

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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Dane L. Mazzitti, :
Complainant, :
vs. : Case No. 08-1146-EL-CSS
Ohio Edison Company, :
Respondent. :

- - -

PROCEEDINGS

before Mr. Richard Bulgrin, Hearing Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-G, Columbus, Ohio, called at 11 a.m.
on Wednesday, May 20, 2009.

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1 APPEARANCES:

2 Mr. Dane L. Mazzitti

3 On behalf of the Complainant.

4 FirstEnergy Corp.

By Ms. Kathy J. Kolich

5 76 South Main Street

Akron, Ohio 44308

6 On behalf of the Respondent.

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1 Wednesday Morning Session,
2 May 20, 2009.

3 - - -

4 THE EXAMINER: Good morning. This is the
5 hearing in Case No. 08-1146-EL-CSS, being the
6 Complaint of Dane Mazzitti?

7 MR. MAZZITTI: Correct.

8 THE EXAMINER: Versus the Ohio Edison
9 Company. My name is Dick Bulgrin. I am the Attorney
10 Examiner assigned by the Commission to conduct the
11 hearing this morning.

12 And, Mr. Mazzitti, you did not have an
13 attorney present?

14 MR. MAZZITTI: That is correct.

15 THE EXAMINER: Okay. If you just state
16 for the record your name and address then.

17 MR. MAZZITTI: My name is Dane Mazzitti,
18 I am a property owner, 2563 West Choctaw Drive,
19 London, Ohio. It's a private lake community
20 consisting of approximately 800 homes.

21 THE EXAMINER: Ms. Kolich.

22 MS. KOLICH: Thank you, your Honor. Good
23 morning. My name is Kathy J. Kolich, counsel for
24 Ohio Edison, 76 South Main Street, Akron, Ohio 44308.

25 THE EXAMINER: Thank you. Okay.

1 Mr. Mazzitti, you want to come up here and I'll swear
2 you in?

3 MR. MAZZITTI: Sure.

4 (Witness sworn.)

5 THE EXAMINER: If you are going to be
6 referring to those pictures, maybe you could give a
7 copy to Kathy.

8 MR. MAZZITTI: Okay, sure.

9 THE EXAMINER: And one to the court
10 reporter too and she can put it with the transcript.

11 MR. MAZZITTI: Also accompanying me today
12 is Mike Hexamer. Mike is lake manager at Lake
13 Choctaw. Today he is assisting me as a friend and
14 not as lake manager of Choctaw Lake, and I also have
15 Linda Bockey, B-O-C-K-E-Y, who is my neighbor
16 referred to in all the transcript testimony as
17 Piecenski, so they are the same person.

18 THE EXAMINER: Okay.

19 MS. KOLICH: Your Honor, before we go --
20 could we go off the record for a minute?

21 THE EXAMINER: Yeah, sure.

22 (Discussion off the record.)

23 THE EXAMINER: Okay. Let's go back on
24 the record then.

25 - - -

1 DANE L. MAZZITTI

2 being first duly sworn, as prescribed by law, was
3 examined and testified as follows:

4 DIRECT EXAMINATION

5 THE WITNESS: Okay. Mr. Bulgrin, at the
6 outside I would very much like to go on record to
7 make it clear that I in no way be perceived as an
8 adversary of Ohio Edison. I have a thorough
9 understanding of Ohio Edison's corporate
10 responsibility to provide safe, dependable electric
11 power. I am a friend of the electric utility
12 industry. I have dedicated 27 years of working -- of
13 working career in public service with American
14 Electric Power Company, AEP, in various managerial
15 positions. In fact, for many years I was AEP's
16 designated representative to the Ohio Power Siting
17 Board, a subset, that's how I refer to it, of the
18 Ohio Public Utilities Commission.

19 I along with representatives of Ohio
20 Edison and then Cinergy which is now Duke Energy as
21 well as members of the Ohio Power Siting Board
22 drafted siting regulations necessary to adequately
23 locate generation, transmission, and distribution
24 facilities in Ohio. I also served with AEP's power
25 siting committee responsible for locating generation,

1 transmission, and distribution facilities. I was
2 AEP's representative in several task forces including
3 the East Central Area Reliability Council. I was
4 also responsible for the facilities siting and public
5 interface with the consumer conversion program in
6 Moscow, Ohio.

7 Throughout my career I have worked
8 extensively with public at large as well as various
9 regulatory agencies in siting and locating the
10 majority of AEP's power plants. I have extensive
11 background in environmental affairs, nuclear
12 licensing, and regulatory affairs as well as national
13 accounts with AEP. I have a thorough comprehension
14 of what is required and what is not required to
15 ensure adequate, reliable electric service. I have
16 obtained a wealth of experience in negotiations with
17 various environmental public interest and regulatory
18 groups.

19 I take great pride in my ability to
20 negotiate rational and workable solutions to the
21 mutual benefit of all parties involved. I have
22 worked diligently to ameliorate adverse impacts
23 sustained and perceived by AEP customers. Most
24 disconcerting is my inability to arrive at a workable
25 solution with Ohio Edison given me experience and

1 employment background.

2 OAC 4901:1-10 and their subsets calls for
3 a quote rules to provide a balance among public
4 transparency in the legal processes adding that the
5 rules appropriately balance the Commission's
6 objectives in a reasonable and flexible manner that
7 provides openness, fairness, and accountability in
8 the Commission's expectations for reliable electric
9 service in Ohio.

10 I understand full well that Ohio Edison
11 has a prescriptive easement for distribution lines on
12 my property. And I have been most willing to
13 cooperate with Ohio Edison with regard to reasonable
14 tree trimming practices. However, I have not
15 observed the call for balance on Ohio Edison's part.
16 I maintain that Ohio Edison has exceeded the
17 necessary scope to adequately maintain distribution
18 lines.

19 I will -- I will delete my statement with
20 regard to the tree trimming work that I consider to
21 be far excessive of what was required.

22 MS. KOLICH: Excuse me. Could we --
23 could I have that last statement before the omission
24 of the one issue? I missed that part about
25 adequately maintain. Could the reporter read it

1 back, please.

2 THE EXAMINER: Could you read it back.

3 (Record read.)

4 MS. KOLICH: Thank you.

5 A. So I have eliminated any reference to the
6 trees in the front yard. Ohio Edison now has its
7 sight set on a long row of mature evergreens up to
8 25, 35 feet in height that extends from the front of
9 my property to near the home of my neighbor
10 Mrs. Bock -- Ms. Bockey of 2567 Choctaw Drive in
11 London. The trees are jointly I call owned by both
12 the Piecenskis or Bockey and me. Several of the
13 trees have been side trimmed years ago which resulted
14 in one of the trees dying.

15 A distribution line extends from the main
16 distribution corridor on Choctaw Drive so that's the
17 main line that runs through the property and then
18 running perpendicular to that it runs -- there is a
19 small line that runs through the evergreen trees to a
20 transformer adjacent to Ms. Bockey's home.

21 Ms. Bockey's home is served by a short feeder line
22 emanating from the nearby transformer. The
23 distribution line to Ms. Bockey's property would be
24 classified as a feeder line had the line been
25 connected to a transformer serving the property. I

1 do not have the capability to attempt to explain why
2 this line was designed and engineered as such. It
3 should be emphasized that this distribution line
4 serves Ms. Bockey's home only. It should be -- and I
5 will add that in talking to Mr. Hexamer we're not
6 aware of any other lines that are designed such as
7 this in the Choctaw development.

8 It should be emphasized that this
9 distribution line serves her home only. It should be
10 mentioned that over many years Ms. Bockey has never
11 sustained an outage directly associated with the line
12 in question. Ohio Edison proposes to top the
13 evergreen trees which will result in the removal of
14 approximately the upper one-half of the trees on my
15 property, to a lesser extent the trees on
16 Ms. Bockey's property resulting in an appearance of
17 hedge. The resultant effect would be a significant
18 reduction in esthetic quality and economic value of
19 our two properties.

20 Ms. Bockey and I share a great concern.
21 Miss Kolich has communicated to the Commission that a
22 representative for the neighbor, I believe the
23 daughter, has provided authority to move forward with
24 trimming. To set the record straight the neighbor
25 being Ms. Bockey has never extended any such

1 authority nor the --

2 MS. KOLICH: Objection. What Ms. Bockey
3 says or doesn't say is hearsay as presented by
4 Mr. Mazzitti.

5 THE EXAMINER: Sustained.

6 MS. KOLICH: Move to strike all
7 references to anything Ms. Bockey may have said.

8 THE EXAMINER: Sustained. If you would
9 limit your remarks to stuff that you know of your own
10 personal knowledge.

11 THE WITNESS: Okay. I have been open to
12 reasonable resolution of this issue. It's my
13 understanding the distribution line to Ms. Bockey's
14 home is equipped with a circuit breaker which if
15 adequately designed and serviced should trip to avoid
16 further outages of residents of Choctaw Lake. Such
17 tree trimming of the evergreen trees in question is
18 not essential other than to protect the service to
19 Ms. Bockey's house itself.

