

**FirstEnergy**

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FILE

November 16, 2001

VIA OVERNIGHT MAIL

Ms. Daisy Crockron  
Docketing Division  
The Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, OH 43266-5073

RECEIVED DOCKETING DIV  
01 NOV 19 AM 11:29  
PUCO

Re: *Edmund A. Zaller v. The Cleveland Electric Illuminating Company*  
Case No. 01-2207-EL-CSS

Dear Ms. Crockron:

Enclosed for filing, please find the original and 12 copies of the *Motion to Dismiss of the Cleveland Electric Illuminating Company* regarding the above referenced matter. Please file-stamp the two extra documents 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 /fd

JWB:fd  
Enclosures  
[50410]

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Technician USA Date Processed 11-19-01

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING  
01 NOV 19 AM 11:30  
PUCO

Edmund A. Zaller. )  
 )  
COMPLAINANT, )  
 )  
vs. )  
 )  
THE CLEVELAND ELECTRIC )  
ILLUMINATING COMPANY )  
 )  
RESPONDENT. )

CASE NO. 01-2207-EL-CSS

ME

**MOTION TO DISMISS  
OF THE CLEVELAND ELECTRIC ILLUMINATING COMPANY**

Comes now Respondent, The Cleveland Electric Illuminating Company, by counsel, and for its Amended Motion To Dismiss says that:

1. CEI filed a Motion To Dismiss with its Answer on September 17, 2001 and the Motion to Dismiss has not yet been ruled upon. Complainant filed no response to that Motion to Dismiss.

2. With this pleading, CEI is supplementing the grounds alleged in its pending Motion To Dismiss with additional grounds supporting dismissal. All of the previous grounds set forth in the previous Motion to Dismiss are incorporated herein by reference.

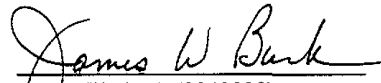
3. On October 26, 2001, the Attorney Examiner issued an Entry establishing that a prehearing/settlement conference would be held in this matter on November 14, 2001 at

10:00 a.m. in Room 1232 of the Commission Offices. The Entry also gave the Complainant the option of requesting a telephonic prehearing conference.

4. The Complainant failed to attend the prehearing/settlement conference and failed to request a telephonic prehearing conference. The prehearing conference was attended in person by counsel for CEI.

5. The Complainant has the burden of proof in this proceeding. Given Complainant's failure to prosecute this case, in addition to the grounds stated in the previously filed Motion to Dismiss, CEI respectfully requests that this matter be dismissed.

Respectfully submitted,



James W. Burk (0043808)

Attorney

FirstEnergy Corp.

76 South Main Street

Akron, Ohio 44308

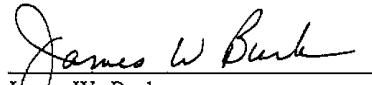
Phone: 330-384-5861

Fax: 330-384-3875

On behalf of The Cleveland Electric  
Illuminating Company

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Motion to Dismiss of The Cleveland Electric Illuminating Company was served by regular U.S. Mail, postage prepaid, upon Mr. Edmund A. Zaller., 5687 Cliff Court, Willoughby, Ohio 44094, this 16th day of November, 2001.

  
James W. Burk  
Attorney

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