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Stray Voltage and Dairy Farms Can Lead to Large Damage Awards

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History of Stray Voltage Suits

Stray voltage causing damages to dairy farms is a problem that has been facing the dairy industry for year with damages cases dating back to 1984. Stray voltage is caused when a power line's neutral line is "leaking" electrical currents into the ground. A common cause of stray voltage is a neutral wire that is either too small or damaged and allows the current to go into the ground. Even when the stray voltage current is at a low level, specifically anything above 0.5 volt, it can still be harmful to livestock. These currents put stress on the animals, which in turn lowers their immune systems, leading to a variety of issues. Dairy cows have shown to be more sensitive to stray voltage than any other livestock. Voltage has been shown to cause decreased milk production, due to a lowered water intake and in turn a lowered feed intake. Farmers have also noted a range of issues relating to breeding and calving. Dairy farmers have even reported extremely sick cows, some of which have later died.

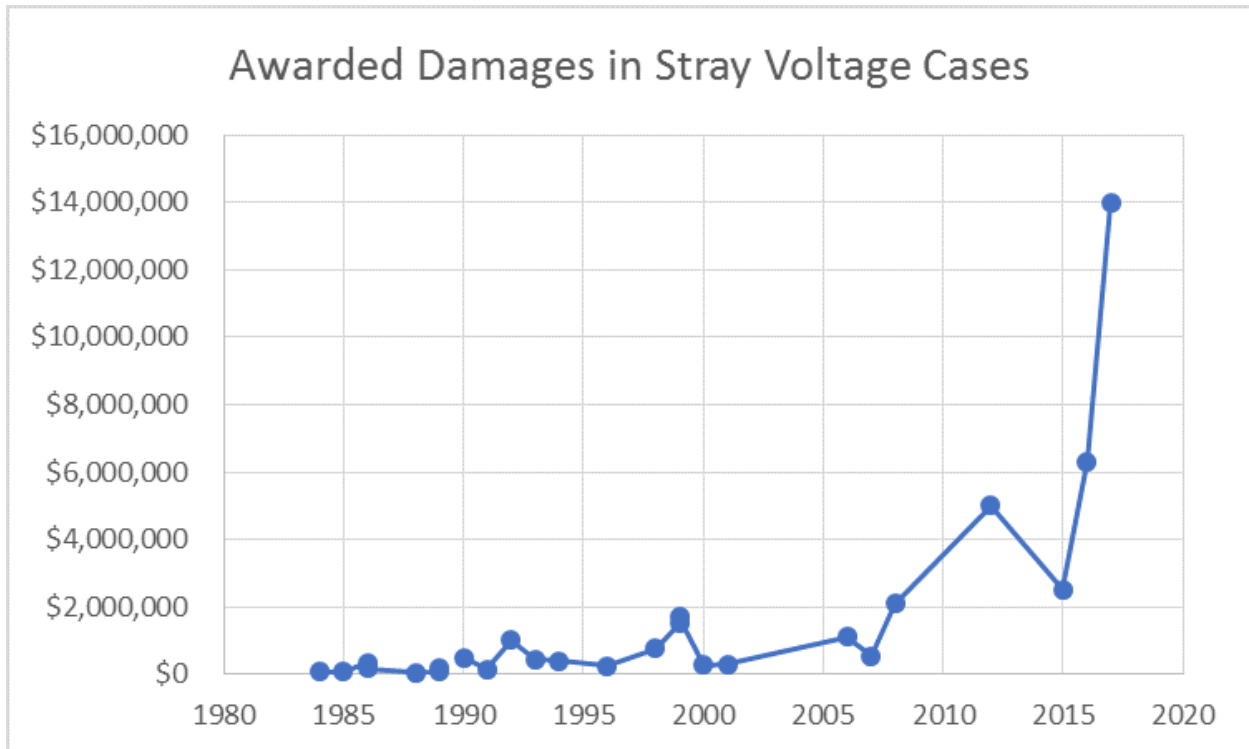
Since the 1980s farmers have been filing a variety claims against electrical utility companies across the United States relating to stray voltage, including claims for trespass, negligence, strict

liability, and nuisance. Additionally, dairy farmers have filed suits against milk system suppliers for stray voltage. However, a majority of these suits have been unsuccessful or have resulted in limited relief due to the economic loss doctrine that prevents the collection of damages when it relates to a loss in profit due to defective goods. A majority of courts have held that unlike milking systems, the utility companies are providing a service rather than a good.

In suits relating strictly to electrical utility companies we have seen an evolution in damages from the 1980s to today. These suits have proven to be successful on multiple occasions and the awarded damages continue to grow.

Evolution of Damages in Stray Voltage Cases Heard throughout the United States

Since 1984 many farmers have received damages awards. However, those awards have grown from \$36,500 up to \$14 million. While there has been variation in damages awards throughout the years, there has been an upward trend overall. While some of this growth in awarded damages is due to growing farm sizes, a majority of the growth is due to an increase in understanding and research.