20 Also the entire issue could be sensibly
21 resolved if Ohio Edison would either bury the line or
22 increase the pole height and that was confirmed by
23 the area manager out of Springfield when we looked at
24 workable solutions. Ohio Edison appears to take
25 exception to this as a workable alternative. Ohio

1 Edison appears to be concerned about compliance with
2 reliability standards established by the Ohio Public
3 Utilities Commission.

4 Ms. Bockey and I request that the
5 Commission consider exempting the distribution line
6 in question from reliability considerations.

7 MS. KOLICH: Objection. Or maybe I just
8 seek clarification. Who is the complainant in this
9 case? Is it simply Mr. Mazzitti and Ms. Bockey is a
10 witness, or do we now have joint Complainants that I
11 did not know about?

12 THE EXAMINER: Yeah.

13 THE WITNESS: I brought the case.

14 THE EXAMINER: Okay. So the Complainant
15 is just you --

16 THE WITNESS: Okay.

17 THE EXAMINER: -- representing yourself
18 here.

19 THE WITNESS: That's fine.

20 THE EXAMINER: Okay. Does that help?

21 MS. KOLICH: Yes, thank you.

22 THE EXAMINER: You're done with your
23 statement?

24 THE WITNESS: Other than with my
25 statement and then I would like the opportunity to

1 comment on Ms. Kolich's testimony.

2 THE EXAMINER: Okay. That will --

3 MS. KOLICH: Before we proceed was that
4 offered as expert testimony given his pre -- or his
5 qualifications at the beginning? Are you testifying
6 as an expert on distribution lines and tree trimming?

7 THE WITNESS: I am an expert on
8 reliability.

9 MS. KOLICH: So is your testimony offered
10 as an expert?

11 THE WITNESS: On reliability, yes, ma'am.

12 MS. KOLICH: Your Honor, you know what's
13 coming next. This was not prefiled testimony as
14 required by the rules.

15 THE EXAMINER: Well, I'll permit it
16 anyhow.

17 MS. KOLICH: That leaves me at a little
18 disadvantage here having --

19 THE EXAMINER: I understand.

20 MS. KOLICH: Having heard it just read to
21 me.

22 THE EXAMINER: I understand but go ahead
23 and proceed at this point.

24 MS. KOLICH: Do you have your testimony
25 written or what you read, that?

1 THE WITNESS: My statement I have one
2 copy.

3 MS. KOLICH: Could I have 5 minutes
4 recess to at least read through it?

5 THE EXAMINER: Sure.

6 MS. KOLICH: Thank you.

7 (Recess taken.)

8 THE EXAMINER: Back on the record then.
9 Ms. Kolich.

10 MS. KOLICH: Thank you, your Honor.

11 - - -

12 CROSS-EXAMINATION

13 By Ms. Kolich:

14 Q. Good morning, Mr. Mazzitti. My name is
15 Kathy Kolich. I am counsel for Ohio Edison Company.
16 I will be asking you some questions. If you don't
17 understand them, I will be happy to rephrase. Just
18 let me know.

19 A. Sure.

20 Q. Otherwise I will assume that you
21 understand the question. Now, you stated in your
22 testimony that you don't believe that the company
23 adequately -- get that right, you stated that you
24 maintain that Ohio Edison has exceeded the necessary
25 scope to adequately maintain its distribution lines;

1 is that correct?

2 A. That is correct but I can't refer to that
3 without referring to what -- the work that was done
4 in the front yard.

5 Q. Okay. So really there is no damage here
6 yet because the trees in question have not yet been
7 trimmed; is that correct?

8 A. That is correct.

9 Q. So we are just trying to figure out how
10 far Ohio Edison should be permitted to cut these
11 trees, if at all; is that what we're here for today?

12 THE WITNESS: Mr. Bulgrin, it's very
13 difficult to respond to that without referring to the
14 work that was done.

15 THE EXAMINER: Just go ahead and do your
16 best.

17 THE WITNESS: Okay. Then you would
18 prefer me not to reference any work that was done in
19 the front in the past?

20 THE EXAMINER: Well, if you can avoid it
21 but just go ahead and respond to the question she is
22 asking.

23 A. That is correct.

24 Q. How would you -- how do you think the
25 trees should be trimmed, the trees being the ones in

1 the side yard bordering you and your neighbor's yard?

2 A. Based on the work that was done in the
3 front yard, I don't think that they should be
4 trimmed.

5 Q. You agree with me, don't you, that the
6 trees are growing into the wires?

7 A. I agree that they have grown into the
8 wires, and I think Mr. Rehbein's testimony indicates
9 that four or five years ago that trees were trimmed.
10 My question would be why are they going to be trimmed
11 any more excessively now than what they were four or
12 five years ago?

13 Q. Do you know for a fact they will be?

14 A. I can only -- again, I am at a liability
15 here because I can only go on the work that was done
16 in my front yard.

17 MS. KOLICH: May I approach?

18 THE EXAMINER: Sure.

19 MS. KOLICH: What I am going to hand him
20 is actually two pictures depicted in Mr. Rehbein's
21 testimony as Exhibit APR-1 and Exhibit APR-2.

22 THE EXAMINER: Okay.

23 Q. Mr. Mazzitti, do you remember when I came
24 out in November to your property to look at the
25 trees?

1 A. Yes. You visited my residence a number
2 of times. I believe the first time that you visited
3 me we had come to a reasonable consensus that there
4 were trees that were going to be placed -- that were
5 going to be replanted in the front of my yard and
6 that the only thing you needed was executive
7 approval --

8 MS. KOLICH: Objection.

9 THE EXAMINER: Objection sustained. Just
10 answer --

11 A. That is correct.

12 Q. And do you remember me taking some
13 pictures of those trees?

14 A. I do.

15 Q. Do you rec -- or would you say --

16 A. They are my trees.

17 Q. Would you say this depicts the wires?

18 A. Uh-huh.

19 Q. Could I finish my question just for the
20 record?

21 A. Go ahead.

22 Q. The two exhibits that I am showing you,
23 do they demonstrate where the wires are located in
24 the side trees that are at issue in this case?

25 A. They do. They are my trees.

1 Q. And it's your testimony that with the
2 conditions of the trees like they are shown in these
3 exhibits that no trimming is necessary; is that
4 right?

5 A. No trimming is necessary in order to
6 accomplish what goals or objectives?

7 MS. KOLICH: I'm sorry. I missed that
8 latter part. Could you reread that.

9 (Record read.)

10 Q. Which goals would those be?

11 A. You define the goals. It's your goals
12 and objectives which is addressed in the testimony.
13 Why do you need to trim the trees was my question.

14 Q. So you are referring to the reliability
15 of the system in the --

16 A. I am asking you what your -- I will
17 not -- I did respond initially. I said there is no
18 trimming that is necessary. Then I added to
19 accomplish what precise goals and objectives that
20 Ohio Edison might have.

21 Q. Right. And, now, I am asking a question
22 the goals you are referring to are -- is one of them
23 the reliability of the system?

24 A. You could tell me why you want to trim
25 the trees, and then I will respond to your question.

1 Q. I am asking a question that I would like
2 answered. Is that the objective you are referring to
3 in your testimony?

4 A. The reliability of the system?

5 Q. Is that one of the objectives that you
6 believe the company has?

7 A. Yes.

8 Q. Is the other one the safety of both the
9 workers and the customers? Is that the other
10 objective?

11 A. Yes, uh-huh.

12 Q. Thank you. I don't remember if we were
13 on the record or not but there's a disparity in the
14 record as to the neighbors being Piecenski or Bockey.
15 Could you just clarify that relationship for the
16 record.

17 MS. KOLICH: Has it -- is that on the
18 record?

19 THE EXAMINER: No, I don't think it is.

20 Q. Let's get that clarified on the record,
21 please.

22 A. Ms. Bockey is -- there are no Piecenski
23 as such. Ms. Bockey is the owner of the property.

24 Q. And you referred to a feeder line to your
25 neighbor's home, that being Ms. Bockey's home. The

1 line that runs through the trees, it's not your
2 testimony that that's a feeder line.

3 A. It's a distribution line.

4 Q. And that distribution line according to
5 you and according to us serves only one customer,
6 Ms. Bockey.

7 A. That's correct, uh-huh.

8 Q. When did you buy your home?

9 A. Approximately four years ago.

10 Q. Four years ago?

11 A. Approximately.

12 Q. So you have no direct knowledge as to the
13 tree trimming history on that property.

14 A. I am not aware of what was done, that is
15 correct. If it were done while I was a resident of
16 that property, I didn't know about it.

17 Q. Okay. So because that line only serves
18 one customer, if there was an outage, it wouldn't
19 affect your home, would it?

20 A. That is correct. Could I -- I would like
21 to qualify that. If the distribution line that
22 runs -- that traverses Choctaw Drive was adequately
23 designed and engineered and it was to function as
24 intended, that is correct. It would not affect my
25 property. There is a --

1 MS. KOLICH: Could I have that reread,
2 please.

3 A. There's -- I'm sorry.

4 (Record read.)

