



21-0950-EL-CSS

Public Utilities Commission

Case Number
Public Utilities Commission of Ohio
Attn: Docketing
180 E. Broad St.
Columbus, OH 43215

Formal Complaint Form

Judy DeFrench
Customer Name (Please Print)

1156 East Miner Road
Customer Address

Mayfield Heights OH 44124
City State Zip

Against

110039952897
Account Number

The Illuminating Company, owned by FirstEnergy Corp.
Utility Company Name

Customer Service Address (if different from above)
City State Zip

Please describe your complaint. (Attach additional sheets if necessary)

RECEIVED - BOOKING DIV
2021 SEP 15 PM 1:37
PUCO

I am requesting your assistance in addressing PUCO's approval of The Illuminating Company/FirstEnergy charging me \$28.29/month X 12 = \$339.48/year in perpetuity for not installing a Smartmeter on my home, which is a reasonable modification to PUCO's policy and FirstEnergy's policies/practices/procedures to accommodate my disability per the Americans with Disabilities Act (ADA). As I will explain below, this matter is very time-sensitive so your prompt assistance would be greatly appreciate, please.

I have a rare but recognized medical condition where disabling health effects, including head and chest pain, mental confusion and physical exhaustion, are caused by exposure to electromagnetic frequencies (EMF), which are present at high levels almost everywhere. My disability clearly meets the definition in the ADA:

- 1) My disability involves physical and mental impairment that substantially limits many major life activities;
- 2) I have a long medical record of my impairment and a history of disability accommodations provided by my employer (a City government); and
- 3) I am perceived by my family, friends, coworkers, and employer as having an impairment.

I live alone in the single-family house that I own. In my home, there is no microwave, smartphone, computer router, or anything else that emits excessive levels of these frequencies. I have to be out in the EMF Monday-Friday for employment, but my evenings and weekends are spent in the safety of my home recuperating as best I can from the disabling effects. Without this recovery time, I would be unable to function.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.

The Illuminating Company (TIC), owned, as you know, by FirstEnergy Corp., provides electric service to my home. As you also know, TIC is currently replacing the existing home electric meters in my area with Smartmeters, which constantly emit EMF as they constantly wirelessly transmit usage information to TIC. If installed on my house, the EMF emitted will cause my adjacent bedroom and full bathroom, where I spend about 12 hours/day, to be medically unsafe and disabling.

As you know, the Public Utilities Commission of Ohio approved TIC/FirstEnergy's request to install Smartmeters with an "opt-out" provision so any customer who doesn't want one for any reason can keep their existing meter if they pay a \$28.29/month surcharge forever. Since PUCO included an opt-out option, PUCO has clearly determined opting-out is not a fundamental alteration to TIC/FirstEnergy's business. The issue in my case is a surcharge cannot be imposed, per the ADA, when opting-out is a reasonable modification required to accommodate my disability so I can have access to electric service. Per the ADA, just like blind people cannot be charged for braille materials and deaf people cannot be charged for sign language interpreters, I cannot be charged for the modification my disability necessitates.

Because the opt-out surcharge violates the ADA and, as well, I cannot afford it, on 11/25/20, I spoke with a Supervisor (Vincent, employee ID 52681) at TIC/FirstEnergy's customer service 800#, offered to provide disability medical documentation from my Doctor, who advised me to opt-out, and requested the surcharge be waived. That request was denied and I was told I couldn't escalate the issue any further within TIC/FirstEnergy as the surcharge was approved by PUCO without any exception required for compliance with the ADA. I was told that since all the rules that TIC/FirstEnergy has to abide by are set by PUCO, I should contact PUCO and that PUCO could modify its policy to accommodate my disability and, in turn, order TIC/FirstEnergy to waive the surcharge.

On 11/27/20, I filed a complaint with PUCO -- PUCO case # 648153 (Samantha). The case was assigned to Shawn Thompson with whom I discussed the matter during a telephone call. She told me that PUCO had approved the surcharge without regard for compliance with the ADA; TIC/FirstEnergy would not waive the surcharge; and PUCO has no authority to order the surcharge PUCO approved be waived in my case even though that blanket PUCO policy approval with no exception allowed for reasonable modifications to accommodate my disability is a violation of the ADA. She ultimately agreed to humor me by contacting TIC/FirstEnergy and reported back to me that my request was denied.

On attorney advice, I contacted the Disability Rights Section of the U.S. Department of Justice, which enforces compliance with the ADA. They informed me that Section 36.302 of the ADA applies in my case and suggested I contact PUCO again to seek compliance. Thus, on 9/3/21, I contacted Stephanie Kamer, ADA Coordinator for the Public Utilities Commission of Ohio, to request that PUCO and, in turn, TIC/FirstEnergy comply with the ADA and waive the surcharge for



not installing a Smartmeter on my home. Ms. Kamer brought in Militza Grady, Service Monitoring & Enforcement Department, Public Utilities Administrator, Public Utilities Commission of Ohio, to assist as, I was told, Ms. Grady is more familiar with this subject matter.

