

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of
Robert Houghton,

Complainant,

v.

Ohio Power Company,

Respondent.

Case No. 10-798-EL-CSS

ENTRY

The attorney examiner finds:

- (1) On June 9, 2010, Robert Houghton (complainant) filed a complaint against Ohio Power Company (OP), a subsidiary of American Electric Power, requesting that OP be prevented from removing trees from complainant's back yard. Complainant states that the trees, located on the edge of OP's right-of-way on his property, do not interfere with OP's power lines. Complainant further states that removal of the trees will reduce the privacy, energy efficiency, and value of his property while leaving 15-20 stumps within 10 yards of his back door and costing him thousands of dollars in landscaping costs.
- (2) On June 29, 2010, OP filed an answer and motion to dismiss. OP claims that its easement allows it to trim and remove trees located in its right-of-way. According to OP, its representatives have met with complainant in an attempt to mutually resolve the dispute, and have offered to pay him \$500 for the wood from the trees while advising complainant about the types of trees appropriate for planting in close proximity to the right-of-way. OP states that it plans to proceed with tree trimming and removal activities on complainant's property within weeks of filing its answer. In addition, OP moves to dismiss the complaint, asserting that it is fully within its rights to trim and remove trees within the easement, and adding that complainant failed to state reasonable grounds upon which relief may be granted, nor

did he identify any Commission rule or regulation that he believes OP has violated.

- (3) The attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code (O.A.C.), any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement discussion. However, nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference.
- (4) Accordingly, a settlement conference shall be scheduled for August 3, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Room 1246, Columbus, Ohio 43215-3793. If it becomes apparent that the parties are not likely to settle this matter, the parties should be prepared to establish a procedural schedule to facilitate the timely and efficient processing of this complaint.
- (5) Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference and all parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.
- (6) As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.* (1966), 5 Ohio St.2d 189.
- (7) Unless ordered otherwise, during the pendency of the complaint, the Commission expects OP not to take any action to remove or otherwise adversely affect the trees that are the subject of the complaint.

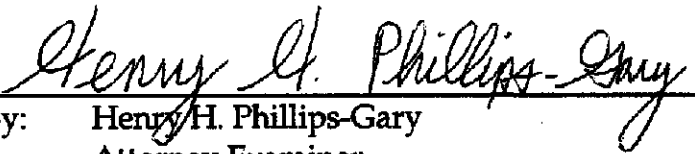
It is, therefore,


ORDERED, That the matter be scheduled for a settlement conference on August 3, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Room 1246, Columbus, Ohio 43215-3793. It is, further,

ORDERED, That OP abstain from any action to remove or otherwise adversely affect the trees on complainant's property at issue in this case. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

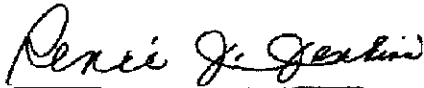
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Henry H. Phillips-Gary
Attorney Examiner

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Entered in the Journal

JUL 08 2010



Renee J. Jenkins
Secretary