5 A. And if you have specific technical
6 responses that are required, I would like to ask
7 Mr. Hexamer to support me.

8 Q. When you refer to the line traverses
9 Choctaw Drive --

10 A. Right.

11 Q. -- that's the line that runs along
12 Choctaw Drive; it's not the line we are talking about
13 here.

14 A. That's right.

15 Q. And it's your position that that line is
16 not properly designed?

17 A. No. I said that if it is, if it is
18 designed -- engineers designed according to
19 specifications and if the circuitry works as designed
20 and engineered, if there were any outages that
21 resulted from the line that goes to Mrs. Bockey's
22 property, there is a circuit on that line and if that
23 circuit works as engineered and designed, it will not
24 affect any other property on Choctaw Lake.

25 Q. So basically assuming it's designed the

1 way you have described it --

2 A. Right.

3 Q. -- only Ms. Bockey would be affected by
4 an outage caused by these trees.

5 A. That is correct.

6 Q. You were -- also referenced something
7 about an option being to bury the line or extend the
8 pole length --

9 A. Yes.

10 Q. -- to correct this issue.

11 A. Those are two what I consider to be very
12 workable solutions and it was agreed by Mr. Sutter,
13 your area manager from Springfield, that those were
14 two workable solutions, absolutely.

15 Q. And I believe they were to be done at
16 your cost to be a workable solution.

17 A. That is correct. There was no -- no
18 agreement as far as having -- having me pay for that
19 work to be done, that is correct.

20 Q. If you know, does Ms. Bockey live alone
21 at the house?

22 A. She does not.

23 Q. Who else resides there?

24 A. Mr. Piecenski.

25 Q. Does he have any relatives that you know

1 of?

2 A. I am not aware of.

3 Q. So just so I am clear as to what we're
4 here for today, it's your position that no trimming
5 needs to be done on those trees.

6 A. No trimming is necessary to preserve the
7 integrity of the distribution system other than
8 Ms. Bockey's property, that is correct.

9 Q. So you do agree that in order to preserve
10 the integrity of the system for purposes of serving
11 Ms. Bockey, the trees should be trimmed.

12 A. No, I did not say that.

13 Q. Then what do you mean?

14 A. There's always a risk that you run.
15 There is -- there is never any such thing as zero
16 risk tolerance. There is no risk tolerance to your
17 nuclear plants. I will go through and comment on the
18 testimony. I will address that. No tree trimming is
19 necessary to protect the integrity of the system, the
20 distribution system, for the residents of Choctaw
21 Lake other than Ms. Bockey's property.

22 Q. You would agree with me that if you trim
23 the trees, the risk of an outage is less, wouldn't
24 you?

25 A. To Ms. Bockey's property?

1 Q. Yes.

2 A. Possibly. There's never -- excuse me.
3 There's never been any -- any problem in -- and I
4 think she's been at that property for 25 years and
5 never sustained an outage. We've had hurricane force
6 winds. We had wind so bad that it completely ruined
7 the back end of my property but yet there was never
8 any problem associated with that line.

9 Q. And you've only lived there for four
10 years, so you really don't know the outage history
11 beyond four years.

12 A. Of that line, right. I am -- I am going
13 on the comments that were provided to me by
14 Ms. Bockey.

15 MS. KOLICH: I move to strike then that
16 entire response as hearsay.

17 THE EXAMINER: Sustained.

18 MS. KOLICH: That's all I have, your
19 Honor.

20 THE EXAMINER: You may step down, sir.
21 And you didn't want to call either one of these as
22 witnesses at this time?

23 MR. MAZZITTI: At this time that is
24 correct. Thank you, sir.

25 THE EXAMINER: Ms. Kolich.

1 MS. KOLICH: Thank you, your Honor. At
2 this time I would like to call Alan P. Rehbein to the
3 stand. And as I indicated before we were on the
4 record, we need to clarify one of the picture
5 exhibits, and I will be doing that during his direct
6 exam.

7 (Witness sworn.)

8 MS. KOLICH: Your Honor, I would like
9 marked for identification purposes as Company Exhibit
10 1 the testimony of Alan P. Rehbein along with the
11 accompanying exhibits.

12 THE EXAMINER: Okay. It will be so
13 marked.

14 (EXHIBIT MARKED FOR IDENTIFICATION.)

15 - - -

16 ALAN P. REHBEIN
17 being first duly sworn, as prescribed by law, was
18 examined and testified as follows:

19 DIRECT EXAMINATION

20 By Ms. Kolich:

21 Q. Mr. Rehbein, would you please state your
22 name and spell it for the record.

23 A. My name is Alan P. Rehbein, A-L-A-N
24 R-E-H-B-E-I-N.

25 Q. And I am handing you what's just been

1 marked as Company Exhibit 1 for identification which
2 is a copy of your testimony and related exhibits. Do
3 you recognize that?

4 A. Yes, I do.

5 Q. Was this testimony prepared by you or
6 under your direct supervision?

7 A. Yes, it was.

8 Q. And do you have any additions or
9 corrections to the text of your testimony?

10 A. No, not at this time.

11 Q. Okay. I would like to call your
12 attention to the two pictures marked as APR-1 and
13 APR-2. Do you have those?

14 A. Yes, I do.

15 Q. In your testimony you refer to three
16 lines; is that correct?

17 A. Yes.

18 Q. And you refer to the upper line as the
19 primary and the middle line as the neutral; is that
20 correct?

21 A. Correct.

22 Q. I am -- take a look at Exhibit APR-2
23 first. The wires shown there, the one being the one
24 in the middle running traverse across the middle of
25 the picture as well as the one in the upper left

1 corner.

2 A. Right.

3 Q. Could you describe which -- what those
4 lines are?

5 A. In this picture here that's an example of
6 the neutral is on the bottom and the primary line is
7 on the top.

8 Q. Okay. Now, I am going to draw your
9 attention to APR-1. And you will agree with me there
10 is two wires showing there as well; is that correct?

11 A. Correct.

12 Q. And would you please describe what the
13 top and the middle -- or the top and the bottom wires
14 are in that picture.

15 A. The top wire in the picture there is a
16 neutral wire, and the bottom wire is I believe the
17 cable line, telephone cable, what we call it.

18 Q. So where about would the primary line be
19 shown in this picture?

20 A. It would be above the neutral out of
21 sight on the top of the picture.

22 Q. If you were to trim the trees,
23 approximately where would they be trimmed to?

24 A. If you look down to the bottom wire
25 there, the telephone cable, that's approximately the

1 height that we would go to.

2 Q. Do you have any changes or corrections to
3 any of the other exhibits included in your testimony?

4 A. No, not at this time.

5 MS. KOLICH: At this time, your Honor,
6 the witness is ready for cross-examination.

7 THE EXAMINER: Okay. Thank you.

8 MR. MAZZITTI: Mr. Bulgrin, I would like
9 to ask Mr. Hexamer to take the stand.

10 THE EXAMINER: Well, do you have any
11 questions for this witness?

12 MR. MAZZITTI: No, I do not.

13 THE EXAMINER: Okay. Then you are
14 excused. Thank you.

15 MR. MAZZITTI: Could I pose a question to
16 him? Again, I am a non-attorney. I do apologize.

17 THE EXAMINER: Yeah. If you have any
18 questions to ask him, let's get those asked now.

19 - - -

20 CROSS-EXAMINATION

21 By Mr. Mazzitti:

22 Q. I would like to ask him, Mr. Rehbein,
23 would you tell me why it is necessary to trim to the
24 cable.

25 A. Yes, it's necessary.

1 Q. Why is it necessary to trim to the cable
2 as you plan?

3 A. For the species of trees our program is a
4 four-year cycle, and it's either by linear distance
5 or species. And what we go by in my experience with
6 the species growth on the White Spruce, Norway
7 Spruce, Blue Spruce, and Scotch Pines that are
8 involved in that line there, 10 feet is accurate or
9 four years.

10 Q. Is what, sir?

11 A. 10 feet or four years' clearance.

12 Q. 10 feet.

13 A. Or four years' clearance.

14 Q. So you are saying then that this species
15 of growth is going to grow in four years to where it
16 is currently?

17 A. It will be up into the wire zone which is
18 into our neutral wire and then quite easily could
19 start proceeding to our primary line.

20 Q. Could I ask you why this type of trimming
21 was not -- was not done four years ago?

22 A. Because --

23 MS. KOLICH: Objection. Nothing has been
24 established it wasn't trimmed this way four years
25 ago.

1 THE EXAMINER: He can answer it.

2 Q. There was -- my understanding there was
3 no topping of the trees that was done four years ago.
4 There was side trimming on I believe it was four or
5 five of the trees. Notice the upper portion near
6 Choctaw Drive that were side trimmed on Ms. Bockey's
7 property so what you are proposing is much different
8 than what was done four years ago.

