

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of :
Joseph Byrne, :

Complainant, :

vs. : Case No. 08-885-EL-CSS

The Cleveland Electric :
Illuminating Company, :

Respondent. :

PROCEEDINGS

before Mr. James M. Lynn, Hearing Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-G, Columbus, Ohio, called at 1:00
p.m. on Tuesday, April 7, 2009.

4-21-09 Transcript docketed electronically

ARMSTRONG & OKEY, INC.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
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PUCO

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FILE

PUCO EXHIBIT FILING

Date of Hearing: 4/7/09

Case No. 08-885-EL-CSS

PUCO Case Caption: _____

Joseph Byrne, Complainant

vs.

The Cleveland Electric Illuminating
Company, Respondent.

List of exhibits being filed:

Byrne Exs 1 - 7/11/08 letter

2 - Site Inspection Report

3 - Color photo w/ notations

CEI Exs - 1 - Direct testimony of G. Western

1-A - Rule 27(2)(E)

1-B - Color photographs

1-C - Plat map (full sized)

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Reporter's Signature: Maria DiPaolo Jones

Date Submitted: 4/20/09

Joseph R. Byrne
911 Roland Road
Lyndhurst, OH 44124
440-461-7717

July 11, 2008

Public Utilities Commission of Ohio
180 East Broad Street, 7th Floor
Columbus, OH 43215

Re: Case # IDJBYR; 042308X6

Dear Sirs and Madames,

On the morning of March 25, 2008 the ABC Professional Tree Service, under contract to the Illuminating Company entered my property and cut most of the branches off one side of the only tree in my front yard.

I realized that tree branches need to be kept clear of power lines. However, the tree in question is 15 feet inside the property line. There is a five foot utility easement, which means that the trimming exceeded the easement limit by ten feet. This severe cutting left the tree nearly branchless on one entire side. This action completely ignored my rights as a property owner. Furthermore, I don't believe that such a severe cutting was necessary, and left the trees appearance and shape very unsightly and completely out of proportion.

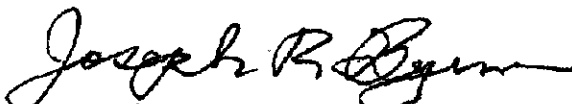
I've included a property map showing the tree location and utility easement limit. Also enclosed are pictures of the tree just days after the trimming. A later picture shows where the large limbs were cut at or very close to the tree trunk.

This tree is mature and would be very costly to replace.

I look forward to a satisfactory and equitable response to this very unnecessary and unfair action on the part of the Illuminating Company.

Thank you.

Sincerely,



Joseph R. Byrne

Attachments:

911 Roland Road location survey
Three pictures of the tree in question and residence

SITE INSPECTION REPORT

Joseph Byrne
911 Roland Rd
Lyndhurst OH 44124-1033

www.clevelandpol.org

On 02/03/93 we inspected subject premises and received answers to the following questions:

