

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 and a motion to dismiss, 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) On September 4, 2012, Complainants filed a motion for an extension of time to file a memorandum in opposition to OPCo's motion to dismiss. Complainants explained that they were unable to reasonably respond to OPCo's motion until they conducted discovery.
- (4) A prehearing settlement conference was held as scheduled on September 11, 2012. Following the prehearing settlement conference, the parties indicated to the attorney examiners that a mutually agreed upon date of February 1, 2013, was a reasonable deadline for Complainants to file a memorandum in opposition to OPCo's motion to dismiss.
- (5) By entry issued September 13, 2012, the attorney examiner granted Complainants' motion for an extension of time to file a memorandum in opposition to OPCo's motion to dismiss and extended the Complainants' deadline to respond to OPCo's motion to dismiss to February 1, 2013.
- (6) On January 11, 2013, Complainants filed an unopposed motion for an extension of time to file a memorandum in opposition to OPCo's motion to dismiss. Complainants assert that additional discovery, including depositions, are necessary and request that the deadline to file a memorandum in opposition to OPCo's motion to dismiss be extended for 90 days.
- (7) The attorney examiner finds Complainants' unopposed motion for an extension of time to file a memorandum in opposition to OPCo's motion to dismiss is reasonable and should be granted. Accordingly, Complainants' deadline to respond to OPCo's motion to dismiss should be extended to May 2, 2013.

It is, therefore,

ORDERED, That Complainants' motion for an extension of time to file a memorandum in opposition to OPCo's motion to dismiss is reasonable and should be granted. It is, further,

ORDERED, That Complainants' deadline to respond to OPCo's motion to dismiss is extended to May 2, 2013. 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

By: Jonathan J. Tauber
Attorney Examiner

JRJ/sc

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1/28/2013 12:02:35 PM

in

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

Summary: Attorney Examiner Entry granting the Complainants' motion for an extension of time to file a memorandum in opposition to OPCo's motion to dismiss. - electronically filed by Sandra Coffey on behalf of Jonathan Tauber, Attorney Examiner, Public Utilities Commission of Ohio