9 A. I was not --

10 MS. KOLICH: Your Honor, objection. Can
11 we clarify if Mr. Rehbein agrees with Mr. Mazzitti's
12 additional testimony?

13 THE EXAMINER: Sure.

14 MS. KOLICH: How were the trees trimmed
15 the last time they were trimmed?

16 A. I wasn't around at that time, but my
17 professional opinion it is my opinion they were side
18 trimmed last time.

19 Q. Were all the trees side trimmed?

20 A. Were all the --

21 Q. Were all the trees on the road side
22 trimmed?

23 A. I didn't -- I did not look at each
24 individual tree. I seen several of them that were
25 side trimmed.

1 Q. It's very evident that only approximately
2 four or five of the trees were side trimmed as I
3 mentioned. It's very evident. You can tell what
4 trees are topped and what trees are side trimmed.
5 There were four or five trees that were side trimmed
6 facing her property that weren't visible from my
7 property.

8 So my question is why are the trees -- as
9 you propose -- why is that extent of trimming
10 required today when it wasn't required four years
11 ago? So your tree trimming practices have changed, I
12 mean, there is --

13 MS. KOLICH: Objection. We have got five
14 questions going on here.

15 THE EXAMINER: Yeah. Can you ask them
16 one at a time?

17 Q. My question is why is the trimming as
18 proposed today different than what was done four
19 years ago?

20 A. Okay. Like I said, it was my opinion
21 what happened four years ago despite visually looking
22 at the trees, why we are going to top them this cycle
23 around is because the trees have matured more. They
24 are getting closer to the lines, and we need the
25 clearance. We need to top them.

1 MR. MAZZITTI: Could I ask a question,
2 sir?

3 THE EXAMINER: Sure.

4 Q. The trees that are closest to the street,
5 if you trim as proposed, I would lose approximately
6 40 percent of the upper growth as I mentioned in my
7 statement reducing it to a hedge effect. That is a
8 very slow growing tree.

9 MS. KOLICH: Objection. Are we going to
10 have testimony again? Because if he does, I want to
11 cross-examine him again.

12 THE EXAMINER: Right. Can you phrase it
13 in the form of a question?

14 MS. KOLICH: And I move to strike his
15 testimony of how much of his trees are going to be
16 lost, basically all his prefatory comments.

17 Q. Okay. It's a very slow growing tree; I
18 think you agree to that. What was done --

19 MS. KOLICH: Objection.

20 THE EXAMINER: Can you please ask a
21 question of this witness?

22 Q. My question is why -- why is this as
23 proposed being much different than what was done in
24 the past when very little growth had occurred over
25 the last four years in a slow growing tree?

1 MS. KOLICH: Objection to the nature of
2 the question. I apologize. But it has not been
3 established this is a slow growing tree as well as
4 several other facts that he decided to put into his
5 question.

6 MR. MAZZITTI: Could I call Mr. Hexamer
7 to the stand?

8 THE EXAMINER: Let's finish with this
9 witness first.

10 MR. MAZZITTI: That's my question.

11 MS. KOLICH: Could I have the question
12 reread, please.

13 (Record read.)

14 MR. MAZZITTI: Correct. That's my
15 question.

16 THE EXAMINER: I believe there is an
17 objection to your question, and I am going to sustain
18 it. You might want to try to rephrase that question.

19 MR. MAZZITTI: That's my question so.

20 MS. KOLICH: Let me ask you this, do you
21 want him to answer why --

22 THE EXAMINER: Let's go off the record
23 here.

24 (Discussion off the record.)

25 Q. Why are you going to side trim the trees

1 now what you've done -- the extent that you did four
2 years ago as opposed to now?

3 A. Because as you can see in the pictures,
4 and I am sure you've seen of your own trees, that
5 they are up into the primary and into the neutral.
6 They have extensive growth. We need to bring them
7 back down and get proper clearance away from our
8 wires.

9 Q. Has that extensive growth occurred over
10 the last four years?

11 A. That's hard to tell. Each species and
12 each individual tree has different behavioral
13 characteristics, you know, soil conditions, water and
14 things. Yes, they have a common growth rate but, you
15 know, each tree is different too.

16 Q. You are a professional as far as tree
17 trimming is concerned. What would be your estimation
18 of how much those trees grow in a given years?

19 A. I would say they could go anywhere from 6
20 inches to 18 inches a year.

21 Q. By my estimation, visual estimation, I
22 would say that approximately 20 to 25 -- I would say
23 25 feet have occurred above the neutral line.

24 MS. KOLICH: Objection.

25 THE EXAMINER: Sustained.

1 MS. KOLICH: Strike -- move to strike.

2 THE EXAMINER: Granted. Do you have a
3 question?

4 MR. MAZZITTI: That's my question. I
5 have no other questions.

6 THE EXAMINER: Okay. So you're done.

7 MR. MAZZITTI: I'm done. Thank you, sir.

8 THE EXAMINER: Okay. Any redirect?

9 MS. KOLICH: Could I have just a minute
10 with my witness?

11 THE EXAMINER: Sure.

12 (Discussion off the record.)

13 MS. KOLICH: Your Honor, I do have
14 several questions for Mr. Rehbein.

15 - - -

16 REDIRECT EXAMINATION

17 By Ms. Kolich:

18 Q. I believe in the questioning there was a
19 statement or a question that four or five trees were
20 side trimmed in the last trimming cycle. Do you
21 recall that conversation?

22 A. Yes, I do.

23 Q. I don't know if it's been stricken or
24 not, but just in case it hasn't do you agree that
25 only four or five trees were trimmed in the last

1 cycle?

2 A. No.

3 Q. And is that based on personal knowledge
4 or your observation of the trees as they exist today?

5 A. Observation of the trees.

6 Q. And how did you reach that conclusion
7 based on observing the trees?

8 A. Just because the proximity of the trees
9 to the primary and neutral and the growth rate and
10 also, you know, the wounds from the cuts, you can see
11 old wounds. You know, they are not prevalent on
12 every tree, you know. You have to look for them
13 closely, and sometimes you can see old wounds.

14 Q. Okay. And I don't again recall whether
15 there was in the record or not about various little
16 growth. Do you agree with the statement that there
17 has been very little growth since the last tree
18 trimming cycle?

19 A. Yes, I disagree on that.

20 Q. You disagree?

21 A. Yes.

22 Q. Mr. Mazzitti asked you some questions
23 about why is it necessary to trim to the cable. You
24 gave sort of a general answer to keep the trees out
25 of the wires. But are there any specific reasons why

1 we trim well away from the primary and neutral?

2 A. Yes. One of the most important
3 specifications that we have is the safety of the
4 public. And this is what we call a primary tap.
5 It's a high voltage line going from the road down to
6 the neighbor's transformer and pole. And it carries
7 anywhere from 7,200 to 12,500 kV, that's kilovolts.
8 That's quite a large voltage and if the trees become
9 entangled in that line or grow into that line or come
10 in contact with that line, then, you know, the
11 potential of the safety issue if anybody on the
12 ground is touching the tree or in close proximity to
13 the tree can be electrocuted.

14 Also, you know, the factor is they are
15 pine trees and children have been known to climb up
16 into trees, especially low branching species like
17 that makes easily like a ladder for them. They climb
18 right up from the ground, whereas, other trees, you
19 know, you have a trunk before you have some main
20 limbs making them harder to climb. And we have had
21 instances where -- we had one in Mansfield roughly
22 five years ago where some children climbed up into a
23 pine tree and one was electrocuted and one was
24 killed.

25 And another issue is integrity of our

1 lines and possible damage to our lines. That
2 hardware up there belongs to FirstEnergy, Ohio
3 Edison. It's property of them, and it's just like
4 any other, you know, company protecting its assets.
5 You know, it costs money to, you know, replace or fix
6 or come out and service that line. Trees interfere
7 with that line, you know. It could blow a fuse and
8 your neighbor would be without power and we would
9 have to send a line truck out to replace that fuse.
10 So we're talking safety and reliability.

11 Mr. Mazzitti is fed off the main line and
12 if that line would cause -- or say the trees would
13 cause that line to go out, say a fuse would be blown,
14 it would be Mr. Mazzitti's neighbor out of power, not
15 Mr. Mazzitti and, you know, the duration could be
16 anywhere from a couple hours to a, you know -- with
17 only one customer on that line it could last for
18 days. And our call-in system we take in how many
19 customers are on a line, and if your neighbor would
20 call -- call in after a storm, say my power is out
21 or, you know, because of tree-caused outage, and
22 registered one customer, it could very easily be days
23 before somebody comes out to repair that so.

24 Q. Now, there was also some testimony
25 regarding the neighbor.

1 A. Yes.

2 Q. And in your testimony you described the
3 situation where you spoke to somebody about trimming
4 the trees. Do you recall that?

