the  
2 objection?

3 MS. DANFORD: Your Honor, may --  
4 certainly, your Honor. This testimony about the  
5 fuse, about trees, about the portion of a pole being  
6 left in place, this all goes far beyond the scope of  
7 the complaint, and I have real concerns about my  
8 ability to defend something when I'm hearing about it  
9 for the first time at hearing.

10 EXAMINER WILLIAMS: Okay. Mr. Lesh did  
11 make clear he had prior calls with the Company about  
12 the transformer so that should not come as a surprise  
13 to the Company, and I am going to let him clarify his  
14 understanding or his testimony regarding the nature  
15 of the calls and what he felt was wrong with the  
16 transformer in his layperson opinion, so we'll  
17 overrule the objection.

18 Q. (By Examiner Williams) Mr. Lesh, we were  
19 talking about the discoloration, and then you had  
20 then transitioned toward something about fuses in the  
21 transformer or the pole? Tell me what I need to know  
22 about your -- the fuses or when did that issue  
23 happen. These other fuses, what can I know about  
24 that, sir?

25 A. Well, that went on for, oh, close to a

1 year on and off on this big fuse. We would hear a  
2 loud bang, not as loud as the one we heard with that  
3 but -- and then they would come out. And being the  
4 only one with the school on the back on the line, we  
5 would -- eventually they would come out and put a  
6 new -- I asked them what that was. They said, "Well,  
7 it's like a circuit, like a fuse." And it was about  
8 a foot long, and it would blow. It would blow up,  
9 you know. And, boom, all your electricity would go  
10 out. And they would put another one in there, and  
11 then it would come back on.

12 Q. So if I could, how many times did they  
13 have to come out and attend to the transformer or  
14 fuse during the year between -- I think you described  
15 your first call was June 28, 2017; is that your first  
16 call ever about this transformer?

17 A. Well, that was the -- when I made that  
18 call, that was after, oh, I bet at least a half a  
19 dozen of these fuses blowing, okay? And the bangs  
20 and then the --

21 MS. DANFORD: Objection.

22 A. Okay. Well, then --

23 Q. Mr. Lesh --

24 MS. DANFORD: Your Honor, the word fuse  
25 doesn't even appear in the complaint.

1 EXAMINER WILLIAMS: We are not going to  
2 do that. I am going to maintain control of the  
3 hearing even though we are by phone.

4 So, Mr. Lesh, to the extent the Company  
5 has raised an objection, we are going to let them  
6 explain the basis for their objection, and we will  
7 decide whether the objection is upheld or not. And  
8 then we will get back on track in terms of what  
9 testimony does come into the record.

10 So basis for the objection?

11 MS. DANFORD: The word fuse does not even  
12 appear in Mr. Lesh's complaint. This is all new to  
13 the Company. Mr. Lesh has had abundant opportunities  
14 in prehearing conferences to file prehearing  
15 testimony to exchange exhibits, to amend his  
16 complaint. His complaint has been pending since  
17 2018, and he has had plenty of time to raise these  
18 concerns, but he is doing so for the first time at  
19 hearing.

20 EXAMINER WILLIAMS: Okay.

21 MS. DANFORD: This is prejudicial to the  
22 Company.

23 THE WITNESS: Can I object to something?

24 EXAMINER WILLIAMS: No. Mr. Lesh, you  
25 were the one who's offered, so you can't object. I

1 would let you -- I would let you explain a counter to  
2 the objection if I needed that to make a ruling here,  
3 but I don't.

4 So in this circumstance the Company's  
5 objected arguing that new evidence is coming in here  
6 that would be a surprise to the Company based on  
7 what's in the record to this point in time. And to  
8 the extent your testimony is laying some additional  
9 detail as to calls that were allegedly made to the  
10 Company regarding the transformer that you thought  
11 was faulty, I am going to overrule the objection and  
12 allow you to provide context as to what calls you  
13 made to the Company and what complaints you made in  
14 coordination with those calls. So the Company's  
15 objection is overruled, sir.

16 Q. (By Examiner Williams) But I do want to  
17 make sure I have an understanding here as to do you  
18 have any records, any log as to calls you made to the  
19 Company about the transformer?

20 A. Not with the fuses that were burnt out.  
21 But according to CEI's attorney, they got all the  
22 records of what transpired. I guess they just  
23 started to get them for 2017. But they never got any  
24 records regarding prior things happening with that  
25 transformer. And neither did I. I didn't know I

1 should have asked for that record from somebody.

2 Q. Okay. So my question was do you have any  
3 records -- you don't have a log or any other records  
4 as to the call -- the dates on the calls you made to  
5 the company.

6 A. No. No, I don't.

7 Q. Okay. So at some point in the  
8 information you provided, you had indicated that I  
9 believe the first call was made June 28 of 2017.  
10 What prompted that call?

11 A. Well, what prompted that call was the  
12 look of that transformer, No. 1, you know, with the  
13 rust coming down and then discoloring the pole also  
14 and was also mentioned about the -- I told them about  
15 the time -- about the trees at that time, but I don't  
16 see that indicated in here. And I was concerned  
17 about that pole.

18 Q. Okay.

19 A. About the transformer and the pole, just  
20 by the looks of it. Even when I looked at other ones  
21 in the area, they weren't like that at all with that  
22 discoloration around it.

23 Q. Do you have -- can you provide some  
24 context for me as to -- and the June 28, 2017, date  
25 actually comes from testimony that the Company has

1 offered that is not yet part of the record but  
2 that's -- that's the only date I have in 2017. Your  
3 complaint says generally in 2017 so --

4 A. Yeah.

5 Q. -- is the June 28, 2017, date accurate as  
6 far as you know, if you know?

7 A. Yeah. I would say that's when it  
8 started.

9 Q. Now, prior to June 28 of 2017, do you  
10 recall the last time or any other time you called the  
11 Company?

12 A. I don't have a record of any of it but  
13 there was several times. That's all I can say  
14 because I -- if it went out early in the morning, I  
15 was always concerned with the school in the back  
16 being able to open up, so I would, you know, notify  
17 the Company that, hey, it's not working again, or  
18 sometimes it just happened to me because I was on  
19 that one line with that transformer.

20 Q. Are you able to tell me -- again, I know  
21 you aren't in the law. Can you approximate or give  
22 me an estimated time as to --

23 A. Okay. I would say the year --

24 Q. Mr. Lesh, let me ask my question, okay?  
25 Did you call them at all earlier in 2017 besides the

1 June 28 date?

2 A. Oh, yeah.

3 Q. You called them in 2017 between January 1  
4 and June 28?

5 A. Yes.

6 Q. Can you tell me approximately how many  
7 times?

8 A. During that period of time, at least  
9 three times a minimum because that's a short period  
10 of time, probably three times.

11 Q. Okay. You indicated at least and  
12 probably. Those are not the same thing, sir.

13 A. You're right. You're right. You know,  
14 one, two, I would say three times.

15 Q. So you're saying you called them three  
16 times between January 1 and June 28 of 2017 to  
17 complain about the transformer?

18 A. Yeah, the transformer. That was fuses or  
19 whatever they are.

20 Q. Now, whenever you had this, you described  
21 this fuse issue, that was actually a power outage  
22 that required the Company to come out there and  
23 service that line?

