

FILE

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August 14, 2006

VIA OVERNIGHT MAIL

Ms. Renee J. Jenkins
Director, Administration Department
Secretary to the Commission
Docketing Division
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, OH 43215

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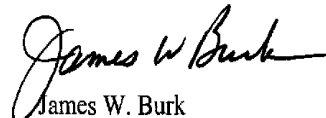
RE: PUCO Case Nos. 06-941-EL-CSS
AM Tower Construction v. The Cleveland Electric Illuminating Company
Answer to the Complaint of The Cleveland Electric Illuminating Company

Dear Ms. Jenkins:

Enclosed for filing please find the original and twelve (12) copies of *Answer to the Complaint of The Cleveland Electric Illuminating Company* regarding the above-referenced case. Please file the attached. File-stamp the two extra copies and return them to the undersigned in the enclosed envelope.

Thank you for your assistance in this matter. Please contact me if you have any questions concerning this matter.

Very truly yours,


James W. Burk

JWB:ls
Enclosures 12

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**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

AM TOWER CONSTRUCTION)	
COMPLAINANT,)	
)	
vs.)	CASE NO. 06-941-EL-CSS
)	
THE CLEVELAND ELECTRIC)	
ILLUMINATING COMPANY)	
RESPONDENT,)	

**ANSWER OF
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY**

Comes now Respondent, The Cleveland Electric Illuminating Company ("CEI"), by counsel, and for its Answer to the Complaint filed in the instant action says that:

1. CEI is a public utility, as defined by §4905.03(A)(4), O.R.C. and is duly organized and existing under the laws of the State of Ohio.
2. While the Complaint consists of a short letter containing unnumbered sentences, CEI will attempt to address each allegation separately.
3. CEI admits that Complainant was a customer of CEI and that it provided electric service to Complainant's facility located at 7300 Clark Avenue, Cleveland, Ohio 44102 ("Premises") for the period of December 26, 2005 until May 3, 2006. CEI avers that Complainant has made no payment toward the electricity used at the Premises. The amount due and owing as of August 11, 2006 was One Thousand Nine Hundred and Eight dollars and 20 cents (\$1,908.20).
4. CEI admits that its records reflect that Complainant called about charges related to the Complainant's electric bill prior to the filing of this complaint and that CEI

subsequently sent information to Complainant including the tariff schedule for Complainant's electric service.

5. CEI admits that Complainant was billed \$335.56 for the January 25 – February 23, 2006 period for the Generation Related Component; \$218.06 for the February 24 – March 23, 2006 period for the Generation Related Component; and \$23.58 for the March 24 – April 25, 2006 for the Generation Related Component. CEI avers that Complainant's usage for the January 25 – February 23 period was 5,431 kWhs; for the February 24 – March 23 period was 3,482 kWhs; and for the March 24 – April 25 period was 361 kWhs. CEI further avers that all of the billing was conducted in accordance with the tariff as approved by the Commission.

6. CEI denies for lack of knowledge the substance of any conversations between Complainant and CEI regarding a Generation Shopping Credit, but admits that at this time no CRES providers are offering to provide service to new accounts in the CEI service territory and avers that Complainant is not served by a CRES provider.

7. CEI denies that the timing of service to Complainant or the availability of alternative suppliers had any impact on the tariff rate that CEI charged the Complainant for the Generation Related Component of its bill.

8. CEI generally denies all allegations set forth in the Complaint that were not otherwise specifically addressed hereinabove.

For its affirmative defenses, CEI further avers that:

9. CEI breached no legal duty owed to Complainant, and Complainant failed to state reasonable grounds upon which its requested relief may be granted. CEI is required by law to charge its approved tariff rate to Complainant.

10. CEI has at all times acted in accordance with its Tariff, PUCO No. 11, on file with the Public Utilities Commission of Ohio, as well as all rules and regulations as promulgated by the Public Utilities Commission of Ohio, the laws existing in the State of Ohio, and accepted standards and practices in the electric utility industry.

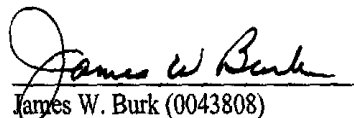
For its Motion to Dismiss, CEI states the following:

11. CEI charged the Complainant the amount for the Generation Related Component as required by the tariff approved by the Commission. Complainant alleges that they believe that the charges for the Generation Related Component are “high”. They make no allegation that the charges are inconsistent with CEI’s tariff as approved by the Commission. As this Commission knows, “a utility must charge rates that are in accordance with tariffs approved by, and on file with, the commission.” *Hull v. Columbia Gas of Ohio*, 110 Ohio St.3d 96, 2006-Ohio-3666. Therefore, CEI may only charge Complainant the amount set forth in the tariff for the Generation Related Component, and this is precisely what CEI did. There is simply no issue to be adjudicated in this matter. The Complainant failed to state any grounds upon which any relief may be granted and therefore this matter should be dismissed.

12. Further, the Complainant should not, in equity, be heard to complain about the charge for the Generation Related Component when the Complainant has made no payment toward any portion of the electricity used by the Complainant at the Premises during the entire period of service.

WHEREFORE, having fully answered the Complaint, Respondent, The Cleveland Electric Illuminating Company, respectfully requests that the instant action be dismissed to avoid the needless expenditure of the time and resources by the Commission and CEI, and that it be granted any other relief that this Commission may deem just and reasonable.

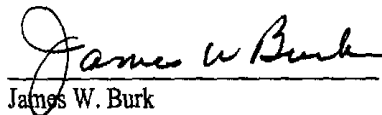
Respectfully submitted,



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On behalf of The Cleveland Electric
Illuminating Company

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Answer of The Cleveland Electric Illuminating Company was served by regular U.S. Mail, postage prepaid, on AM Towers Construction, 7300 Clark Avenue, Cleveland, Ohio 44102, this 14th day of August 2006.


James W. Burk