5 A. Yes, I do.

6 Q. Could you explain who you spoke to or who
7 you thought you were talking to?

8 A. Yeah. Can I refer to my notes?

9 THE EXAMINER: Sure.

10 A. Okay. Approximately on it was August 28,
11 we met Mr. Mazzitti at his residence. It was Mr. Tim
12 Sutter that accompanied me who is the area manager.
13 Upon talking with Mr. Mazzitti we walked in the
14 backyard. We were taking a look at the spruce trees,
15 also the one silver maple by his shed in the rear of
16 his yard. I noticed a piece of ceramic laying on the
17 ground. I picked it up and handed it to Mr. Sutter
18 and immediately looked up and seen some oil leaking
19 from a transformer and also a lightning arrestor that
20 had been damaged.

21 I said something to Mr. Sutter. He
22 looked up and agreed, and we said that we would have
23 somebody look at the transformer, test it if it was
24 still operational or not or partially operational.
25 Around that time I was down there by the pole and

1 there was several individuals painting the shed on
2 the neighbor's property. And one of them, you know,
3 approached me and I approached her. We were standing
4 by the pole, and I explained to her about the
5 cottonwood tree and also trimming of the spruce
6 trees.

7 At that time she said that she was a
8 daughter and I believe -- I can't remember
9 100 percent positive, but the woman sitting here, I
10 believe, was kneeling down and painting on the shed
11 there. And I explained that, you know, I would -- we
12 would have to come in and trim some overhang off the
13 cottonwood tree and they both acknowledged it and
14 then also they brought up about, you know, the
15 property line where Mr. Mazzitti's property is and
16 how many trees were on their property. So at that
17 time there, you know, that they represented
18 themselves as property owners.

19 Q. And the individual you referred to as the
20 daughter --

21 A. Yes.

22 Q. -- specifically stated they were the
23 daughter?

24 A. Yes. She said I'm the daughter.

25 Q. But they didn't say daughter of whom?

1 A. No.

2 Q. And it -- do you recall the other
3 individual? Was it to your recollection the person
4 identified here today as --

5 A. I can't be 100 percent positive.

6 Q. Hang on. Let me finish it for the
7 record. Identified as Ms. Bockey today?

8 A. I can't be 100 percent positive because
9 she was kneeling down actually painting on the shed
10 and then at that time then Mr. Mazzitti and
11 Mr. Sutter were starting to talk to me again and I
12 got engulfed in that conversation so.

13 MS. KOLICH: That's all I have, your
14 Honor.

15 THE EXAMINER: Okay. Any questions,
16 Mr. Mazzitti?

17 MR. MAZZITTI: Is authorization here an
18 issue or not? Authorization.

19 THE EXAMINER: Let's go off the record
20 for a minute.

21 (Discussion off the record.)

22 THE EXAMINER: Let's go back on the
23 record then.

24 - - -

25

RECROSS-EXAMINATION

By Mr. Mazzitti:

Q. Do you have -- is there any tree trimming log that has been filled out by you as a contract on work that was done on the property?

MS. KOLICH: Objection. And just clarification which property?

MR. MAZZITTI: On my property and/or on the Piecenski regarding this line.

MS. KOLICH: That's fine.

MR. MAZZITTI: The trees are on both of our properties.

Q. On the previous trimming.

A. On --

Q. On the previous trimming that was done four or five years ago, do you have any recordation of the work that was done?

A. Yes, I do have a time sheet.

Q. And that time sheet does -- my question is do you have records of precise work that was done? In other words, was it topped? Was it side trimmed? How was the work performed?

A. Yes. There was codes put down and the count of trees. This was on April 1 of 2004.

Q. And did I understand you correctly that

1 there is specific recordation of how the work was
2 done, in other words, side trimmed or it may have
3 been topped or how many trees were trimmed?

4 A. It codes it as all on corridor trimming,
5 pruning; off corridor trimming, pruning.

6 Q. That's somewhat similar to me.

7 A. It doesn't break it down as to whether a
8 tree -- obviously they are on corridor, whether they
9 were side trimmed or topped.

10 Q. Would those records have indicated that
11 the spruces were trimmed -- all the spruces were
12 trimmed below neutral?

13 A. No, it would not.

14 Q. So you have no recordation of that?

15 A. What's that?

16 Q. You have no recordation?

17 A. I have a record of the trees having been
18 trimmed April 1 -- April 1, 2004.

19 Q. But you don't have any indication or
20 records of the extent of the trimming that was done
21 years ago?

22 A. The only extent that we can pull off the
23 time sheets and the paperwork is either on corridor
24 or off corridor so.

25 THE EXAMINER: Anything further?

1 Q. One other question, you comment about the
2 safety of the public. That is your personal opinion
3 only. There's always -- as I mentioned, there's
4 always an element of risk involved which is one out
5 of so many occurrences. It could be a minimal risk,
6 or it could be a major risk. The only thing that you
7 are qualifying is that there is some element of risk
8 which could be a very minimal risk; is that correct?

9 A. No. I think there's -- there is a
10 significant risk when those trees are that close to
11 the primary and neutral, and the more they grow the
12 more the risk it's going to be and your stance as far
13 as not trimming the trees at all is totally
14 unacceptable in my book as far as, you know, company
15 standards, my personal standards, and safety
16 standards.

17 You have an energized line that has at
18 least 7,200 volts going through it, and you are
19 requesting that we do not trim it at all and that --
20 that just -- any time you have direct contact with a
21 tree limb in a primary line you are going to have
22 that tree limb drawing power off that primary line.

23 Q. The reason that I am requesting that
24 there is no additional tree trimming done is
25 because --

1 MS. KOLICH: Objection.

2 MR. MAZZITTI: Yeah.

3 THE EXAMINER: I'll sustain. Do you have
4 a question for him?

5 MR. MAZZITTI: No.

6 Q. Other than the fact my question is why --

7 MS. KOLICH: Objection. I will withdraw.
8 Go ahead. I didn't mean to interrupt you.

9 MR. MAZZITTI: Go right ahead.

10 MS. KOLICH: No, no. Go ahead.

11 MR. MAZZITTI: It is --

12 THE EXAMINER: Did you want one more
13 question for this witness?

14 MR. MAZZITTI: No, I do not.

15 THE EXAMINER: Okay. You are excused.
16 Thank you. Okay. Did you want to put on either of
17 these people as witnesses?

18 MR. MAZZITTI: Mr. Hexamer.

19 MS. KOLICH: Is he testifying as an
20 expert?

21 MR. MAZZITTI: Yes, he is testifying as
22 an expert, and I will ask him to provide a very brief
23 synopsis of his expertise as far as electrical and
24 tree trimming.

25 THE EXAMINER: Did you know you were

1 supposed to prefile his testimony?

2 MR. MAZZITTI: No, I did not, sir. I am
3 not an attorney. I apologize.

4 THE EXAMINER: Since this is a rebuttal
5 witness I will permit it at this time.

6 - - -

7 MICHAEL HEXAMER
8 being first duly sworn, as prescribed by law, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Mazzitti:

12 Q. Mr. Hexamer, you've listened to the
13 testimony that was provided by Ohio Edison. Would
14 you be good enough to state your qualifications
15 briefly, your experience, and then I would like to
16 ask you questions regarding your understanding of
17 perceptions of safety issues as well as questions
18 about the extent of trimming that is required on
19 these conifer trees.

20 THE EXAMINER: Let's establish
21 preliminary, have you state your name and address for
22 the record first.

23 THE WITNESS: My name is Michael Hexamer,
24 1170 East Choctaw Drive.

25 THE EXAMINER: And could you spell your

1 last name.

2 THE WITNESS: H-E-X-A-M-E-R.

3 THE EXAMINER: And your occupation is?

4 THE WITNESS: Lake manager of Choctaw
5 Lake.

6 THE EXAMINER: Okay. And, I'm sorry, the
7 purpose of his testimony is going to be to?

8 MR. MAZZITTI: Rebuttal to statements
9 that have been made through Ohio Edison regarding
10 their testimony.

11 THE EXAMINER: Okay. Very specifically
12 then referencing the testimony of Mr. Rehbein.

13 MR. REHBEIN: Rehbein.

14 MR. MAZZITTI: Rehbein.

15 Q. Mr. Hexamer, could you give me your
16 professional opinion on the extent of trimming that
17 you believe based on your experience that would be
18 required in order to provide safety as well as
19 integrity of the distribution line that emanates from
20 Choctaw Drive to Mrs. -- Ms. Bockey's property.

21 MS. KOLICH: Objection. He has not been
22 established as an expert. He has only indicated he
23 is lake manager of Choctaw Drive.

24 THE EXAMINER: Sustained.

25 Q. Mr. Hexamer, would you provide a synopsis

1 of your background in forestry as well as electrical.

2 A. Yes. I began my career in 1970 with Carl
3 Cummer, Incorporated, who was a line clearance, tree
4 trimming company for Ohio Power at that time. I was
5 with them for virtually until they were sold in 1987
6 to Nelson Tree which is a contractor for several
7 utilities in the State of Ohio and throughout the
8 United States. Excuse me. I worked for them. I was
9 a safety director for them and an area manager and
10 basically that's it.