24 A. Yeah. They would have to put a new one  
25 in.



1 Q. Okay. That was not something that ever  
2 came back on its own. You always saw a technician  
3 arrive and make a repair, correct?

4 A. Oh, yeah, they had to, yeah.

5 EXAMINER WILLIAMS: Okay. All right.  
6 Those are the only questions I have now.

7 So with that I will turn to Company, and  
8 I will let the Company ask you some questions,  
9 Mr. Lesh.

10 THE WITNESS: Okay.

11 MS. DANFORD: Thank you.

12 - - -

13 CROSS-EXAMINATION

14 By Ms. Danford:

15 Q. Mr. Lesh, you mentioned that you live in  
16 front of a school. Do you work for that school?

17 A. No. I'm 83 years old. I've been retired  
18 25 years.

19 Q. Oh, good for you. What was your  
20 occupation back when you were working?

21 A. I was an operating engineer with -- and I  
22 helped open up the Justice Center in downtown  
23 Cleveland, operating equipment, power plants, and  
24 things of that nature.

25 Q. What's your highest level of education,

1 Mr. Lesh?

2 A. Three-and-a-half years of college.

3 Q. Okay.

4 A. You want to know why I quit?

5 Q. Sure.

6 A. Three children, I had three children.

7 EXAMINER WILLIAMS: Again, I appreciate  
8 this is done on a collegial fashion, but it's  
9 probably making Karen, our court reporter, a little  
10 crazy, so if we can make space between questions and  
11 answers.

12 So on the record I understand that  
13 Mr. Lesh has had three-and-a-half years of college,  
14 and I believe that the arrival of some children is  
15 what caused his colleague career to end at that  
16 point.

17 If that needs clarification, please do.  
18 Otherwise, please proceed with your questions.

19 MS. DANFORD: Thank you.

20 Q. (By Ms. Danford) Mr. Lesh, are you an  
21 electrician?

22 A. No. However, I had many work for me.

23 Q. Okay. But you yourself are not an  
24 electrician.

25 A. No, I'm not. No.

1 Q. Okay. Were you ever employed as a  
2 professional engineer for an electric utility?

3 A. No.

4 MS. DANFORD: Okay. Your Honor, no  
5 further questions from CEI. Thank you, Mr. Lesh.

6 EXAMINER WILLIAMS: Okay.

7 THE WITNESS: You're welcome.

8 EXAMINER WILLIAMS: Mr. Lesh, the Company  
9 didn't have a lot of questions, and I think it's  
10 probably because I probably took some of their good  
11 questions trying to get a better understanding of  
12 this. Anything that has been called up that needs to  
13 be clarified in your mind in light of my questions or  
14 the questions on behalf of the Company?

15 MR. LESH: Was that addressed to me?

16 EXAMINER WILLIAMS: Yes, sir.

17 MR. LESH: Oh, no. I have no questions.

18 EXAMINER WILLIAMS: I'm sorry. Anything  
19 you feel a need to clarify in terms of our  
20 understanding of the circumstance here based on my  
21 questions or the questions of the Company.

22 MR. LESH: No, no.

23 EXAMINER WILLIAMS: All right. I am  
24 going to turn to -- and I have all the exhibits that  
25 have been referenced now which would be your

1     October 5, 2018, filing totaling five pages. There  
2     is nothing else in the record that -- from your  
3     perspective; is that correct, sir?

4             MR. LESH: No, no.

5                     - - -

6                     FURTHER EXAMINATION

7     By Examiner Williams:

8             Q.     Okay. I just want -- I said I had asked  
9     my questions, but I will have one more. Maybe more  
10    than one more but probably one more. I note that  
11    August 22 of 2018, I believe, is described as the  
12    event, but in the report you provided as what you've  
13    labeled handwritten "Attachment A," there is a  
14    weather summary. Is that describing a storm event on  
15    the 22nd or the 21st or what can you tell me about  
16    that exhibit, sir?

17            A.     Well, I believe that was the weather that  
18    day, what was transpiring on that date.

19            Q.     Okay. So that's basically the document  
20    speaks for itself as far as you're concerned?

21            A.     Yeah, yeah, right.

22            Q.     There was a storm event that day?

23            A.     I would call it a rain but not a storm  
24    storm, you know, not a heavy storm, like no thunder  
25    or nothing like that to speak of.

1 Q. Okay. And I know night turned into day.  
2 When did the failure occur? When did the actual  
3 breakage -- was it on the 21st or 22nd? Do you have  
4 an approximate time?

5 A. Oh, yeah. It was approximately between  
6 6:00 a.m. and 7:00 a.m., I believe.

7 Q. On the 22nd.

8 A. I thought it was on the 21st. Maybe I'm  
9 wrong. Let's see. I would have to look. Whatever I  
10 said the date was then is when it happened.

11 Q. Okay. You say consistently on August 22,  
12 so it would be in the morning of August 22 then?

13 A. Yeah. And that's what's probably on the  
14 date of that weather report.

15 Q. Okay.

16 A. See what they were talking about.

17 EXAMINER WILLIAMS: Okay. I'll label the  
18 October 5, 2018, filing as Lesh Exhibit 1.

19 (EXHIBIT MARKED FOR IDENTIFICATION.)

20 EXAMINER WILLIAMS: That will mean more  
21 to the court reporter and Company's counsel,  
22 Mr. Lesh, just so everybody knows. And what we will  
23 do we will consider the admission of the exhibits at  
24 the close of the case in total as opposed to dealing  
25 with the exhibits at the close of just your

1 presentation, okay?

2 MR. LESH: Oh, thank you. Yeah.

3 EXAMINER WILLIAMS: You're welcome. I  
4 will turn -- yes.

5 MS. DANFORD: I apologize, your Honor. I  
6 actually just wanted to ask a clarifying question. I  
7 do have a couple of objections to state for the  
8 record regarding that exhibit. Would you like me to  
9 wait until the close of the CEI's testimony to do so?

10 EXAMINER WILLIAMS: If you think it  
11 prejudices your presentation, we'll address them in  
12 the interim. Otherwise, I think we will address the  
13 admission at the close.

14 MS. DANFORD: I --

15 EXAMINER WILLIAMS: We can do it now.  
16 That's fine.

17 MS. DANFORD: Okay. Why don't we go  
18 ahead and do it now.

19 EXAMINER WILLIAMS: Sure.

20 MS. DANFORD: Okay. Thank you, your  
21 Honor. So with respect to page 3, the Complainant's  
22 exhibit, I would object on the grounds that this is  
23 hearsay. I don't have a sense of where this came  
24 from. It appears to be providing a weather report  
25 for October 2, 2018, and then also for August 25,

1 2018. And just in general I can't tell who the  
2 author is of this document.

3 With respect to page 4 of the same  
4 exhibit, I would note for the record that in the  
5 bottom right corner there is a 6 which appears to be  
6 a page number so this looks like it's an excerpt of  
7 an -- an incomplete excerpt of a larger document. So  
8 I would object that this is an incomplete record.

9 And then finally on page 5, there's a  
10 photo that Mr. Lesh referenced during his direct  
11 testimony. And I would just note for the record that  
12 is in black and white, and it's very difficult to  
13 discern much of anything from the appearance of that  
14 photo.