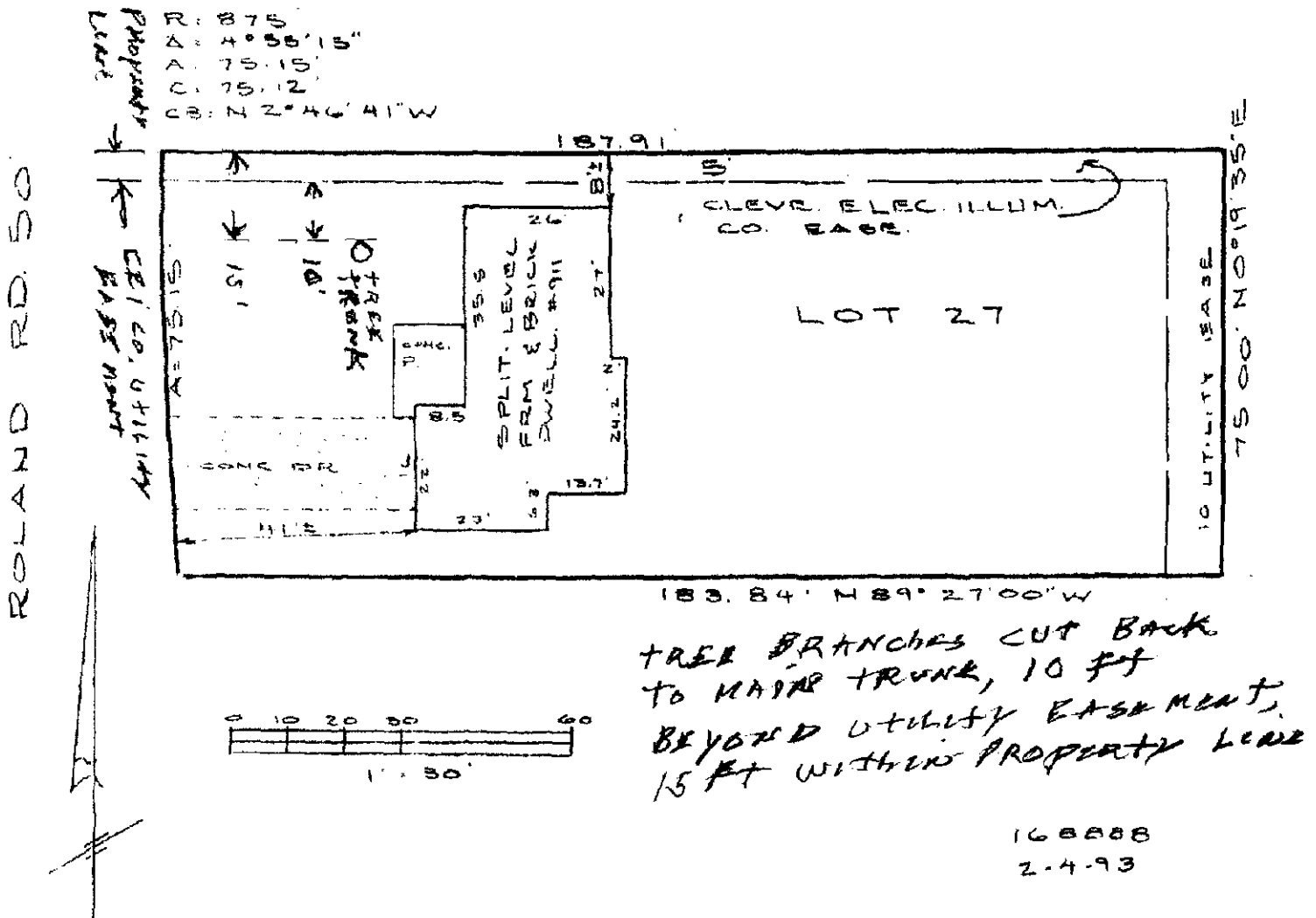
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