11 Q. Did you -- did Mr. Rehbein -- was he
12 employed by you? Did he work for you?

13 A. Yes. Mr. Rehbein approximately -- these
14 are just rough dates because I think it was in the
15 1981, '82 range, something like that, Mr. Rehbein was
16 hired with me at -- as a tree trimmer. I was the
17 supervisor of the tree trimming crews for the Canton
18 division of Ohio Power. Mr. Rehbein worked for me.

19 Q. And did you trim this -- did you train
20 Mr. Rehbein in certain facilities?

21 A. In certain facilities, yes, we did safety
22 training. We did tree trimming practices and things
23 like that.

24 Q. You are relatively experienced with the
25 maintenance of distribution lines?

1 A. Yes. I spent like I said about 30 years
2 on different utilities doing tree trimming
3 maintenance.

4 Q. What would be your professional opinion
5 on the extent of trimming that would be required in
6 order to preserve safety as well as system integrity
7 not only to Ms. Bockey's property but the system
8 integrity of residents of Choctaw Lake?

9 A. Each species is different. You have fast
10 growing species, you have slow growing species so
11 there is not one specific rule for tree trimming as
12 such, but you definitely need to be to where you do
13 not have primary contact. So in the case of the
14 spruce trees -- can I refer -- can I ask a question?
15 I was present at an earlier meeting with these. Can
16 I refer to that meeting?

17 THE EXAMINER: Let's go off the record.

18 (Discussion off the record.)

19 THE EXAMINER: Let's go back on the
20 record. Was there a question pending?

21 A. Well, then basically you need to provide
22 adequate clearance for that species not to provide
23 contact with the primary to avoid any outage.

24 Q. If the tree would be in contact with the
25 primary line, what would be -- what -- to your

1 understanding what would be the ultimate effect upon
2 Ms. Bockey's property and other residents of Choctaw
3 Lake?

4 A. It could range from anything. It could
5 range from the tree just burning itself in the clear
6 to actually tripping the line out disrupting service
7 to Ms. Bockey's property.

8 Q. In your professional opinion do you think
9 that there is any risk given that there is
10 circuitry -- not circuitry but there is -- in the
11 circuit there would be a fuse in place that if that
12 fuse is designed adequately, engineered and designed
13 adequately, and that trips through an outage, the
14 tree comes in contact with the line, would there be
15 any risk to any other resident of Choctaw Lake? In
16 other words, this is a single fuse or single line
17 that goes into Miss Bockey's property. Would there
18 be a risk to any other resident of Choctaw Lake?

19 A. If the line fuse dropped out, then the
20 line would be energized.

21 Q. If it dropped out, that is correct.

22 A. Correct.

23 Q. But if it is engineered and designed in
24 order to function as intended, that fuse tripped,
25 would that present any risk to any other resident of

1 Choctaw Lake?

2 A. No.

3 Q. Very good.

4 THE EXAMINER: You're done questioning?

5 Q. Do you have any other professional
6 opinion based on the requirement for the level of
7 tree trimming as proposed by Ohio Edison?

8 MS. KOLICH: Objection. It's open ended.
9 This is rebuttal. This is a rebuttal witness
10 specifically to the witness presented by the company.

11 THE EXAMINER: Okay. It's sustained.

12 MR. MAZZITTI: Very good.

13 THE EXAMINER: Ms. Kolich.

14 - - -

15 CROSS-EXAMINATION

16 By Ms. Kolich:

17 Q. You indicated that you supervised
18 Mr. Rehbein. Do you recall that?

19 A. Yes.

20 Q. When about time framewise was that?

21 A. I think it was in the '81 to '86 -- 1981
22 to 1986 range, somewhere in there. Alan was on one
23 of the crews. I mean, I can give you the name of the
24 foreman, but I can't remember the year.

25 Q. Early '80s?

1 A. Yeah, somewhere in there.

2 Q. Just so I am clear on your position,
3 Mr. Hexamer, there's been testimony that the trees
4 shouldn't be trimmed at all.

5 A. I'm sorry. Did you say should or
6 shouldn't?

7 Q. Should not be trimmed at all.

8 A. Okay.

9 Q. Do you agree with that?

10 A. No.

11 MS. KOLICH: I have no further questions.

12 THE EXAMINER: Okay. Thank you, sir.

13 Anything further from either one of you?

14 MR. MAZZITTI: I would like to go through
15 FirstEnergy's testimony, and I have several questions
16 and comments on that testimony. How would I do that?

17 THE EXAMINER: Let's go off the record
18 here for a minute.

19 (Discussion off the record.)

20 THE EXAMINER: Mr. Mazzitti, you have
21 specific questions --

22 MR. MAZZITTI: Yes, sir, thank you.

23 - - -

24

25

1 ALAN P. REHBEIN

2 being previously duly sworn, as prescribed by law,
3 was examined and testified further as follows:

4 FURTHER RECROSS-EXAMINATION

5 By Mr. Mazzitti:

6 Q. Mr. Rehbein, on page 1 at the bottom you
7 refer to standards that were established by the
8 Public Utilities Commission of Ohio. What standards
9 are you specifically referring to? Presumably those
10 are tree trimming standards?

11 A. The standards are basically for the
12 utility to maintain and to have their lines -- it's a
13 regulation that we have to have for the lines to be
14 clear of all vegetation and have a tree trimming
15 schedule set up and in place and carried out.

16 Q. Mr. Rehbein, I am asking you a very
17 specific question regarding standards. What
18 standards, specifically tree trimming standards,
19 developed by the Public Utilities Commission of Ohio
20 are you alluding to?

21 MS. KOLICH: Objection. Asked and
22 answered.

23 THE EXAMINER: I'll permit it. Go ahead.
24 Anything specifically that you know of?

25 A. Yes. It follows the ANSI standards and

1 basically that's ANSI A300 and then other ANSI -- I
2 believe it's Z133. And these guidelines are, you
3 know, for proper trim -- trimming, pruning, you know,
4 cutting woody plains, and also how line clearance
5 tree trimmers should work around energized lines and
6 then also, you know, it's like codes of conduct.

7 Q. But to your understanding, if you
8 understood my question, specifically there are no
9 standards that have been adopted by the Public
10 Utilities Commission of Ohio regarding tree trimming;
11 is that correct? Or can you provide me with those
12 standards that you referred to?

13 A. I can't provide exactly the number but
14 there is -- they oversee the overall trimming and
15 circuit inspection of not each individual circuit but
16 the whole area.

17 Q. But, again, I refer you to page 1 at the
18 bottom. You talk about tree trimming standards
19 established by the Public Utilities Commission of
20 Ohio.

21 A. These are established and they fall back
22 onto the American National Standards. That's what
23 the Public Utilities Commission goes by.

24 Q. I am asking you for reference to those
25 standards.

1 THE EXAMINER: Okay. Let me try this,
2 are you aware of any standards published by the
3 Public Utilities Commission as opposed to those
4 published by the American --

5 THE WITNESS: No. I don't know them
6 offhand. I am going by ANSI.

7 Q. Thank you, sir. On page 4 you talk about
8 the feeder lines, the drop lines, and you give a
9 pretty good explanation of the configuration to
10 Ms. Bockey's property. Do you have any idea why that
11 was designed as such, in other words, why it was a
12 distribution line that emanates -- that emanates from
13 Choctaw Drive to Mrs. -- Ms. Bockey's property which
14 to my understanding is the only such configuration at
15 Lake Choctaw?

16 MS. KOLICH: Objection.

17 THE EXAMINER: Sustained.

18 Q. Why can't Ms. Bockey's home be fed off
19 of -- be fed off the main line through Lake Choctaw
20 without going through a transformer?

21 MS. KOLICH: Objection.

22 THE EXAMINER: I think he can answer
23 that.

24 MS. KOLICH: Well, is this case about the
25 design of the system? Is there any indication that

1 the design is flawed?

2 MR. MAZZITTI: I am not asking why it's
3 flawed. I am asking why -- I am looking for
4 mitigation strategies. Why cannot this line be fed
5 off of the main line being a "drop line" similar to
6 on my property?

7 THE EXAMINER: He can answer if he knows.

8 MS. KOLICH: If he knows.

9 A. First of all, my specialization is
10 forestry. I am not an engineer. The years I have
11 been out there, yes, the -- there is lines going from
12 transformer out on the road to individual houses. It
13 has to do with when the lines were put in in the
14 first place, our, you know, distance or which house
15 was built for several different reasons. That's an
16 engineering question you are asking there and it
17 could be feasible but, again, like with the
18 underground or taller poles it's a cost factor that
19 the property owner is going to have to incur.

20 Q. I was about to ask you why if there are
21 any acceptable mitigation strategies other than
22 extensive tree trimming. Are you aware of any such
23 mitigation strategies that could be employed other
24 than extensive tree trimming?

25 A. Yes, there is like you explained putting

1 underground service down to there or extending the
2 poles.