15 MR. LESH: Can I ask a question about  
16 that photo you are talking about in black and white?

17 EXAMINER WILLIAMS: Let me -- let me go  
18 ahead and lead us through here so we can keep these  
19 relatively oriented, okay, Mr. Lesh?

20 MR. LESH: Okay.

21 EXAMINER WILLIAMS: Now, we are  
22 discussing again that October 5 filing. And page 3  
23 of that, again, is handwritten "Attachment A" is --  
24 in the upper left it's labeled "timeanddate.com," and  
25 it appears to depict some weather information. The

1 Company has properly noted the top half of that  
2 appears to be discussing weather October 2 of 2018.  
3 I assume that's when you pulled this information off  
4 the computer; is that correct, sir?

5 MR. LESH: Correct.

6 EXAMINER WILLIAMS: And then below that  
7 appears it's labeled about midway through the page  
8 "August 2018 Weather in Cleveland--Graph." Do you  
9 see where I am referencing, sir?

10 MR. LESH: I'm looking for that, August  
11 18, 16, 17, 18. Okay.

12 EXAMINER WILLIAMS: I'm sorry. If you  
13 are looking that hard, you are probably -- we are not  
14 talking the same language. So about the middle of  
15 that page it's labeled -- cutting the page in half it  
16 says "August 2018 Weather in Cleveland" and there is  
17 a dash and it says "Graph." Do you follow where I am  
18 referring there, sir?

19 MR. LESH: I see that on the right. I  
20 see that.

21 EXAMINER WILLIAMS: And then below that  
22 there's one, two, three -- there's seven -- what  
23 appears to be depicting the weather for seven  
24 different days. It's very faint, but the left column  
25 there begins -- it looks like it begins Monday,



1 August 20, and the next day would be Tuesday,  
2 August 21, and then the third column would be  
3 Wednesday, August 22. Do you see where I am  
4 referencing there, sir?

5 MR. LESH: I do see that. I do see that  
6 now, yeah.

7 EXAMINER WILLIAMS: Okay. And so is this  
8 an exhibit that you pulled off of the time and date  
9 website on or about October 2 of 2018, sir?

10 MR. LESH: Correct.

11 EXAMINER WILLIAMS: And is the  
12 information there -- I want to focus on Tuesday,  
13 August 21, and Wednesday, August 22, the information  
14 there talks about weather impacting the Cleveland  
15 area on those dates; is that your testimony?

16 MR. LESH: Tuesday, August 20. Let's  
17 see, told Bert on August 21. So that would be  
18 August 21. And if I'm understanding, you are looking  
19 at the date of Tuesday, August 21, that section?

20 EXAMINER WILLIAMS: The seven different  
21 columns across, what's, you know, roughly half or a  
22 third down the page appear to be the weather on  
23 individual days from August 20 to August 26. Is that  
24 what the document purports to display?

25 MR. LESH: Right, right. Let's see here,

1 and on August 20 -- oh, I see at the top. August 21.  
 2 August 21, 2018, 12:00 p.m. to 6:00 p.m. Well, what  
 3 I was looking for I guess on the weather report to  
 4 tell me this was a bad storm but there wasn't a bad  
 5 storm on that date because I know there wasn't. It  
 6 was just raining.

7 EXAMINER WILLIAMS: Okay. So the Company  
 8 has moved -- I believe the Company has moved to  
 9 strike this page as a potential exhibit. Is that a  
 10 fair recap of the Company's position?

11 MS. DANFORD: Yes, your Honor.

12 EXAMINER WILLIAMS: Okay. I agree. I  
 13 don't think this document has any proven value. It's  
 14 been described that there was a rain event. I am not  
 15 able to glean from this document what the weather was  
 16 more specifically nor does it seem to change or add  
 17 to the testimony Mr. Lesh provided regarding a rain  
 18 event on or about the 21st or 22nd of August, so I am  
 19 going to strike page 3 of that five-page exhibit and  
 20 not have that admitted as an exhibit in the case.

21 MR. LESH: Okay.

22 EXAMINER WILLIAMS: Now turning to the  
 23 next page which would be page 4 of what we have  
 24 labeled "Lesh Exhibit 1," that is handwritten  
 25 "Attachment B" across the top. That has an e-mail.

1 I assume that e-mail is to you, Mr. Lesh, is that  
2 correct, from Marilyn Cottrill?

3 MR. LESH: Oh. I am not seeing that page  
4 that you are talking about. I was just -- the next  
5 few pages were all about weather.

6 EXAMINER WILLIAMS: Okay. I don't have  
7 what you are talking about, so we are now talking  
8 about the October 5, 2018, filing. It was a  
9 five-page filing, and I am on page 4 of that 5. Can  
10 you get there with me, sir?

11 MR. LESH: Trying. Okay. October 5,  
12 right?

13 EXAMINER WILLIAMS: Your filing from  
14 October 5, the first filing in the case. It's five  
15 pages. I am at page 4 of that filing.

16 MR. LESH: Okay. Let me get to that.

17 EXAMINER WILLIAMS: It should be  
18 handwritten "Attachment B" on the top of it.

19 Karen, let's go off the record. Let me  
20 know when you are off.

21 COURT REPORTER: Okay.

22 (Discussion off the record.)

23 EXAMINER WILLIAMS: Back on the record.

24 Mr. Lesh, we went off the record to allow  
25 you to locate the five pages that are proposed

1 Exhibit -- Lesh Exhibit 1. At page 4 of those five  
2 pages is handwritten "Attachment B" across the top.  
3 It appears to depict, at least in part, an e-mail  
4 from a Marilyn Cottrill. Is that e-mail to you, sir?

5 MR. LESH: At the top of it, it just -- I  
6 see her name.

7 EXAMINER WILLIAMS: Make --

8 MR. LESH: Cottrill, Compliance --

9 EXAMINER WILLIAMS: I'm sorry. Now I am  
10 doing it. I want to make sure we are talking about  
11 the same document. So my document the body of the  
12 e-mail reads "Good Afternoon," and then first  
13 paragraph "On 8/21/18 and 8/22/18, during a storm,"  
14 and it continues and then it's ultimately signed  
15 "Thank you, Marilyn Cottrill." Is that the document  
16 you are looking at, sir?

17 MR. LESH: No. I just got the case  
18 number with Attachment B, but I don't see anything on  
19 the top of it.

20 EXAMINER WILLIAMS: Did you see the body  
21 that I just read, sir? What does yours say?

22 MR. LESH: I mean, "On October 21, 2018,  
23 and October 22, 2022, during a storm, an unforeseen  
24 equipment failure occurred causing the top of the  
25 pole to catch on fire. Crews responded and replaced

1 the pole and associated equipment."

2 EXAMINER WILLIAMS: Okay. Sir, I think  
3 we are talking about the same thing except you  
4 referenced October 21. Is it really 08, August 21,  
5 sir?

6 MR. LESH: Well, this here was from CEI,  
7 not me.

8 EXAMINER WILLIAMS: So what -- is that  
9 signed by Marilyn Cottrill?

10 MR. LESH: Yes.

11 EXAMINER WILLIAMS: Okay. So let's go  
12 back to the top -- top of this. So there's the  
13 handwritten note and some computer message. This  
14 message and then below that in italics it begins  
15 "Good Afternoon." Are you with me, sir?

