

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of	)	
Evelyn and John Keller,	)	
	)	
Complainants,	)	
	)	
v.	)	Case No. 12-2177-EL-CSS
	)	
Ohio Power Company,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On July 27, 2012, Evelyn and John Keller (Complainants) filed a complaint against Ohio Power Company (OPCo), alleging that OPCo failed to trim or remove trees and vegetation around the power lines which provided electric services to Complainants. Complainants state that, as result of OPCo's negligence in trimming the vegetation, a tree fell across OPCo's power line during the storm on June 29, 2012. Furthermore, Complainants assert that OPCo negligently failed to repair the power line for more than six days after learning of the damage of the line on June 29, 2012. Complainants allege that they lost food products valued in excess of \$1,500 as a result of OPCo's negligence.
- (2) On August 16, 2012, OPCo filed its answer, denying the allegations of the complaint. OPCo states it has complied with the applicable tariff and Commission rules, and that it has followed its standard business practice. Specifically, OPCo asserts that it is not liable to Complainants for damages in cases when supply should be "interrupted or fail by reason of an act of God." OPCo requests that the complaint be dismissed.

- (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 September 11, 2012, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Hearing 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 discuss 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.

It is, therefore,

ORDERED, That the matter be scheduled for a settlement conference on September 11, 2012, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Hearing Room 1246, Columbus, Ohio 43215-3793. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Jonathan Tauber

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By: Jonathan J. Tauber  
Attorney Examiner

JRJ/sc

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

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**in**

**Case No(s). 12-2177-EL-CSS**

Summary: Attorney Examiner Entry scheduling a settlement conference on 09/11/12 at 10:00 a.m. at the offices of the Commission, 180 E. Broad St., 12th Flr., Rm. 1246, Columbus, Ohio. - electronically filed by Sandra Coffey on behalf of Jonathan Tauber, Attorney Examiner, Public Utilities Commission of Ohio