3 Q. Why would Ohio Edison not be prepared to
4 extend the poles as a potential mitigation strategy?

5 A. Because of the cost. They already have
6 hardware in the ground there and it's -- it's an
7 asset. There's poles, wires, everything is in place.
8 To tear that all out and put in higher poles, you
9 know, that's a cost that the customer is going to
10 have to incur, not the utilities. Everything is in
11 place now and everything is operated correctly.

12 Q. So to my understanding your position is
13 that it would be advisable to potentially ruin the
14 esthetic and environmental quality of our
15 neighborhood rather than Ohio Edison bearing the cost
16 to redesign the -- redesign the system of
17 Ms. Bockey's property?

18 MS. KOLICH: Objection.

19 THE EXAMINER: Sustained.

20 MS. KOLICH: Move to strike.

21 THE EXAMINER: Granted.

22 Q. Do you have any estimation of what the
23 cost would be to reconfigure the line of Ms. Bockey's
24 property?

25 MS. KOLICH: Objection. This goes

1 beyond -- where is the cost of redesigning the line
2 in his testimony?

3 THE EXAMINER: Objection sustained.

4 MR. MAZZITTI: I understand.

5 Q. As an expert in your field, you talk
6 about proximity to electric wires. I am on page 6.
7 It creates a dangerous situation and jeopardizes the
8 integrity of Ohio Edison's distribution system. This
9 is a very profound statement. Do you have experience
10 in that area as a distribution designer or
11 distribution engineer to make that statement? And if
12 so, what qualifications do you have?

13 A. Are you referring on page 6 --

14 Q. What is necessary to trim these trees
15 under it's lines 17 and 18?

16 A. And could you repeat the question?

17 Q. What would be your qualifications for
18 making the statement that it creates -- on line 17
19 creates a dangerous situation and jeopardizes the
20 integrity of Ohio Edison's distribution system? What
21 are your qualifications for making that statement?

22 A. Years of being in the field and when you
23 have a primary line as being touched by a limb or
24 tree, fallen limbs or anything, they start smoking.
25 They damage the lines. I've even been around where,

1 you know, the trees that I have gotten ready to trim,
2 they have blown the fuses when I am sitting in the
3 truck.

4 Q. I'm sorry, sir.

5 A. And it's the case here that just
6 experience to whether you can physically see the tree
7 limbs burning. You could physically hear or see the
8 fuses blown. You can see the hardware being damaged.

9 Q. What specifically are you referring to
10 when you refer to Ohio Edison's distribution system
11 that is jeopardized? Is it northern Ohio? Is it
12 Lake Choctaw or is it Ms. Bockey's property or
13 specifically what is your reference -- your point of
14 reference?

15 A. Point of reference is it could be all the
16 way down to your neighbor's property and all the way
17 up to half of Ohio being out depending on the size of
18 the line and the size of outage with the size of the
19 tree. You know, if you are talking steel
20 transmission tower, you know, you are talking, you
21 know, you could have 3, 4 hundred thousand people out
22 of power. When you are talking the neighbor and the
23 line, you are talking about here you could have one
24 person out. It's dependent on the size of line, the
25 voltage, you know, the proximity, you know, from the

1 tree to the wire.

2 Q. Is there a breaker in place at the front
3 of Choctaw Drive off the line that would prevent this
4 from happening? Is there a breaker?

5 MS. KOLICH: Just point of clarification,
6 prevent what from happening?

7 Q. Where the system -- where the integrity
8 of Ohio Edison's distribution system would be
9 jeopardized quote-unquote.

10 A. You are talking about your neighbor's
11 line?

12 Q. Yes. There at the point of Choctaw Drive
13 and where her -- the distribution line comes off the
14 main line. My question is is there a breaker in
15 place that would prevent the integrity of Ohio
16 Edison's distribution system from being jeopardized?
17 Is there a breaker in place?

18 A. Yes, there is a breaker and that breaker
19 is in place not only to protect her house but also,
20 you know, it being backfed the other way and not
21 being an engineer but it's a safety device for both
22 ways, you know, energy going in and energy coming
23 out.

24 Q. But you did make the statement that
25 there -- that the system, Ohio Edison's distribution

1 system, which my understanding anything less than 69
2 kV would be jeopardized, do you stand by that
3 statement?

4 A. Yes. It would be jeopardized because she
5 would be out of power. And there would actually be a
6 fuse that would have to be replaced and if there is
7 damage before that fuse actually lets loose, you are
8 talking that primary could burn and lay on the
9 ground.

10 Q. I am trying to make a point, sir. The
11 integrity of Ohio Edison's distribution system,
12 again, I am not an electrical engineer but I do know
13 distribution is anything less than 69 kV, you are
14 saying that Ohio Edison's system, distribution
15 system, would be jeopardized. Do you stand by that
16 statement?

17 MS. KOLICH: Objection, asked and
18 answered.

19 THE EXAMINER: Sustained. Let's move on.
20 Is there anything else?

21 Q. On the bottom of page 6 you said that
22 there is a distinct possibility an individual will
23 be -- will be shocked, not could be shocked but will
24 be shocked, and could possibly be electrocuted under
25 certain conditions. What qualifications do you have,

1 sir, for making that statement?

2 A. Well, the simple fact I spent years
3 trimming trees in and around electrical conductors.
4 I myself have been shocked before. And it's an
5 occurrence that can and often does happen. When you
6 have direct contact with a tree to a primary line,
7 then you have the potential of anybody in that area
8 touching that tree to be shocked.

9 Q. In terms of the statements on page 6 and
10 7 where you talk about potential, could you possibly
11 refer to the possibility which could be one out of
12 any number of limited occurrences, you talk about
13 electrocution, people climbing trees, creating a fire
14 hazard. That is a possibility. Is it a possibility
15 or is that a strong potential for occurrence?

16 A. There's a potential for occurrence.

17 Q. Okay.

18 A. And, you know, it's also a possibility.

19 Q. On page 9 there is reference to a silver
20 maple on my property, the rear of the property, that
21 is encroaching into the trim zone.

22 MS. KOLICH: What line reference, please?

23 MR. MAZZITTI: That's on 2 and 3 on page
24 9.

25 MS. KOLICH: Thank you.

1 Q. You talk about trimming. We'll need to
2 trim this tree as well. Could you tell me the extent
3 that that tree trimming -- is it necessary as far as
4 encroaching into the trim zone and what do you
5 propose to do?

6 A. Okay. On that tree and specifically the
7 silver maple we need to again go back to 15 feet
8 which is roughly the four years' clearance that we
9 need. The silver maple grows quite rapidly. A lot
10 of times when we make even a proper cut back to a
11 lateral, you have what we call water sprouts or
12 sucker growth, we call it in the industry, and this
13 even grows more rapid. And with it being a weak
14 tree, weak wooded tree, we have the possibility of
15 breaking because of wind, ice, snow, and that's why
16 that particular tree when we go for four years'
17 clearance, we go at least 15 feet.

18 Q. On page 8, line 7, Mr. Rehbein, you
19 mention approximately every four years the courts
20 require to maintain the reliability and make repairs
21 and restore service as far as removing vegetation.
22 How closely do you adhere to that type of tree
23 trimming planning?

24 A. It's not me that adheres to this, our
25 company. We are on a four-year trimming cycle and

1 try to adhere to it as much as possible.

2 Q. Do you, in fact, do that?

3 A. Yes.

4 Q. You adhere to a four-year tree trimming
5 cycle?

6 A. Yes.

7 Q. Is it true that Ohio Edison has
8 considerably scaled its tree trimming crews in recent
9 months?

10 A. No. I am still at the crews that I have
11 been at.

12 Q. What is the number of crews that you had
13 in September versus the number of crews that you had
14 in December of this year?

15 A. Back in September I had eight crews and
16 right now --

17 Q. December?

18 A. Oh, December of this year?

19 Q. December, right.

20 A. I believe I was down to three crews.

21 Q. That's a significant reduction, sir.

22 How -- back to my original question if you are on a
23 four-year cycle, how do you -- how do you propose to
24 protect the integrity of Ohio Edison's distribution
25 system when the number of tree trimming crews has

1 been reduced significantly?

2 A. Well, we increase them significantly.

3 Q. I'm sorry?

4 A. We increase them significantly.

5 Q. Increase what?

6 A. Tree trimming crews.

7 Q. If my understanding has just been a
8 significant reduction in tree trimming crews over a
9 fairly short duration, how do you propose to protect
10 the integrity of Ohio Edison's distribution system
11 while you have reduced the number of tree trimming
12 crews?

13 A. We increase them later on.

14 Q. But you have reduced them now; is that
15 correct, sir?

16 A. No. We are up to the standard amount of
17 crews now. And then I understand your question what
18 you are asking is at the end of the year we have so
19 many miles to trim. And basically what we do is if
20 we have some crews that have been taken away and put
21 in other areas and we are down to three crews, we
22 make it up at the end of the year. They bring in
23 more crews. We are responsible for so many miles of
24 line. Whether we do it with 3 crews or 20 crews or
25 100 crews it doesn't matter once they come into that

1 area.