16 MR. LESH: Yeah. "Good Afternoon."

17 EXAMINER WILLIAMS: Okay.

18 MR. LESH: "On October" --

19 EXAMINER WILLIAMS: I don't need you to  
20 read the whole thing, sir. It says "On 8/21/18." Is  
21 that on yours as well?

22 MR. LESH: That's the start of. Then  
23 it's also on 8/22/18.

24 EXAMINER WILLIAMS: Okay. And then  
25 that's -- if we go down there further, it says "Thank

1     you," and then Marilyn Cottrill's information is  
2     there signing on --

3                 MR. LESH:   Correct.

4                 EXAMINER WILLIAMS:   Okay.   And then below  
5     that at the very -- two-thirds of the way down there  
6     is an additional what appears to be an e-mail chain  
7     that says from "PUCO Consumer Call Center."   Do you  
8     see that?

9                 MR. LESH:   Yes, I do.

10                EXAMINER WILLIAMS:   So is this  
11     information an excerpt of some series of potential  
12     e-mails between you and the Company and you and the  
13     PUCO.   Is that -- is this one document out of -- one  
14     of several?

15                MR. LESH:   That's a good question.   I  
16     know I had a conversation by phone trying to settle  
17     it.   You know, I was suggested to do that and that  
18     didn't happen.   But this here was from Public  
19     Utilities -- letterhead from --

20                EXAMINER WILLIAMS:   Let me ask a  
21     question, sir.   Are you --

22                MR. LESH:   I don't recall any before  
23     that.

24                EXAMINER WILLIAMS:   So this document has  
25     a 6 on the bottom right.   Do you see that?

1 MR. LESH: Yes.

2 EXAMINER WILLIAMS: Okay. Is the  
3 information in the italics part "Good Afternoon" as  
4 delivered to you by Marilyn Cottrill, is that true  
5 and accurate? Did you receive an e-mail  
6 communication from Ms. Cottrill that describes that  
7 information that you just -- you just read or alluded  
8 to there in italics?

9 MR. LESH: You know, I can't say whether  
10 there is an e-mail or what to be honest. I don't  
11 really know. Let's see. All I know is that I got  
12 it, and I am holding a page 6 here.

13 EXAMINER WILLIAMS: So that Attachment B  
14 comes from your records and it's an excerpt from  
15 information that you kept in the course of your  
16 records regarding your pursuit of this claim; is that  
17 correct?

18 MR. LESH: That's correct. That's  
19 correct.

20 EXAMINER WILLIAMS: And the No. 6 there  
21 would seem to imply this is one of several pages of  
22 communications. It may be more than six, but it was  
23 at least six pages and this is one of those pages,  
24 correct?

25 MR. LESH: Correct.

1 EXAMINER WILLIAMS: Okay. I am going to  
2 allow that to stand. I think the witness has  
3 provided some context as to what that is, and I think  
4 the e-mail communication from the Company does add  
5 some further information for the Commission's  
6 consideration, so we will deny the motion to strike  
7 the Attachment B that's within Lush Exhibit 1. I  
8 appreciate the Company's indulgence while we  
9 identified and talked through those issues.

10 MS. DANFORD: Certainly, your Honor.

11 EXAMINER WILLIAMS: Did you have any  
12 other concerns? I think you were discussing -- I  
13 guess you already raised concerns relative to what's  
14 described as Attachment C on page 5 of that very same  
15 Lush Exhibit 1, and I believe those were -- I will  
16 let you reiterate those since they are not really  
17 fresh in my mind.

18 MS. DANFORD: Thank you, your Honor.  
19 Yes. Attachment C purports to be a photo of a  
20 transformer and maybe pole. It's difficult to  
21 discern. It's a black and white photograph. I don't  
22 have a sense of where this was taken, who took it,  
23 when it was taken. And, moreover, given the black  
24 and white nature of the photograph, it's really  
25 difficult to glean much of any information from it.



1 So for those reasons CEI would move to strike this  
2 portion of the exhibit.

3 EXAMINER WILLIAMS: Thank you.

4 MR. LESH: Can I go back to something?

5 EXAMINER WILLIAMS: Mr. Lesh, let me  
6 clarify --

7 MR. LESH: That photo that I sent that I  
8 am looking at in my hand is in color.

9 EXAMINER WILLIAMS: What the Commission  
10 has is a black and white picture, sir.

11 MR. LESH: Well, I don't know how that  
12 happened because I am looking at right at my hand and  
13 it's, you know -- I don't know where they got that  
14 picture from.

15 EXAMINER WILLIAMS: Okay. So let me get  
16 some understanding of what's been labeled -- this is  
17 page 5 of what's proposed as Lush Exhibit 1. It's  
18 handwritten "Attachment C" across the top. Mr. Lush,  
19 did you take the picture of the pole there?

20 MR. LESH: Yes. And the pole and above  
21 the pole there is another photograph of some of the  
22 things that were damaged by the power surge.

23 EXAMINER WILLIAMS: Okay. I don't have  
24 those either, sir. All I have is the picture of the  
25 pole in black and white, and it shows what --

1 MR. LESH: You had -- okay. I'm sorry.

2 EXAMINER WILLIAMS: That's okay. It  
3 shows what appears to be a part of the wood pole as  
4 broken off and dangling at or right below the level  
5 of the transformer. Do you see that picture, sir?

6 MR. LESH: Yeah. It's hanging on the  
7 line there, yeah.

8 EXAMINER WILLIAMS: Okay. You took that  
9 picture. When did you take that picture?

10 MR. LESH: When did I take that picture?

11 EXAMINER WILLIAMS: Yes, sir.

12 MR. LESH: Probably -- had to be before  
13 they came and cut it out. The same day it happened,  
14 that afternoon, I'm sure, because --

15 EXAMINER WILLIAMS: August 22?

16 MR. LESH: Well, whenever the incident  
17 happened, yeah, that I stated.

18 EXAMINER WILLIAMS: Okay. Ms. Danford?

19 MS. DANFORD: Thank you, your Honor.  
20 I -- there was just some additional what might be  
21 considered testimony about the pole dangling. I  
22 would just object to that testimony. I don't think  
23 that there has been any foundation laid for that to  
24 be the case. And looking at this photo, I can't  
25 personally observe that could or would be the case.

1 And, you know, again, that's beyond the scope of the  
2 testimony so I would object and move to strike that  
3 portion of Mr. Lush's testimony.

4 EXAMINER WILLIAMS: Okay. I am going to  
5 allow that to stand. He is describing and giving us  
6 context as to what's depicted in the picture that's  
7 page 5 of the proposed Lesh Exhibit 1. I will also  
8 admit the Lesh Exhibit 1, page 5, captioned  
9 "Attachment C." That does provide -- he's testified  
10 he took the picture on the day of the reported event,  
11 August 22, 2018, and the picture speaks for itself in  
12 terms of what it shows regarding the nature of the  
13 equipment on that date.

14 So we will allow -- unless there is any  
15 further objection you want to discuss, we will allow  
16 Lesh Exhibit 1, pages 1, 2, 4, and 5, and we will  
17 strike page 3 which is the weather information that  
18 had handwritten "Attachment A" across the top of it.