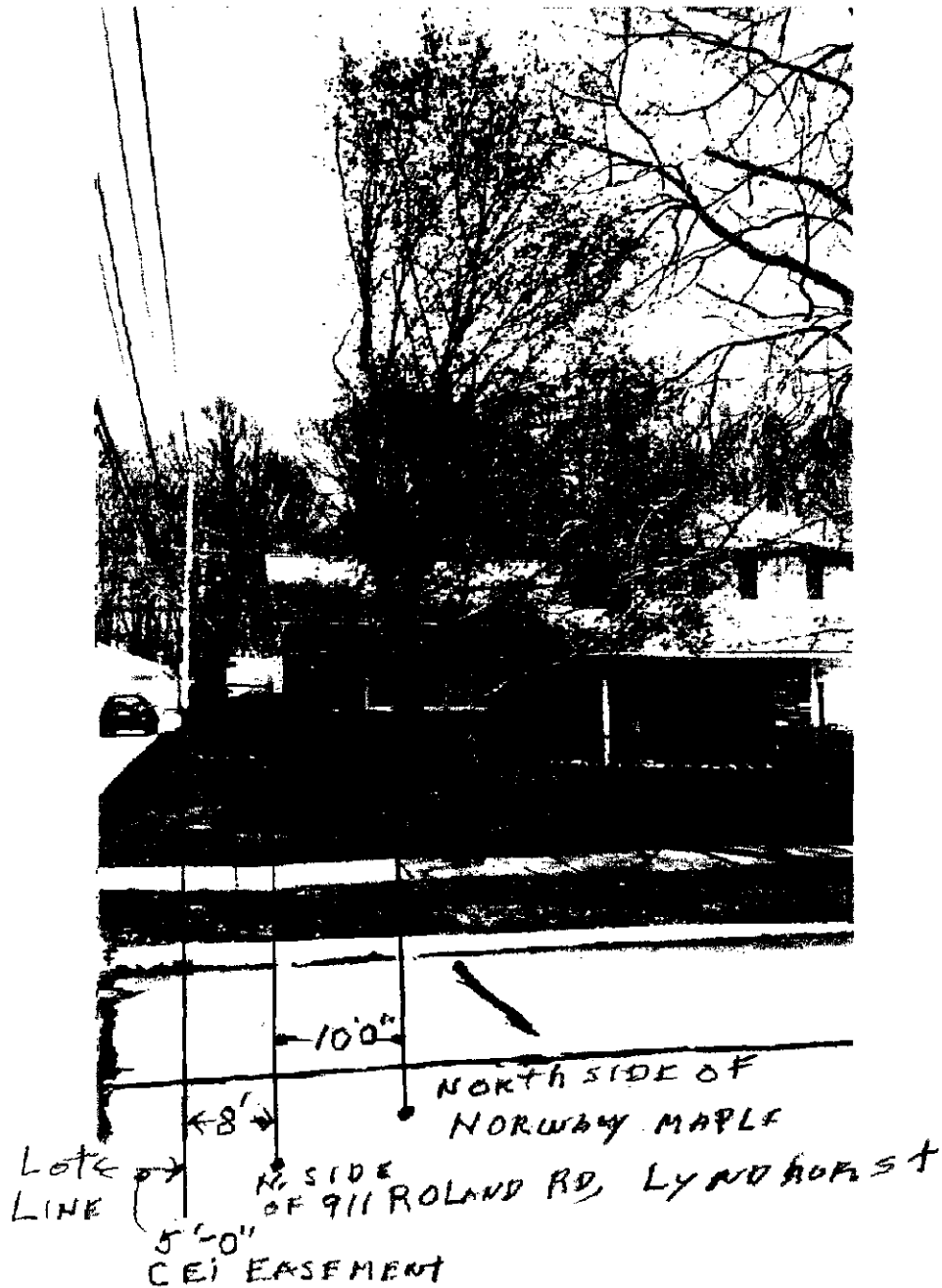
Person interviewed: NO ONE, VACANT HOUSE