2 Q. I have one concluding question. Is it
3 correct that all trees that need to be trimmed every
4 four years are trimmed every four years?

5 A. I don't understand.

6 Q. All trees that "need to be trimmed to
7 protect the reliability or dependability of the
8 system, all trees that weren't trimmed are trimmed
9 every four years;" is that correct?

10 A. I still don't understand.

11 Q. Is it correct that all trees that need to
12 be trimmed at Choctaw Lake every four years are
13 trimmed every four years?

14 A. Yes. What we have is that is put on what
15 we call a circuit. That's part of the London door
16 circuit and then we are given a circuit to trim out
17 and I pass along to the contractors and make sure
18 that it's trimmed out except for cases like your own
19 and what we call refusals. Refusal is in place, yes,
20 we have customers that, yes, they will eventually be
21 trimmed or mitigated. But for the most part, yes,
22 every four years.

23 Q. One concluding question, is it -- is it
24 possible that the tree trimming that you proposed on
25 my property and Ms. Bockey's property will not

1 jeopardize tolerance of this distribution system
2 based on the engineering and design of their system,
3 I am talking about Choctaw Drive, that the fuse is in
4 place, we haven't had a problem in the past, is there
5 a possibility -- strong -- is there a possibility
6 that that will not encroach -- cause problems with
7 Ohio Edison's distribution system?

8 A. Let me -- you are saying if we do not
9 trim the trees?

10 Q. If you do not trim the trees and the
11 breaker works as designed and engineered and if there
12 is an outage that potentially could affect only
13 Ms. Bockey's property, is there a possibility that no
14 other outage on Ohio Edison's distribution system or
15 their system -- integrity of their distribution
16 system will be affected? You talk about all the
17 risks --

18 THE EXAMINER: Okay. Let's let him
19 answer.

20 MR. MAZZITTI: Okay.

21 A. First of all, your neighbor on the
22 primary once that is an outage that's an outage.

23 Q. To whom, sir?

24 A. To your neighbor.

25 Q. Okay.

1 A. And then the possibility, like I said, I
2 am not an engineer and, you know, blows before the
3 primary burns down or after, you know, that's -- I
4 have seen them go both ways, or the fuse can fail and
5 say it goes down into Choctaw, your property on down
6 the line, up the line.

7 Q. Sir, my statement was if the fuse holds,
8 if the fuse holds, is it true that the only
9 individual that could be -- that could be affected
10 would be Ms. Bockey?

11 MS. KOLICH: Objection, asked and
12 answered.

13 THE EXAMINER: You can answer if you
14 know.

15 A. Basically, yes, that's a possibility.

16 Q. And would that be the same possibility as
17 Ohio Edison's distribution -- entire distribution
18 system that might be affected?

19 A. When you are talking an entire
20 distribution --

21 MS. KOLICH: Objection. Can the witness
22 answer, please?

23 THE EXAMINER: Sustained.

24 A. What we are looking at I believe you are
25 asking me if when the fuse blows, it only affects

1 your neighbor.

2 Q. Correct.

3 A. That's a possibility there. But you are
4 looking at too, you know, when those trees come in
5 contact, you know, we are not -- we are not talking a
6 possibility. It's going to be pretty much, you know,
7 an occurrence over several times. The more and more
8 those trees grow, if it grows into that line there,
9 the more and more that fuse is going to be blown.

10 Q. To your knowledge has any such occurrence
11 been documented in the past based on records?

12 A. No. I have seen it happen before.

13 Q. I am talking about Ms. Bockey's property.
14 Do you have any recordation there has been any type
15 of a voltage sag, an outage, any type of liability
16 problem associated with the line that traverses from
17 Choctaw Drive to her property? Do you have any
18 recordation at Ohio Edison that a problem has
19 occurred in the past?

20 A. Yes, we have records. There hasn't been
21 a tree-caused outage.

22 Q. Okay. There hasn't been a tree-caused
23 outage from that line?

24 A. No.

25 MR. MAZZITTI: Okay. Thank you, sir.

1 MS. KOLICH: Can I have a minute with my
2 witness?

3 THE EXAMINER: Yes.

4 (Discussion off the record.)

5 - - -

6 FURTHER REDIRECT EXAMINATION

7 By Ms. Kolich:

8 Q. Just a couple of clarification questions.
9 In your testimony and during your cross-examination
10 by Mr. Mazzitti, he referred to this integrity of the
11 system as you have stated in your testimony. Let's
12 clear it up. What did you mean when you said -- when
13 you referred to the integrity of the system?

14 A. Integrity of the system is the system
15 running 100 percent all the time and whenever you
16 have one outage or a fuse blowing or a damage to the
17 line, this is an outage. That is disruption to the
18 system and it's a case here that, you know, whether
19 it's your neighbor there or anywhere on down the
20 line, that customer is out of power. And that's
21 disruption to our system and that's the reason that
22 we have the tree trimming is basically to keep the
23 trees out of the wires so they will not disrupt the
24 system. So that's what we are going for.

25 Q. I'm sorry. And Mr. Mazzitti also

1 questioned you about your qualifications to make
2 statements regarding safety issues. Do you recall
3 that line of questioning?

4 A. Yes.

5 Q. You indicated you personally have been
6 shocked when touching a tree that's touching a line
7 but what else qualifies you to make the statements
8 you made regarding safety and integrity of the
9 system?

10 A. Just years of experience, I have been out
11 there 25 years. Mike can attest to that, you know.
12 You see occurrences or you see damage to the line,
13 you see lines on cars, transformers, fuses, damage
14 loads. It's -- you know, it's a common occurrence.
15 You know, it's a case here where, you know, whether
16 it's accidental or just by storm or anything, he is,
17 you know -- trees come in contact with utility lines.
18 And, you know, it causes a lot of damage and a lot of
19 personal injury and, you know, there has been
20 accidents that happened. And it's a case here that,
21 you know, just years of being around the lines I have
22 seen that happen. You know, I have seen it to where
23 children have been electrocuted, been out on numerous
24 storms, hurricanes, in other words, are trying to get
25 power back in or my men are working with -- on lines,

1 that's the industry. We try to be as safe as
2 possible. The No. 1 thing is safety and part of it
3 is having a system that works and we maintain and
4 then, you know, we keep safe. You can't have that
5 with, you know, vegetation growing right into the
6 wires. It just doesn't happen so.

7 Q. And then you indicated that you were not
8 aware of any outages occurring through tree contacts
9 to this line in question. Do you recall that?

10 A. Yes, I do.

11 Q. Do you expect that to continue should the
12 trees not be trimmed?

13 A. No. There will be outages on that line
14 if those trees continue to grow. In this case here
15 it falls back to my experience and, again, you know,
16 that's why we trim the trees, so we don't have
17 outages. And that's why we are on a cycle. If we
18 would just say just because there is one customer on
19 this line we are just going to let it go for 20 or 30
20 years, you know, then the integrity of that line is
21 not met. That's why we spend millions and millions
22 and millions of dollars trimming trees back away from
23 the wires.

24 MS. KOLICH: That's all I have, your
25 Honor.

1 MR. MAZZITTI: Could I ask one -- two
2 other questions and then I will conclude?

3 THE EXAMINER: That relate solely to what
4 he just testified to, nothing else.

5 MR. MAZZITTI: Okay. I'm done.

6 THE EXAMINER: Okay. Thank you. Thank
7 you, Mr. Rehbein.

8 MS. BOCHEY: Your Honor, can we go off
9 the record for a minute?

10 THE EXAMINER: Sure.

11 (Discussion off the record.)

12 THE EXAMINER: Let's just go back on the
13 record then for a minute. And did you want to move
14 your exhibit?

15 MS. KOLICH: I would move -- your Honor,
16 I move that Company Exhibit 1 be entered into the
17 record.

18 THE EXAMINER: Okay. And that would be
19 so admitted.

20 (EXHIBIT ADMITTED INTO EVIDENCE.)

21 THE EXAMINER: Any objection?

22 MR. MAZZITTI: I would be?

23 THE EXAMINER: His testimony.

24 MR. MAZZITTI: Oh, okay.

25 THE EXAMINER: And I don't believe you

1 had -- the pictures and whatnot, we didn't need to
2 put any of that in the record, correct?

3 MR. MAZZITTI: That is correct.

4 THE EXAMINER: Okay. So then as far as
5 that's concerned, this hearing is concluded and this
6 matter will be submitted to the Commission and thank
7 you very much.

8 MS. KOLICH: Do you want a briefing
9 schedule on the record or a brief?

10 THE EXAMINER: Let's talk about that off
11 the record.

12 (Thereupon, the hearing was concluded at
13 12:49 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is
a true and correct transcript of the proceedings
taken by me in this matter on Wednesday, May 20,
2009, and carefully compared with my original
stenographic notes.

____s/Karen Sue Gibson_____
Karen Sue Gibson, Registered
Merit Reporter.

(KSG-5061)

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