19 Anything further from the Company,  
20 Ms. Danford?

21 MS. DANFORD: Not at this time, your  
22 Honor.

23 EXAMINER WILLIAMS: Relative to the  
24 exhibit, I'm sorry.

25 MS. DANFORD: Not at this time, your

1 Honor.

2 (EXHIBIT ADMITTED INTO EVIDENCE.)

3 EXAMINER WILLIAMS: Okay. So with that  
4 then that takes care of Mr. Lesh's exhibit. And I  
5 believe that takes care of Mr. Lesh's presentation of  
6 his case in chief, so I will turn to the Company.  
7 And again, Mr. Lesh, once the Company's provided  
8 its -- its account, then we will work in a  
9 collaborative fashion to make sure we all understand  
10 what the Company's position is, and then we will turn  
11 to you and let you add anything further you think you  
12 need to add relative to the case.

13 So with that, Ms. Danford.

14 MS. DANFORD: Thank you, your Honor. The  
15 Cleveland Electric Illuminating Company calls Marilyn  
16 Cottrill to the stand.

17 EXAMINER WILLIAMS: Thank you.

18 Ms. Cottrill, do we have you audibly?

19 MS. COTTRILL: Yes.

20 EXAMINER WILLIAMS: All right. If you  
21 would raise your right hand and let me know when you  
22 have raised your right hand, please.

23 MS. COTTRILL: I have it raised.

24 (Witness sworn.)

25 EXAMINER WILLIAMS: Thank you.

1 Ms. Danford, go ahead.

2 MS. DANFORD: I would ask Ms. Cottrill,  
3 Mr. Lesh, the court reporter, and your Honor please  
4 look at the prefiled testimony of CEI. If we were in  
5 person, I would hand out a copy, but I'm hopeful you  
6 all have a copy in front of you.

7 EXAMINER WILLIAMS: I have it in front of  
8 me. I note it was mailed about a week ago.  
9 Mr. Lesh, I assume you got a copy of that in the  
10 mail, sir?

11 MR. LESH: Got it this morning by Fed Ex.

12 EXAMINER WILLIAMS: Okay. It's labeled  
13 "page 1." It's labeled "Direct Testimony of Marilyn  
14 Cottrill." You're following along, sir?

15 MR. LESH: I got that right here on the  
16 desk.

17 EXAMINER WILLIAMS: Okay. We have it.

18 Ms. Danford, you can label that as  
19 "Company Exhibit 1"?

20 MS. DANFORD: Yes, your Honor. I would  
21 ask that for identification purposes that be marked  
22 as CEI Exhibit 1.

23 EXAMINER WILLIAMS: So noted.

24 (EXHIBIT MARKED FOR IDENTIFICATION.)

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MARILYN COTTRILL

being first duly sworn, as prescribed by law, was  
examined and testified as follows:

DIRECT EXAMINATION

By Ms. Danford:

Q. Ms. Cottrill, I have just handed you what  
has been marked as CEI Exhibit 1 for identification  
purposes. Can you tell me what this document is?

A. Yes. It's my direct testimony on behalf  
of the Cleveland Electric Illuminating Company.

Q. And, Ms. Cottrill, was that direct  
testimony prepared by you or at your direction?

A. Yes.

Q. Do you have any changes to make to your  
direct testimony today?

A. No.

Q. If I were to ask you those same questions  
today, would your answers remain the same?

A. Yes.

MS. DANFORD: Thank you, Ms. Cottrill.

Your Honor, the witness is available for  
cross-examination, and I will wait to move CEI  
Exhibit 1 into evidence until after that  
cross-examination.

EXAMINER WILLIAMS: Okay. As I did

1 before, I am going to go ahead and take some  
2 questions from the Bench first, and then we will let  
3 Mr. Lesh clarify anything that I didn't ask that he  
4 feels is pertinent to the case or clarify anything  
5 that comes up as part of my questions.

6 - - -

7 EXAMINATION

8 By Examiner Williams:

9 Q. Ms. Cottrill, if you could follow along  
10 to page 4 of your testimony. Let me know when you're  
11 there.

12 A. Okay.

13 Q. And I'm at line 7 of your response. I  
14 guess I will read the question first. "Did Mr. Lesh  
15 contact CEI about the transformer again after that?"  
16 And the after that appears to relate to page 3 where  
17 you had described it as first call was on June 28 of  
18 2017. Your response then at line 7 on page 4 is  
19 "CEI's records show that Mr. Lesh called CEI on or  
20 around June 28, 2017, requesting a status update."  
21 Is there a typographical concern there, or did he  
22 call twice on the 28th regarding a status update?

23 A. Could you repeat that?

24 Q. Yeah. Let me ask the -- I can repeat the  
25 question, though it was longer than it needed to be,

1 or I can just clarify my understanding. You  
2 described on page 3, line 18, that Mr. Lesh first  
3 called June 28 of 2017, correct?

4 A. Correct.

5 Q. And then on page -- page 4, line 7, you  
6 described CEI's records showed that Mr. Lesh called  
7 around June 28 requesting a status update. Can you  
8 explain, did he call twice on the 28th or what's the  
9 date on line 7 of page 4?

10 A. So he -- he did not call twice on  
11 June 28, on June 28 of '17.

12 Q. So the call on the 28th of '17 was not an  
13 initial call. There was a request for a status  
14 update?

15 A. He called initially on June 28 of '17.

16 Q. Uh-huh.

17 A. And then he called again for a status  
18 update.

19 Q. What date was that?

20 A. Can I review my testimony, please?

21 Q. Yes.

22 A. Thank you.

23 Q. Do you want me to redirect you where I  
24 was asking?

25 MS. DANFORD: Your Honor?



1 EXAMINER WILLIAMS: Yes.

2 MS. DANFORD: Would it be all right to go  
3 off the record for a moment?

4 EXAMINER WILLIAMS: Yeah.

5 Karen, let's go off the record.

6 (Discussion off the record.)

7 EXAMINER WILLIAMS: We are back on the  
8 record.

9 And Ms. Cottrill was reviewing her  
10 prefiled testimony at pages 3 and 4 in responses to  
11 questions of the Bench. While we were off the  
12 record, counsel for CEI proffered that there perhaps  
13 might be a typographical error on page 4 of the  
14 proposed testimony. So, Ms. Danford, do you want to  
15 make that a part of the record? I'll open it up for  
16 that. Or we can let the witness testify what's  
17 before her and how that comports with her knowledge  
18 about the fact of the case.

19 MS. DANFORD: Certainly, your Honor. I  
20 appreciate it. Emily Danford for the Illuminating  
21 Company. As your Honor mentioned in your question,  
22 page 3 of line 18 of Ms. Cottrill's prefiled  
23 testimony indicates that Mr. Lesh first called CEI on  
24 June 28 of 2017. On page 4 at line 7 of  
25 Ms. Cottrill's testimony, it then indicates that

1 CEI's records show Mr. Lesh called June 28, 2017,  
2 requesting a status update. It is my belief that  
3 that is likely a typographical error which  
4 Ms. Cottrill may certainly attempt to correct if she  
5 is able to do so from memory.