Year	Case Name	State	Claims brought	Relief granted to Farmer
1984	Zorn v. Electrical Research & Manufacturing Coop.	Wisconsin	negligence	\$79,786
1985	Schriner v. Pennsylvania Power & Light Co.	Pensylvania	Strict Liability	\$81,374
1986	Public Service Indiana, Inc. v. Nichols	Indiana	Strict Liability	\$343,000
1986	Hensley v. Howell-Oregon Electric Coop.	Missouri	Negligence	\$172,091
1988	Otte v. Dayton Power & Light	Ohio	Negligence	\$36,500
1989	Lipke v. Waushara Electric Coop.	Wisconsin	Negligence	\$70,000
1989	Taplin Farms, Inc. v. Ryder Sales & Service	Wisconsin	Negligence (Co-defendant <i>Northern State Power</i> found negligent)	\$178,684
1990	Fink v. Lafayette Electric Coop.	Wisconsin	Negligence and strict liability	\$500,000
1991	Kolpin v. Pioneer Power & Light Co.	Wisconsin	Negligence, strict liability, and nuisance	\$133,326
1992	ZumBerge v. Northern States Power Co.	Minnesota	Strict liability and negligence	\$1,000,000
1993	Cook v. Goodhue County Coop.	Minnesota	Negligence	\$450,000
1994	Matchey v. Trempealeau Electric Coop.	Wisconsin	Negligence	\$400,000
1996	Vogel v. Grant-Lafayette County Electric Coop.	Wisconsin	Negligence and Nuisance	\$240,000
1998	Vandenberg v. Consumers Power Co.	Michigan	Negligence and Nuisance	\$750,000
1999	James v. Beauregard	Louisiana	Negligence	\$1,500,000
1999	Tipmont Rural Electric Membership Corp. v. Fisher	Indiana	Negligence	\$1,700,000
2000	Scullion v. Wisconsin Power and Light Co.	Wisconsin	Negligence	\$277,500
2001	Iowa Lakes Electric Coop. v. Schmitt	Iowa	Negligence	\$303,022
2006	Muth v. Wisconsin Electric Power Co.	Wisconsin	Nuisance and negligence	\$1,107,289
2007	Gumz v. Northern States Power	Wisconsin	Nuisance	\$532,000
2008	Chapman v. New Mac Electric Coop.	Missouri	Nuisance	\$2,094,184
2012	Bollant v. Scenic Rivers Energy Coop.	Wisconsin	Nuisance and negligence	\$5,000,000
2015	Poppler v. Wright-Hennepin Cooperative Electrical Association	Minnesota	Negligence, nuisance, and trespass	\$2,500,000
2016	Norman v. Crow Wing Power	Minnesota	Nuisance and negligence	\$6,300,000
2017	Haldersons v. Northern States Power	Wisconsin	Nuisance and Negligence	\$14,000,000
2017	Burdick v. Interstate Power and Light	Iowa	Nuisance and negligence	\$500,000

Recent Stray Voltage Case in Iowa

The Iowa Court of Appeals recently decided in favor of a dairy farm awarding them \$500,000 in damages. Burdicks, a family dairy in Northern Iowa, filed suit against Interstate Power & Light Co. The Burdicks claimed that Interstate was negligent in its maintenance of its system, which caused stray voltage damages to the Burdicks' dairy herd. They also filed a nuisance claim against Interstate. The jury found for Burdicks on the issue of negligence, awarding them \$500,000. After the trial, Interstate filed a motion for a new trial claiming that Burdicks did not provide enough evidence for the jury to calculate the damages. The district court granted Interstate's motion for a new trial.

The case decided by the Iowa Court of Appeals found that if there is proof a party has sustained damages, then that party can recover, even if there is uncertainty in the amount of the damages. There must just be a basis from which the amount of damages can be inferred. While parties should still aim to provide detailed evidence showing damages, the court here allowed the party to recover even without such evidence.

Burdicks appealed the district court's grant of a new trial. The appellate court found for Burdicks, as Interstate's case-in-chief provided adequate information to support a determination of damages by the jury. In addition, Interstate did not appeal the jury's finding of its negligence. The court has held that "there is a distinction between proof of the fact that damages have been sustained and proof of the amount of those damages."^[1] The proof of the amount of damages only needs to be presented to a point where the jury can come to an approximate estimate of the loss, not to an exact mathematical conclusion.

Therefore, even though Burdicks failed to present significant evidence that would aid the jury in determining the *amount* of damages, there were no grounds for the court to order a new trial. This was especially true because Interstate's expert witness' testimony and admitted exhibits provide sufficient evidence. Previous courts have shown that the court must look at evidence presented in the whole trial, not just the evidence presented by one side.

Here, Interstate's expert submitted graphs which showed expense figures and other important financial data. This along with his testimony allowed the jury to determine an estimate of the loss. Therefore, the Iowa Court of Appeals upheld the jury's previous holding that Interstate was negligent for \$500,000 in damages.

The case was *Burdick v. Interstate Power & Light Co.*, No. 16-0821 (Iowa Ct. App. October 25, 2017).

^[1] Yost v. City of Council Bluffs, 471 2d N.W. 2d 836, 840 (Iowa 1991).

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