

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of S. G. )  
Foods, Inc. et al.; Miles Management Corp., )  
et al.; Allianz US Global Risk Insurance )  
Company et al.; Lexington Insurance )  
Company et al.; and BMW Pizza, Inc. and )  
DPNY, Inc. et al., )  
Complainants, ) Case Nos. 04-28-EL-CSS  
v. ) 05-803-EL-CSS  
The Cleveland Electric Illuminating ) 05-1011-EL-CSS  
Company, Ohio Edison Company, Toledo ) 05-1012-EL-CSS  
Edison Company, and American ) 05-1014-EL-CSS  
Transmission Systems, Inc., )  
Respondents. )

In the Matter of the Complaint of Triple A )  
Sport Wears, Inc., )  
Complainants, )  
v. ) Case No. 05-1020-EL-CSS  
FirstEnergy Corp. and American )  
Transmission Systems, Inc., )  
Respondents. )

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In the Matter of the Complaint of Dennis	)	
Kucinich,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 03-1833-EL-CSS
	)	
First Energy Corp., on behalf of The	)	
Cleveland Electric Illuminating Company,	)	
Ohio Edison Company, and The Toledo	)	
Edison Company,	)	
	)	
Respondents.	)	

ENTRY

The Commission finds:

- (1) On August 14, 2003, portions of northeastern United States and southeastern Canada experienced a widespread loss of electrical power (blackout).
- (2) On August 15, 2003, President George W. Bush and then-Prime Minister Jean Chrétien of Canada established a joint U.S.-Canada Power System outage Task Force to establish the blackout. On March 31, 2004, the task force issued its final report (Task Force Report). The task force determined that the initial events that led to the cascading blackout occurred in Ohio and reported that there were a number of major causes of the blackout, as well as various additional identified problems. (Task Force Report at 17-20.)
- (3) Between August 20, 2003, and August 15, 2005, several complaints were filed with the Commission relating to the blackout. Inasmuch as the issues arising in these complaints overlap to a large extent, the Commission consolidated these complaints for hearing and ultimate resolution.
- (4) Pursuant to orders of this Commission and the attorney examiner, several of the consolidated complaints have been amended. The Commission will, at this time, dismiss the parties

and complaints that should no longer be a part of the continuing consolidated proceeding.

### Miles Complaint

- (5) In the Commission's March 7, 2006, entry (March entry), we explained that the Commission's jurisdiction only extends to Ohio customers or consumers of public utilities, as defined by statute. We required the complaint in Case No. 05-803-EL-CSS (Miles complaint) to be amended to set forth the complainants' status as Ohio customers or consumers.
- (6) An amended Miles complaint was filed on March 21, 2006. That version of the complaint did state that the Miles complainants were customers or consumers of the respondents. However, it added, as a named respondent, Cleveland Public Power (CPP).
- (7) On August 7, 2006, the attorney examiner issued an entry (the August entry), further explaining that the Commission also has no jurisdiction over CPP, as utilities owned by a municipal corporation are excluded from the definition of a public utility, by Section 4905.02(C), Revised Code. Therefore, the attorney examiner required further amendment of the complaint such that it would specify that each complainant is served by a jurisdictional utility. The attorney examiner warned that if "the complainant continues to name CPP as a respondent or otherwise fails to comply with the directives of this entry, the examiner will recommend that the Commission dismiss CPP for lack of jurisdiction."
- (8) On August 24, 2006, the complainants filed a further amended Miles complaint.<sup>1</sup> This rendering of the complaint still shows CPP as a respondent. In addition, while it does identify the electric distribution utility which serves each complainant, one of the complainants is identified as a customer or consumer of CPP, as opposed to any jurisdictional utility.
- (9) As stated by the attorney examiner in the August entry, this Commission has no jurisdiction over utilities owned by municipal corporations. Therefore, we find that CPP should be

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<sup>1</sup> This amendment was filed beyond the deadline specified by the attorney examiner. However, the complainant also filed a motion for leave to amend beyond the stated deadline, which motion is hereby granted.

dismissed from this action. In addition, as we previously stated, we have jurisdiction only over complaints by Ohio customers or consumers of jurisdictional utilities. As Miles Management Corp., a complainant in this proceeding, is not an Ohio customer or consumer of a jurisdictional utility, Miles Management Corp. will also be dismissed as a complainant. The Commission will go forward on this complaint with the remaining complainants and respondents.

#### **BMW Pizza Complaint**

- (10) In the August entry, the attorney examiner noted that the complainants in Case No. 05-1014-EL-CSS (BMW Pizza complaint) had made no claim against Ohio Edison Company (OE). Although the complainants in the BMW Pizza proceeding filed a second amended complaint on August 14, 2006, that complaint still reflects no claim against OE. Indeed, OE has been eliminated by the complainants from the list of parties against whom the complaint is brought. Therefore, we find that OE should be formally dismissed from the BMW Pizza complaint. The Commission will go forward on the BMW Pizza complaint with the remaining respondents.

#### **Triple A Complaint**

- (11) In our March entry, the Commission directed that the complainant in Case No. 05-1020-EL-CSS (Triple A complaint) amend its complaint to identify itself as an Ohio customer or consumer of a jurisdictional utility. The Triple A complainant did not file any amendment. Therefore, we find that the Triple A complaint should be dismissed for lack of jurisdiction.

#### **Kucinich Complaint**

- (12) In the March entry, we required that the complaint in Case No. 03-1833-EL-CSS (Kucinich complaint) be amended. On March 21 and March 29, 2006, the complainant and the intervenor in the Kucinich complaint proceeding, respectively, withdrew their complaint and intervention. Therefore, the Commission finds that this case should be dismissed.

It is, therefore,

ORDERED, That Cleveland Public Power be dismissed from Case No. 05-803-EL-CSS. It is, further,

ORDERED, That Miles Management Corp. be dismissed as a complainant in Case No. 05-803-EL-CSS. It is, further,


ORDERED, That Ohio Edison Company be dismissed from Case No. 05-1014-EL-CSS. It is, further,


ORDERED, That Case No. 05-1020-EL-CSS be dismissed and closed of record. It is, further,

ORDERED, That Case No. 03-1833-EL-CSS be dismissed and closed of record. It is, further,


ORDERED, That a copy of this entry be served upon all parties of record.

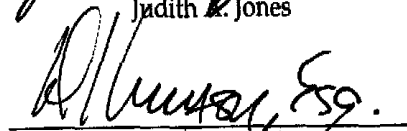
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Alan R. Schriber, Chairman

  
Ronda Hartman Fergus

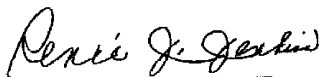
  
Judith A. Jones

  
Valerie A. Lemmie

  
Donald L. Mason

JWK;geb

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SEP 27 2006



Renee J. Jenkins  
Secretary