1. What is the property owner's name? Answer:
2. Who is in possession? Answer:
3. In possession as owner, tenant under lease, or land contractee? Answer:
4. Have any materials been furnished or work performed in improving this property within the 120 days? Answer: **NONE APPARENT**
5. Have any improvements to the street such as grading, surfacing, curbing, sidewalks or sewers been made within the last six months? Answer: **NONE APPARENT**

MAP OF MORTGAGE LOCATION SURVEY

911 ROLAND ROAD





Picture taken from west side of Roland Road looking east toward 911 Roland Road house tree and power lines shortly after trimming.

PICTURE & MAP SHOWS NOTES & EXCESSIVE
TREE TRIMMING OF NORWAY MAPLE IN FRONT
OF 911 ROLAND RD, LYNDBURST

B

Joseph Byrne
911 Roland Rd
Lyndhurst, OH 44124-1083

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Joseph Byrne,)	
)	
Complainant,)	
)	
v.)	Case No. 08-885-EL-CSS
)	
The Cleveland Electric Illuminating Company,)	
)	
Respondent.)	

DIRECT TESTIMONY OF

GERALD WESTERN

ON BEHALF OF
THE CLEVELAND ELECTRIC ILLUMINATING COMPANY

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PUCO

1 Q: Please state your name, business address, and position.

2 A: My name is Gerald Western and my business address is 735 Bradley
3 Road, Westlake, Ohio 44145. I am the Manager of Forestry Services for The
4 Cleveland Electric Illuminating Company.

5 Q: What is your professional and educational background?

6 A: I have been a utility forester for over 35 years. I hold a B.S. in forest production
7 from the University of Illinois, and an M.B.A. from Baldwin Wallace. After graduating
8 with my B.S., I worked for the U.S. Forest Service for 3 years. I then worked for Ohio
9 Edison Company as an Area Forester for 25 years, before I transferred into my current
10 position with The Cleveland Electric Illuminating Company in 1997. I also am a
11 Certified Forester and a member of the Society of American Foresters, the International
12 Society of Arboriculture, and the Utility Arborists' Association.

13 Q: What does the Forestry Services Department do?

14 A: Simply put, CEI's Forestry Services department is responsible for implementing
15 CEI's vegetation management program. As part of that program, CEI trims and/or
16 removes trees that may interfere with the operation, installation, and maintenance of its
17 electric lines and poles in order to promote the reliability of its service. CEI has found
18 that trees are a leading cause of its service outages and interruptions. In addition,
19 vegetation management helps insure the public's safety, as well as the safety of CEI's
20 employees and independent contractors. CEI's vegetation management practices are
21 designed in accordance with proper arboricultural procedures that maintain the health of
22 the trees, while making sure that an appropriate distance from the lines and poles is
23 maintained. In fact, CEI's vegetation management program has been honored by the

1 Arbor Day Foundation as a "Tree Line USA" utility honoree for 11 consecutive years,
2 including just this year. The Arbor Day Foundation assesses annual worker training in
3 quality tree care practices and the overall quality of the tree care program.

4 **Q: Please describe your responsibilities as the Manager of Forestry Services.**

5 A: My primary responsibility is to oversee the Forestry Services Department which
6 involves planning, budgeting, scheduling, inspecting and monitoring the company's
7 vegetation management program. I oversee 10 employees, many of whom are certified
8 arborists and/or certified foresters. Also, I am responsible for the oversight of CEI's
9 contractors who perform tree trimming and pruning work for CEI, and for ensuring that
10 the work they perform is done in accordance with CEI's vegetation management
11 program.

12 **Q: Is CEI required to have a vegetation management program?**

13 A: Yes. CEI, as a regulated electric distribution utility, is subject to the requirements
14 of the Public Utilities Commission of Ohio (the "Commission"). The Commission
15 requires CEI to submit a vegetation management plan, which Commission Staff must
16 review and approve.

17 **Q: Does CEI have an approved vegetation management plan for distribution**
18 **lines?**

19 A: Yes. CEI submitted its Rule 27(2)(E) plan for "Right-of-way Vegetation Control
20 - Distribution," which was accepted by Commission Staff (the "Vegetation Plan") and
21 which is attached hereto as Exhibit 1-A.

22 **Q: What is CEI required to do under its Vegetation Plan?**

1 A: The Vegetation Plan commits CEI to prune, control, or remove vegetation
2 "approximately every four years, or as required, to maintain reliability and access, make
3 repairs, or restore service." The tree pruning work must be performed in compliance with
4 the American National Standards Institute's "Pruning, Repairing, Maintaining, and
5 Removing Trees, and Cutting Brush - Safety Requirements" (Z133.1), and "Standards for
6 Tree Care Operations" (A-300), as well as the requirements of the Occupational Safety
7 and Health Administration.

8 **Q: Who performs tree trimming work for CEI under its vegetation management**
9 **program?**

10 A: CEI hires independent contractors to perform the tree trimming work, who
11 operate under CEI specifications that are built on the requirements of the Vegetation
12 Plan. Once the independent contractor has completed its work, CEI Forestry Services
13 personnel review the work to insure that it is completed. In addition, Forestry Services
14 department personnel perform random quality control reviews.

