

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Thomas)	
& Derrell Wilkes,)	
)	
Complainants,)	
)	
v.)	Case No. 09-682-EL-CSS
)	
Ohio Edison Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On August 5, 2009, Thomas and Derrell Wilkes (the Wilkes or complainants) filed a complaint against Ohio Edison Company (Ohio Edison). In the complaint, the Wilkes allege that Ohio Edison operates a 69kV transmission line that runs too close to a swimming pool and shed located on the Wilkes' property. As a solution, the Wilkes believe that Ohio Edison should move the line to comply with the National Electrical Safety Code (NESC). In the alternative, the Wilkes request that the Commission determine whether Ohio Edison's 69kV line is located at a safe distance from their property.
- (2) On August 25, 2009, Ohio Edison filed an answer and a motion to dismiss. In its motion to dismiss, Ohio Edison alleges that the complaint should be dismissed for lack of subject-matter jurisdiction and for failure to state reasonable grounds. Ohio Edison agrees that the location of the complainants' structures is at odds with the NESC. Ohio Edison adds that the location of the complainants' swimming pool and shed encroach upon Ohio Edison's easement.
- (3) At this time, the attorney examiner finds that this matter should be scheduled for a conference. At the conference, the parties should disclose the status of *Ohio Edison v. Thomas E. Wilkes, et al.*, Case No. 09-CV-1280. To the extent that issues remain unresolved before the Commission, the conference shall

explore the parties' willingness to negotiate a resolution of the 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 process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.

Accordingly, a settlement conference shall be scheduled for December 15, 2010, at 1:30 p.m. in Room 1246 in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.

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.

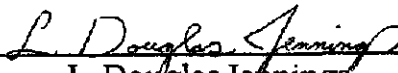
As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.* (1996), 5 Ohio St.2d 189.

It is, therefore,

ORDERED, That a prehearing settlement conference be held in accordance with Finding (3). It is, further,

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


THE PUBLIC UTILITIES COMMISSION OF OHIO


By: L. Douglas Jennings
Attorney Examiner

grg
/vrm

Entered in the Journal

NOV 03 2010



Renee J. Jenkins
Secretary