Ms. Grady reopened the PUCO case # 648153 that I had filed on 11/27/20 and reached back out to The Illuminating Company to ask if they would waive the fees based on my request for an ADA accommodation. Ms. Grady also informed me that she and Ms. Kamer reached out to the PUCO's legal team for guidance on this matter. Ms. Grady reported back to me that: "The Illuminating Company responded to my inquiry about waiving the opt-out fees based on Ms. DeFrench's request for an ADA accommodation. The company states that they do not have the discretion to waive the opt-out fee and must follow their tariff. The PUCO approved their tariff through case 20-0385-EL-ATA. After consulting with our legal team, I believe your best path forward would be to file a formal complaint." Thus, I am filing this complaint.

It is my understanding from Ms. Kamer and Ms. Grady that PUCO did not intend to authorize and enable TIC/FirstEnergy to violate the ADA by approving TIC/FirstEnergy's tariff that empowers it to charge me a $\$28.29/\text{month} \times 12 = \$339.48/\text{year}$ surcharge in perpetuity for not installing a Smartmeter on my home, which is a reasonable modification to accommodate my disability per the ADA. Moreover, the Supremacy Clause of the Constitution of the United States (Article VI, Clause 2), establishes that the Constitution, federal laws made pursuant to it, and treaties made under its authority, constitute the "supreme Law of the Land", and thus take priority over any conflicting state laws so it is simply not possible, as TIC/FirstEnergy is claiming, that PUCO would approve anything that conflicts with, contravenes, and subverts the federal Americans with Disabilities Act.

Therefore, it appears that TIC/FirstEnergy is seriously misguided in its interpretation of PUCO's approval of TIC/FirstEnergy's tariff and in its claim that it is bound by its tariff and does not have the discretion to waive the opt-out surcharge to comply with the ADA. As such, this formal complaint requests your help in disabusing TIC/FirstEnergy of its erroneous misconceptions that violate the ADA and compelling it to abide by the ADA by permanently waiving the illegal surcharge for not installing a Smartmeter on my home. If this violation of the ADA is allowed to stand, since I cannot afford TIC/FirstEnergy's illegal surcharge and cannot forgo electric service, TIC/FirstEnergy will install its Smartmeter, which, every day in perpetuity, will cause me disabling health effects and harm in my own home and devastate my life by taking away my one and only safe refuge from excessive EMF that allows me the recovery time my disability requires so I can function.

Your assistance with this matter is urgent as TIC/FirstEnergy has notified me that it will begin charging the surcharge in violation of the ADA starting with my September 2021 bill, which will be generated on September 13 with payment due by approximately September 28. As I explained, I cannot afford to pay the surcharge and, at the same time, if I pay my electric bill (\$59 monthly budget plan), but not the ~50% additional illegal surcharge of \$28.29, I will be considered

delinquent and, ultimately, TIC/FirstEnergy will disconnect my electric service. As such, I ask that before September 28 the PUCO attorney examiner please place the September and subsequent monthly \$28.29 surcharges and any taxes and fees that are assessed on them into a disputed charge status so I do not have to pay those monthly amounts and TIC/FirstEnergy is prevented from carrying out any turn-offs, collection action, or negative reports to consumer credit reporting agencies while my formal complaint case is ongoing.

I work during normal business hours, am not able to make or receive telephone calls at work, cannot financially afford to miss a day of work, and have no set lunch break as it must be squeezed in whenever possible as a particular day's schedule permits with each day being different and changing as the day plays out. By the time my work day is over, the physical and mental impairment caused by the accumulative effect of the EMF I have been in all day is unbearable and I must immediately go to my home without excessive EMF to rest and try to recuperate. In addition, I do not ever travel out of my local area of Cleveland as travel beyond that would expose me to EMF with no safe place without excessive EMF to which I could retreat to recover. As a result, due to my disability, I cannot travel to Columbus or be available at appropriate days/times for the prehearing conference and evidentiary hearing. I, therefore, hereby designate my friend Susan Kretchmer, who is well aware of my disability and this ADA violation, to speak and act on my behalf at those hearings as she is able to be available during normal business hours. Susan has her own disability, different from mine, so I ask that you please provide the modifications per the ADA that she will need to accommodate her disability for the hearings. Ms. Kamer has Susan's contact information to discuss those appropriate arrangements.

Many, many thanks for your consideration and assistance.

Signature



440-442-9793

Customer Telephone Number