15 **Q: How far back from primary conductors are trees pruned?**

16 A: Trees are not pruned to an exact distance. Rather, the purpose of the tree pruning
17 is to achieve four years of clearance from the primary conductors. As stated in the
18 Vegetation Plan, the degree and type of tree clearance needed is dependent on the voltage
19 and height of the conductor, the type of tree, its growth rate, and branching habit. Also,
20 in order to maintain the health of the tree, the location of each tree's branch points will
21 impact where and how far back the tree must be pruned to satisfy the vegetation
22 management requirements.

1 **Q: Are you familiar with Mr. Byrne's property located at 911 Roland Drive in**
2 **Lyndhurst, Ohio? If so, how?**

3 A: Yes. I visited Mr. Byrne's property after he filed his Complaint with the
4 Commission, in the Spring of 2008, in order to determine whether the tree located in his
5 front yard was pruned in accordance with CEI's requirements. I also visited the property
6 again in March 2009 to re-familiarize myself with the property.

7 **Q: Please describe what you observed.**

8 A: Mr. Byrne has a large Norway Maple tree in his front yard. The tree is located on
9 the northern side of his property. There is a CEI primary conductor that runs along the
10 northern edge of his property, running from the front of his property to the back.

11 **Q: Did you take any photographs of the property?**

12 A: Yes. When I visited the property in March 2009, I took several photographs of
13 the Norway Maple, which are attached hereto as Exhibit 1-B.

14 **Q: Can you describe any characteristics of Norway Maple trees?**

15 A: Yes. Norway Maple trees are deciduous trees that can grow to approximately 50
16 feet high and spread 25-40 feet. Mr. Byrne's tree is approximately 45 feet high and
17 spreads approximately 35 feet.

18 **Q: Did CEI or someone acting on its behalf prune the Norway Maple?**

19 A: CEI's records reflect that the tree was pruned in March 2008 by one of CEI's
20 independent contractors. The pruning conformed with the Vegetation Plan, including the
21 four-year cycle set forth in the Vegetation Plan submitted to and accepted by
22 Commission Staff in accordance with Rule 27(2)(E).

1 **Q: Did CEI or its independent contractors have permission to go onto Mr.**
2 **Byrne's property to trim the Norway Maple?**

3 A: Yes. Mr. Byrne's property is subject to an easement granted to CEI through the
4 original subdivision plat. The easement grants CEI an area 5 feet on either side of the
5 primary conductor on his property in which to build, operate, and maintain the conductor.
6 Most importantly and relevant in this case, the easement also grants CEI the right to trim
7 or remove trees located anywhere on Mr. Byrne's property that may interfere with the
8 installation, maintenance, and operation of the primary conductor. A certified copy of the
9 easement is attached hereto as Exhibit 1-C.

10 **Q: Was the Norway Maple properly pruned?**

11 A: Yes. The pruning complied with the ANSI's "Pruning, Repairing, Maintaining,
12 and Removing Trees, and Cutting Brush - Safety Requirements" (Z133.1), and
13 "Standards for Tree Care Operations" (A-300). The cuts were made at appropriate
14 locations to maintain the health of the tree. The cuts were close to the parent stem
15 without tearing the bark below. This helps promote wood closure and reduces chances
16 for decay. The cuts were properly made in order to encourage the tree to grow away
17 from the lines (known as "directional pruning"). And, the cuts were made at an
18 appropriate distance away from the lines in order to satisfy the required goal of four years
19 of clearance.

20 **Q. Does this conclude your testimony?**

21 A. Yes, it does.



Rule 27(2)(E)

Right-of-way Vegetation Control - Distribution

(a) Description and identification of each program's objectives and desired outcome(s).

Vegetation is routinely pruned, controlled or removed approximately every four years or as required, to maintain reliability and access, make repairs, or restore service. All vegetation clearing work is performed in compliance with ANSI Z133.1 and A-300 Standards, and according to the requirements given by OSHA.

(b) Description and overview of each program's procedures>

(c) Identification of equipment examined under each program.

The degree and type of tree clearance required for electric lines to function effectively is dependent on the voltage and height of the conductor, the type of tree, its growth rate and branching habit.