6 EXAMINER WILLIAMS: Okay.

7 Q. (By Examiner Williams) So, Ms. Cottrill,  
8 we will give the preverbal floor back to you. We are  
9 now seeking clarification to the extent you can  
10 provide any regarding line 7 of page 4 of your  
11 testimony where it says CEI records show Mr. Lesh  
12 called on or around 6-28-17 requesting a status  
13 update. Is that information inaccurate as you are  
14 sitting here today?

15 A. I -- I believe that that is a  
16 typographical error because he contacted the Company  
17 on June 28 of '17 regarding the transformer and then  
18 the Company went out to look at the transformer and  
19 they agreed to upgrade the transformer, to change the  
20 transformer out at that point, however, as a  
21 courtesy.

22 Q. As a courtesy, do you have any -- any  
23 specifics -- so they didn't feel it was a safety  
24 issue but as a courtesy. Was it because it was  
25 unsightly or why was that deemed a courtesy?

1           A.    I -- I -- records indicate to me because  
2   of the fact that the work order was not deemed as  
3   urgent, so taking into consideration whenever I  
4   reviewed the records, my part of my job  
5   responsibility is going to the subject matter experts  
6   and also reviewing all of the records. And when this  
7   work order was put in, the work order was not deemed  
8   or marked as urgent, and it was not deemed or marked  
9   as the transformer having any defects or anything  
10  wrong with the existing transformer.

11           Q.    So -- why would they replace it as a  
12  courtesy? What would cause them to make a courtesy  
13  replacement?

14           A.    At the customer's request.

15           Q.    So any time a customer says they don't  
16  want the transformer, that, as a courtesy, they would  
17  agree to do that? What's the criteria for replacing  
18  something as a courtesy?

19           A.    No. That is my speculation that it is  
20  done -- that they are doing it as a courtesy due to  
21  the fact that it was not marked as urgent and due to  
22  the fact that it was not marked any defects or  
23  anything wrong with the existing transformer. It is  
24  not uncommon if a customer requests something to be  
25  done that we would do as a courtesy.

1           Q.    Do your records reflect anything about  
2   the described power shorts or blown fuses that  
3   Mr. Lesh had described in his testimony?

4           A.    No.

5           Q.    Okay.  So your testimony then clarifying  
6   is that line 7 of page 4 there was a follow-up call  
7   from Mr. Lesh sometime after June 28; you are not  
8   sure what the date was or how close in time that was?

9           A.    I'm not showing a follow-up call.

10          Q.    Okay.  Typically if something is going to  
11   be replaced as a courtesy, about how long would that  
12   take to occur?

13          A.    It could be anywhere between 10 months  
14   further because it's not deemed as a -- again, it's  
15   not deemed as something that needs to be done in an  
16   urgent -- it is not an urgent matter.

17          Q.    Now, to the extent you are aware, were  
18   there any issues of blown fuses or power outages  
19   between June 28 of 2017 and the event from August 22  
20   of 2018?

21                   I'm sorry?

22          A.    No.

23          Q.    Okay.  So continuing in your testimony  
24   then at line 10 on page 4, it says that Mr. Lesh  
25   contacted CEI again after that, and then you describe

1 on August 6, 2018, CEI received a trouble call. Is  
2 that, as she is describing the event that gets us  
3 here today, is that supposed to be August 22 of 2017?

4 A. The August 6 call was regarding trees --

5 Q. Okay.

6 A. -- he wanted on the property trimmed  
7 and --

8 Q. That date is accurate then.

9 A. That date is accurate, correct.

10 Q. Okay. Thank you.

11 A. You're welcome.

12 Q. Are you familiar with the repair that  
13 occurred after the August 22 event?

14 A. They replaced the pole.

15 Q. Did they replace the transformer at the  
16 same time?

17 A. Yes.

18 Q. And you describe it at line 14 of page 4  
19 that a storm occurred that caused a sudden and  
20 unforeseen equipment failure. Do you see that?

21 A. Yes.

22 Q. Can you add any more detail to what the  
23 sudden and unforeseen equipment failure was? Let me  
24 add a little bit more clarity to my question.  
25 Continuing there on line 16 you continue

1 "Specifically, the storm caused the top of the  
2 transformer pole servicing the Residence to burn."

3 Do you see that?

4 A. Yes.

5 Q. Do you have any -- can you clarify how  
6 the storm caused that to burn?

7 A. I cannot. It would be speculation.

8 EXAMINER WILLIAMS: Okay. That's all the  
9 questions I have from the Bench.

10 Mr. Lesh, you've heard my questions. Do  
11 you have a document in front of you? I know you are  
12 representing yourself here. Any questions of  
13 Ms. Cottrell's testimony, sir?

14 - - -

15 CROSS-EXAMINATION

16 By Mr. Lesh:

17 Q. You know what the coincidence about this  
18 is and that was where I had my circles to ask  
19 questions about that but you asked the question  
20 there. Let me just turn three more pages because  
21 here no CEI records indicate equipment failure. On  
22 page 6, No. 17A, "No. CEI records indicate that the  
23 failure of the transformer was a sudden and  
24 unforeseen equipment failure as a result of a storm."  
25 If I'm reading that right, they are not associating

1 it with this storm.

2 EXAMINER WILLIAMS: So --

3 MS. DANFORD: Objection.

4 EXAMINER WILLIAMS: I'll sustain the  
5 objection. Mr. Lesh, I'm going to help you here.  
6 You are taking the Bench's attention to page 6 of the  
7 prefiled testimony, and in response to the question  
8 that begins at line 15, in your opinion, was the  
9 failure of the transformer within CEI's control, and  
10 the answer at line 17 is "No period. CEI's records  
11 indicate that the transformer failure was a sudden  
12 and unforeseen." Do you see that, sir?

13 MR. LESH: Yeah, yeah. That's what I am  
14 looking at.

15 EXAMINER WILLIAMS: Okay. Ms. Cottrill's  
16 testimony appeared to be clear that the Company's  
17 position is that the failure was sudden and  
18 unforeseen and due to the storm.

19 MR. LESH: Oh, yeah. Okay. I was  
20 looking at that wrong. Okay. I guess I don't have  
21 no more questions then.

22 EXAMINER WILLIAMS: Okay, Mr. Lesh.

23 Anything on redirect, Ms. Danford?

24 MS. DANFORD: Your Honor, may I just have  
25 one moment to review my notes?

1 EXAMINER WILLIAMS: Yeah. Do you want to  
2 go off the record?

3 MS. DANFORD: That would be great, if you  
4 don't mind.

5 (Recess taken.)

6 EXAMINER WILLIAMS: We're back on the  
7 record, Ms. Danford.

8 MS. DANFORD: Thank you, your Honor. I  
9 have just a few short redirect questions for  
10 Ms. Cottrill.

11 EXAMINER WILLIAMS: Okay. Please  
12 proceed.

13 - - -

14 REDIRECT EXAMINATION

15 By Ms. Danford:

16 Q. Ms. Cottrill, as part of your job duties,  
17 are you supposed to inquire into the reasons why CEI  
18 may or may not agree to replace a piece of equipment?

