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Possible Legal Concerns

Throughout this column we have laid the foundation for the applicability of legal involvement into the field of protection and control.

When a major power disaster strikes, countless individuals are affected and the most effective means for achieving legal satisfaction is to file a class action lawsuit. A prime example of this situation and its aftermath is the North American blackout of 2003. This issue's column provides a peak into the Northeast blackout, and a recap of its legal consequences, the outcome of which leave many unresolved concerns.

On August 14, 2003 a massive power outage swept across the American northeast, debilitating numerous states in the U.S. as well as Canada. The blackout was the largest in North American history and affected nearly 10 million people in Canada, and 40 million in the United States. The estimated financial looses resulting from the outage were estimated between $4 to $10 billion USD. (U.S.–Canada Power Systems Outage Task Force Final Report on the August 14th Blackout)

The millions that were vastly impacted by the massive loss of power, wanted answers. Less than a week following the blackout, a New York based law firm filed a class action lawsuit on behalf of 50 million Americans against FirstEnergy (FE), a company identified early on by U.S. federal investigators as a possible source of the blackout, on grounds that the company acted "recklessly" in causing the outage. (CBS News, August 19, 2003) The lawsuit listed three major causes that according to plaintiffs

signify FirstEnergy acted recklessly. *First* it was alleged that the company did not have a functioning alarm, to alert controllers of trouble with power transmission lines. *Second*, plaintiffs argued FirstEnergy failed to cut down tree branches that interfered with the transmission lines. *Finally*, it was alleged the company failed in maintaining a failsafe system, to separate its system from the rest of the power grid. (CBS News, 2003)

In the months to follow both affected nations vehemently set out to determine the causes for the failure, and determine who was responsible. U.S. – Canada Power Systems Outage Task Force was to lead the massive investigation. On March 31, 2004, the task force released their final report, placing the main causes of the blackout on FirstEnergy. The report set forth four distinct "groups" of causes as follow. FirstEnergy "failed assess the inadequacy of its system, particularly with respect to voltage instability and vulnerability, and did not operate its system with appropriate voltage criteria." Second, FirstEnergy "did not recognize or understand the deteriorating condition of its system." Further, FirstEnergy "failed to manage adequately tree growth in its transmission right of way." The final group attributed blame to "failure of the interconnected grid's reliability organizations to provide effective real time diagnostic support." The extensive research of various interested parties, starting with the class action filed immediately following the blackout, and culminating with the report of the bi-national task force, clearly agree that FirstEnergy was at the core of the massive power failure, yet the company seems to have avoided liability. In late 2003 Spencer Abraham, U.S. Secretary of Energy at the time, declared that "his department would not seek to punish FirstEnergy Corp for its role in the blackout because current U.S. law does not require electric reliability standards." (Forbes) He further clarified that "The absence of enforceable reliability standards creates a situation in which there are limits in terms of federal level punishment." (Forbes)

This examination makes clear that even in the event of a massive multi-national energy meltdown, where blame can be definitively assessed, there is little or no means for redress, an issue we will soon address. ■

Biography
Iana graduated from UCLA in 2001 with a major in Political Science. In 2005 she was awarded the degree of Juris Doctor, from Loyolla Law School. During her studies, Iana worked for Soft Power Int., where she became well aquainted with the engineering world. She furthered her business knowledge working for Insurance Marketing Inc. Upon graduating from Law School, Iana joined the Criminal Defence field, where she has devoted her talents to fight for her clients. Iana is currently working on her MBA from Ashford University.

Disclosure: Please note that none of the information contained within the above column is to be considered legal advice.