Primary Conductors

In non-maintained lawn areas, the distribution clearing zone is defined as a corridor measured at a distance of 15' (fifteen feet) on either side of the pole line. Emphasis is placed on controlling all incompatible vegetation within this clearing zone. All incompatible vegetation overhanging the clearing zone corridor is pruned back to the main stem. In cases where incompatible vegetation is not controlled, such as in maintained lawn areas, vegetation is pruned following directional pruning methods and as further defined in the current ANSI 300 Standards and Amendments. Pruning is done in such a manner to achieve four years of clearance from primary conductors. In cases where four years of clearance is unattainable 12' (twelve feet) of clearance around primary conductors is achieved.

Priority trees located in the inspection zone, which is the area between fifteen feet (15') and twenty feet (20') from the pole line, are maintained to mitigate obvious hazards to facilities.

Secondary Conductors

Secondary circuits include all facilities between the transformer pole and the final pole on the line (including guy stub poles).

The secondary voltage clearing zone extends from the secondary conductors to a distance of four feet (4'), 360 degrees around the conductors.

Individual Services and Streetlight Circuits

Branches contacting individual service or street light wires are pruned to provide at least one foot (1') of clearance. Services are defined as the span from the last pole to the customer's meter location.

Details of the program and procedures are contained in the FirstEnergy Vegetation Management Specifications.

(d) Justification and supporting rationale for each program's schedule(s).

The length of the cycle has been established to provide effective tree clearance from overhead conductors. Factors that are taken into consideration in establishing a four year cycle are tree species, growing habits and conditions that are commonly found in Ohio, pole and conductor heights, line voltages, tree pruning practices that follow correct arboricultural techniques and comply with recommended and mandated guidelines established by OSHA and the ANSI AZ133.1 and A300 standards, circuit reliability, customer satisfaction and cost effectiveness.

(e) Description of the process for documenting and recording each program's activities.

Scheduling, inspecting, and monitoring of vegetation control activities are the responsibility of the Regional Forestry Services Section. Work is documented on the vegetation management weekly timesheets by the contractors and is entered into the Vegetation Management System.

(f) Description of the company's internal process for reviewing and assessing each program's results/findings and for making repairs and replacements based on those program results/findings.

Regional personnel have the responsibility for inspecting and approving work performed by contracted vegetation management contractors to ensure specification compliance.

(g) Description of the company's process for incorporating its assessment of each program's results/findings and for making repairs and replacements based on those program results/findings.

Each year dollars are allocated to each Region for Vegetation Management. Schedules are based upon reliability and the last time maintenance was performed. CRI, the corporate reliability measure, is calculated both monthly and yearly. CRI Teams review each of the circuits (monthly/quarterly) and make recommendations for additional vegetation management work.

(h) Description of the company's process for reviewing and assessing the progress and effectiveness of each program and implementing change where needed.

Vegetation issues are monitored through CRI statistics and if problem areas are identified they are corrected. Quarterly meetings are conducted with the Regional Engineers, Dispatch Supervisors, Line Supervisors, and Forestry Supervisors, if the field personnel observe unusual problems with vegetation conditions issues are raised and discussed at these meetings. Benchmarking surveys of internal processes among regional operations and surveys with other utility companies are performed.

(i) Description of the training and re-training process of company personnel for implementing the programs.

Qualified vegetation management contractors are contracted to clear trees away from electric conductors. The contractors are qualified line clearance tree professionals trained in OSHA safety standards and in proper pruning techniques. All contractor personnel are required to carry photo identification, which includes the employee name, company name and office telephone number.