19 A. No.

20 MS. DANFORD: I just lost audio, I'm  
21 sorry. Can everyone still hear me?

22 EXAMINER WILLIAMS: We hear you fine. Do  
23 you want the question and answer read back?

24 MS. DANFORD: That would be great.

25 THE WITNESS: No.



1 (Record read.)

2 EXAMINER WILLIAMS: Okay. Thank you.

3 Ms. Danford.

4 MS. DANFORD: Thank you.

5 Q. (By Ms. Danford) And, Ms. Cottrill, it's  
6 true that you are testifying on the basis of Company  
7 records, correct?

8 A. That is correct.

9 MS. DANFORD: I'm so sorry, your Honor.  
10 I keep losing audio. Can you all still hear me?

11 EXAMINER WILLIAMS: We can. We heard her  
12 answer as well which was that is correct. Do you  
13 want to try to call off and call back in? We can go  
14 back on the record that way? I don't want to stymie  
15 your redirect.

16 MS. DANFORD: Let me try switching out my  
17 headphones. I think this might be better.

18 EXAMINER WILLIAMS: Let's go off the  
19 record.

20 (Discussion off the record.)

21 EXAMINER WILLIAMS: Karen, we are back  
22 on.

23 Could you please read back the last  
24 question and response.

25 (Record read.)

1           Q.     (By Ms. Danford) Ms. Cottrill, do you  
2     recall whether the records you reviewed to prepare  
3     for your testimony indicated that a storm occurred on  
4     the night of the 21st of August, 2018?

5           A.     Yes, a storm did occur.

6           Q.     On the night of August 21, 2018?

7           A.     That is correct.

8           Q.     Do you recall when Mr. Lesh called CEI --  
9     or whether Mr. Lesh called CEI to report that storm  
10    or any sort of an outage associated with that storm?

11          A.     He called on 8-22 at approximately 8:20  
12    in the morning -- I apologize, approximately 6:20 in  
13    the morning.

14          Q.     Ms. Cottrill, in the course of reviewing  
15    company records to prepare your testimony for this  
16    proceeding, did you see any information that would  
17    suggest that Mr. Lesh had made any calls to CEI  
18    regarding fuses?

19          A.     No.

20                 MS. DANFORD: All right. Thank you,  
21    Ms. Cottrill.

22                 Your Honor, I have no further questions  
23    for the witness.

24                 EXAMINER WILLIAMS: Thank you,  
25    Ms. Danford.

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FURTHER EXAMINATION

By Examiner Williams:

Q. Ms. Cottrill, let me just clarify my understanding here. So we have the call from June 28 of 2017 that initiates the courtesy response to the transformer replacement, correct?

A. Correct.

Q. And then we received -- at page 4 of your testimony at line 10, there is a call August 6 of 2018 regarding the tree trimming issue, correct?

A. Correct.

Q. And then in the interim there is the one other call sometime between June 28 of 2017 and 8-6 of '18, and we are not sure of the date of that but that's the only other call that occurs during that roughly 14-month span, correct?

A. Correct.

EXAMINER WILLIAMS: Okay. And if there were calls regarding fuse issues after June 28 of 2017, would those have been in the record you reviewed as you prepared your testimony?

A. Yes, they would have. Any call that comes into the Company is logged by the AVR, the call log. It's through a call log, so if he would have -- if Mr. Lesh would have contacted the Company, even if

1 he would not have spoken with a representative, even  
2 if he would have went through the AVR, or even if,  
3 for instance, he would have went online and contacted  
4 the Company through the website, there is a contact  
5 made on his account and no contact.

6 Q. So the Company's position is there were  
7 no fuse issues or any other power outage issues  
8 between June 28 of 2017 and August 21 of 2018,  
9 correct?

10 A. Correct.

11 EXAMINER WILLIAMS: Okay. Mr. Lesh,  
12 those are the questions I have to clarify the  
13 testimony. Anything that came up in the course of my  
14 questions or the redirect by Ms. Danford that lead  
15 you then to want to ask any more questions, sir?

16 MR. LESH: It's amazing -- well, I can't  
17 ask a question. Can I make a comment?

18 EXAMINER WILLIAMS: You can't make a  
19 comment to the witness. I will let you make a  
20 comment when the witness is off the stand so --

21 MR. LESH: Oh.

22 EXAMINER WILLIAMS: If your comment can  
23 or should be phrased in terms of a question to the  
24 witness, now is your chance. If your comment is you  
25 want to say you close your case, you will have a

1 chance in the short future.

2 MR. LESH: Well, let me ask her this  
3 because there were fuses replaced and they were done  
4 rather quickly because I'm surprised that it doesn't  
5 show because if it goes out, that would cut off the  
6 power to the school too. And I would always check  
7 with them to let them know, but I don't have, you  
8 know, no records of that.

9 EXAMINER WILLIAMS: Okay.

10 MS. DANFORD: Objection.

11 EXAMINER WILLIAMS: I am going to go  
12 ahead and sustain the objection. That's okay.  
13 Mr. Lesh, so I am going to strike that. We're  
14 questioning the witness. And so, again, I will let  
15 you summarize your case with the witness -- when the  
16 Company's position is closed. Again, what I don't  
17 want to do though is have you "If only I could have  
18 asked the witness one more question, I would have  
19 felt my hearing was more fair."

20 Now, I already asked Ms. Cottrill if  
21 there were any documented outages or fuse repairs  
22 between 6-28 of '17 and the purported storm event of  
23 8-22 of '18, and she said no. So if there is  
24 anything to clarify about that question or her  
25 response, now is your chance. If, you know, your

1 account is there were fuses before June 28 of '17, I  
2 think necessarily your testimony doesn't go back any  
3 further because, you know, she was concerned with the  
4 Company's records describing the transformer request  
5 and the offer of a courtesy replacement, okay?

6 MR. LESH: Okay.

7 EXAMINER WILLIAMS: So any questions that  
8 fill in gaps to my questions or anything else you  
9 feel Ms. Cottrill can testify in regard to your case.

10 MR. LESH: I'm all set, I guess.

11 EXAMINER WILLIAMS: Okay. With that  
12 then, Ms. Danford, did you want to move to admit CEI  
13 Exhibit 1?

14 MS. DANFORD: Yes, your Honor, so moved.

15 EXAMINER WILLIAMS: Okay. Mr. Lesh, any  
16 comments on that exhibit that would bring  
17 Ms. Cottrill's prefiled testimony as she's clarified  
18 here under oath into the record of the case? I'll  
19 invite you to make any comments about that. Candidly  
20 it appears that testimony can and should be admitted,  
21 but if you have any objections, let me know.

22 MR. LESH: No. I have no objections.

23 EXAMINER WILLIAMS: Okay. That will  
24 being admitted as CEI Exhibit 1.

25 (EXHIBIT MARKED FOR IDENTIFICATION.)

1 EXAMINER WILLIAMS: Ms. Danford, anything  
2 else on behalf of the Company?

3 MS. DANFORD: Nothing at this time, your  
4 Honor.

5 EXAMINER WILLIAMS: Ms. Cottrill, thank  
6 you for your testimony here today.

7 THE WITNESS: Thank you.

8 EXAMINER WILLIAMS: Mr. Lesh, as I  
9 indicated at the outset, we -- we can and will be  
10 very patient relative to making sure we understand  
11 all the allegations of your complaint and your case.  
12 So you've presented your testimony. We've gone  
13 through your exhibit. We went through the Company's  
14 testimony and exhibit.