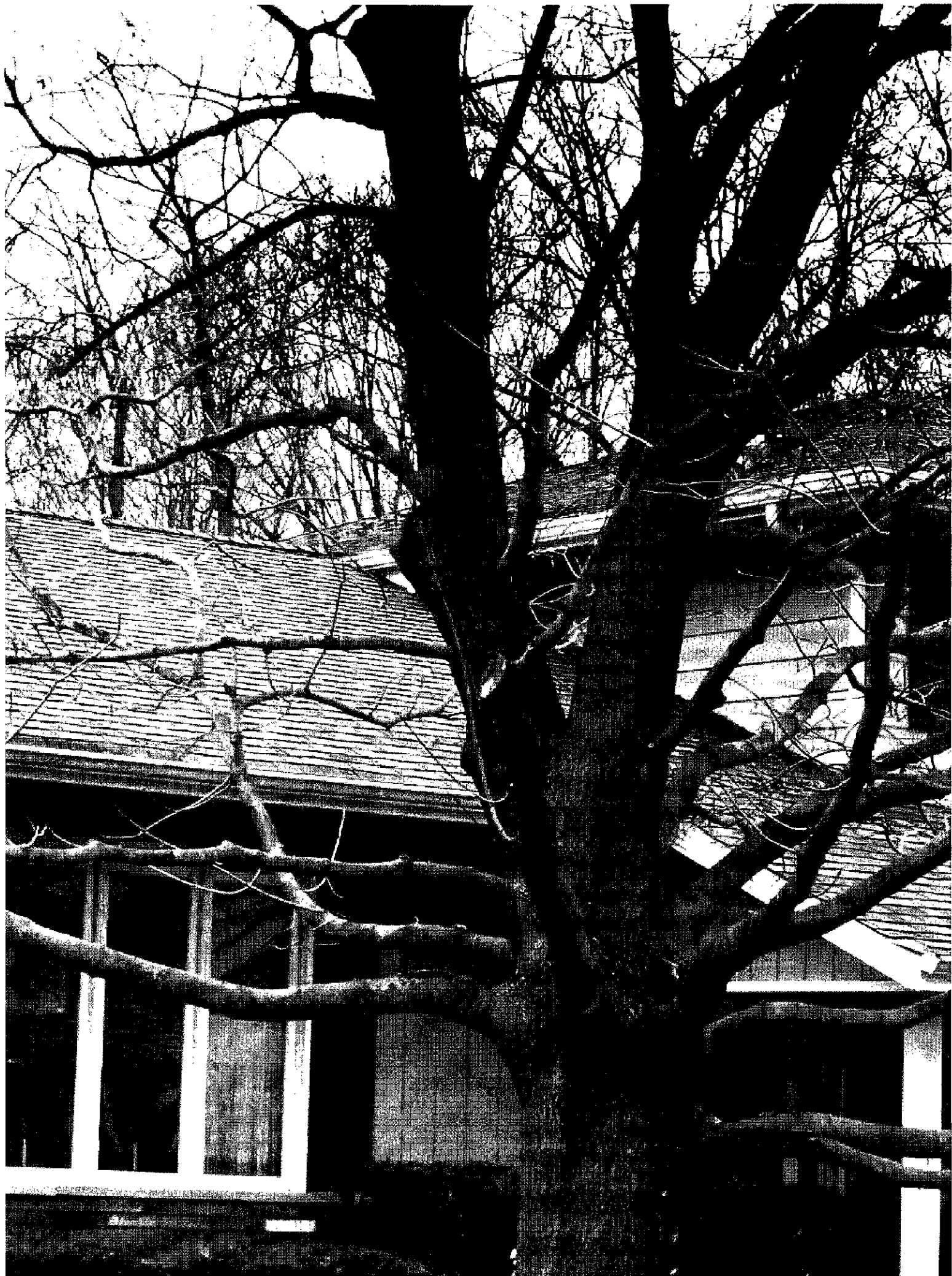
Employees attend industry trade conferences and maintain memberships in industry trade organizations, such as Utility Arborist Association and International Society of Arboriculture.

PENBAD 800-631-6000

EXHIBIT

1-B







CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing *Direct Testimony of Gerald Western on behalf of The Cleveland Electric Illuminating Company* was served by via first-class U.S. mail, postage-prepaid, on Joseph Byrne at 911 Roland Road, Lyndhurst, Ohio 44124, this 31st day of March, 2009.


One of the Attorneys for Respondent