15 I will invite you to tell me anything  
16 else that the Commission needs to know on your behalf  
17 as we near the end of this hearing, sir.

18 MR. LESH: There's nothing that I can  
19 think of.

20 EXAMINER WILLIAMS: Okay, sir. With that  
21 then I am going to -- let's go ahead and go off the  
22 record for just minute. I want to discuss the  
23 exhibit issue.

24 (Discussion off the record.)

25 EXAMINER WILLIAMS: We were briefly off

1 the record. We addressed getting the exhibits as  
 2 they were addressed by the Bench into the hearing  
 3 transcript. And our court reporter has agreed to  
 4 pull the 10-5-18 exhibit, strike the one page that  
 5 was deemed not admissible, and then to affix Lesh  
 6 Exhibit 1 to the transcript and with the four pages  
 7 that were admitted. She will take similar treatment  
 8 to have the July 2, 2021, direct testimony from  
 9 Ms. Cottrill that was labeled CEI Exhibit 1 and make  
 10 that a part of the transcript as well. I appreciate  
 11 that, Karen. Thank you.

12 I know there was some discussion also  
 13 offline about the potential for a briefing calendar.  
 14 Mr. Lesh, it's -- it's common in a lot of these cases  
 15 before the Commission to allow the parties to file a  
 16 brief summary of what they believe the case is about  
 17 and how the case was or was not proven or was not  
 18 defended.

19 And so I am going to entertain that and  
 20 allow the parties -- not mandate. There is certainly  
 21 no obligation to file a brief but I will permit the  
 22 parties an opportunity to file briefs in the case.  
 23 We will go ahead and assume the transcript will come  
 24 in roughly -- let's say roughly by the end of July,  
 25 so I will entertain initial briefs by September 1 and



1 then reply briefs 10 days after that. Would that be  
2 okay with everyone?

3 MS. DANFORD: Yes, your Honor.

4 EXAMINER WILLIAMS: Mr. Lesh, again,  
5 there's no obligation for you to file any briefing in  
6 this but you will have the same opportunity as the  
7 Company. So you will be able to file a brief by  
8 September 1, and then after you received the  
9 Company's brief, you can file either another brief,  
10 reply brief, or your first brief could be your reply  
11 brief response to what the Company says and that will  
12 be due by September 11.

13 So we will set those two -- those two  
14 briefing deadlines. And with that then I will -- any  
15 last thoughts or concerns the parties have before I  
16 close the record, Mr. Lesh? Are you satisfied, sir?

17 MR. LESH: Well, it just seems like there  
18 is a lot going on here that is not necessary. Either  
19 they're going to do something or not, you know. It  
20 just seems like they are dragging it on and dragging  
21 it on, and it doesn't make sense to me, you know.  
22 It's a simple matter. Either they got their mind  
23 made up they are not going to do nothing; and then,  
24 you know, I can't do nothing either then, you know.

25 EXAMINER WILLIAMS: Well, I -- go ahead,

1 sir.

2 MR. LESH: I don't know why they -- I  
3 know -- well, anyhow that's all the comment I got to  
4 make.

5 EXAMINER WILLIAMS: Okay, sir. I mean,  
6 hopefully you have a sense that we took our time and  
7 conducted a fair and impartial hearing here. And as  
8 much as it's easy to get fully -- fully wrapped in  
9 making sure that a layperson who is bringing forward  
10 a very serious claim has a fair hearing, and the  
11 Company is entitled to a fair and just hearing as  
12 well, I think we've properly straddled those  
13 interests. And hopefully no one is too -- too  
14 frustrated by the process, but hopefully everyone  
15 realized they were heard and had an opportunity to  
16 present their case.

17 So -- go ahead.

18 MR. LESH: I fully feel that I was fully  
19 heard, and it kind of made my day that their last  
20 witness was a little bit confused like I was. It  
21 took time for her to find stuff. It made my day,  
22 just that part that I am not alone, you know what I  
23 am saying, as an individual? But so now -- now what  
24 do I do? Nothing?

25 EXAMINER WILLIAMS: That's a fair

1 question. So what's going to happen here, again, the  
 2 court reporter will type up everything that came into  
 3 the record today, and she'll then file the transcript  
 4 with the Commission. And after the transcript is  
 5 filed, then we'll have the briefing schedule we  
 6 talked about with briefs due September 1 and  
 7 September 11. And then once the briefs are in,  
 8 whatever briefs are coming in, then I will pick the  
 9 case up, and I will write a recommendation to our  
 10 full Public Utilities Commission. It's a five-member  
 11 Commission, and the Commission will either accept my  
 12 recommendation, or they'll reject it and give some  
 13 further guidance as to what they feel should occur  
 14 here.

15 So as a practical matter, our Commission  
 16 meets twice a month. I would expect this case to  
 17 appear on their agenda sometime beginning the middle  
 18 to the latter part of October, maybe through  
 19 November, and they'll simply vote yes or no on a  
 20 recommendation they have regarding the nature of your  
 21 complaint, sir.

22 MR. LESH: I see. So I just -- if I  
 23 wanted to do a brief, which I don't know what to do,  
 24 or if I do nothing, I will probably hear back in  
 25 October or November; am I hearing that right?

1 EXAMINER WILLIAMS: That is correct, sir.

2 MR. LESH: Okay. As to what transpired.  
3 All right. Well, I got to thank you for the patience  
4 that you've had and all the people involved here with  
5 an old man. It's been an experience for me, and I  
6 guess I know why I never was a lawyer. You got to  
7 have a lot of patience and understanding, but I do  
8 commend you on, you know, the way you handled it and  
9 they handled it.

10 And that's all I have to say. Thank you  
11 all for your consideration.

12 EXAMINER WILLIAMS: Well, sir, I will  
13 commend you as well. You could have been a lawyer.  
14 Yeah, you did a very good job of representing  
15 yourself. At the end of the day we want to make sure  
16 the facts are fully understood. We want to make sure  
17 information to the extent it's proper evidence comes  
18 into the record and does so in a manner that's  
19 properly explained and frankly can be upheld.

20 I think the parties all did a commendable  
21 job not only during the last couple hours here but  
22 frankly reading into this, so I appreciate everyone's  
23 efforts.

24 Ms. Danford, I don't want you to be cut  
25 off here. Anything else you want to add before we

1 check out?

2 MS. DANFORD: No. Thank you, your Honor.  
3 I appreciate everyone's time today and thank you very  
4 much.

5 EXAMINER WILLIAMS: Okay. With that then  
6 we will close the hearing. We are off the record.  
7 This matter is under advisement. Thank you.

8 (Thereupon, at 3:39 p.m., the hearing was  
9 adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the proceedings  
taken by me in this matter on Monday, July 12, 2021,  
and carefully compared with my original stenographic  
notes.

\_\_\_\_\_  
Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-7109)

- - -

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

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**Case No(s). 18-1519-EL-CSS**

Summary: Transcript July 12th 2021

Roger Lesh, Complainant, vs. The Cleveland Electric Illuminating Company, Respondent.  
electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson,  
Karen Sue Mrs.