

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

INITIAL POST HEARING BRIEF OF OHIO POWER COMPANY

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I. INTRODUCTION

Complainants commenced this action because they believe the power outage affecting their residence, which was caused by the unprecedented and devastating storm that tore through central Ohio last summer, should have been restored sooner than it was. They believe it was negligent for Ohio Power Company (“AEP Ohio or the “Company”) to restore power to hospitals, health support facilities, fire departments, law enforcement agencies, essential government services, and critical needs customers before addressing their outage. The Complaint was filed with no legal or regulatory basis to substantiate the claims being made. Fourteen months later, aside from advancing their unfounded theories of negligence, Complainants have not proven a violation by AEP Ohio of any statute, public policy, regulatory rule, or precedent regarding the Company’s actions before and after the storm. For that reason, the Complaint should be denied.

II. BACKGROUND

A. The Storm

The Derecho major storm event that occurred on June 29, 2012, (“Derecho”) was the most destructive and expensive storm in the history of the Company. (AEP Ohio Ex. 2 at 3-5.) In a matter of hours, the Derecho traveled over 700 miles, leaving in its wake widespread and devastating wind damage with wind speeds reaching up to 85 miles per hour. (*Id.*; *See also* Motion to Dismiss at 1.) More than 4.3 million customers were left without electricity throughout the affected areas of the country. (AEP Ohio Ex. 2 at 3:21-4:7.) All of the AEP utilities in the eastern United States experienced significant outages from the Derecho, totaling approximately 1.2 million customers out of service. (*Id.*) Before midnight on Friday, June 29, nearly 720,000 customers in AEP Ohio’s service territory had experienced a service interruption. (*Id.*; *See also* TLK Exhibit 1.) On June 30, Governor Kasich announced that President Obama granted his request for federal assistance and declared a federal emergency in Ohio due to the severe weather and extensive power outages across two-thirds of the state. (AEP Ohio Ex. 2 at 5:18-21; Motion to Dismiss at 1.) Nothing about the Derecho was foreseeable and these kinds of storms can only be characterized as an Act of God.

Restoration efforts began immediately after the Derecho hit and concluded on July 10, 2012. (AEP Ohio Ex. 2 at 4:6-7.) There were approximately 5,000 workers engaged in restoration efforts. (*Id.* at 7:8-9.) The restoration period was difficult for customers and Company responders – both had to endure sweltering temperatures and high humidity. The heat index was above 100 degrees at times and actual air temperatures were over 100 degrees on multiple days during the restoration effort. (*Id.* at 6:22-7:1.) Extreme winds and falling trees were the primary factors leading to the majority of the Derecho damage. (AEP Ohio Ex. 2 at

4:18-5:2.) There was also damage from flying debris, excessive wind loading on conductors and poles, lightning, and general wind and flood damage. (*Id.*) From a facilities standpoint, AEP Ohio experienced 585 circuit outages and thousands of downed power lines. (*Id.*) Nearly 1800 distribution poles, almost 3000 cross arms, and 275 miles of distribution primary and secondary wire needed to be replaced as a result of the damage caused by the Derecho. (*Id.*; *See also* TLK Exhibit 2.)

Restoration work after the Derecho was prioritized based on the priorities outlined in AEP Ohio's Service Restoration Plan ("SRP"). (AEP Ohio Ex. 2 at 8:2-11.) The SRP is based on industry best practices, represents the collective experiences of previous major storms, and was developed in accordance with regulatory rules and principles. The plan is also reviewed by the Staff of the Public Utilities Commission of Ohio ("Commission"). Pursuant to the SRP, public safety hazards receive the highest priority during restoration efforts. (*Id.*) Essential government services, including but not limited to hospitals, health support facilities, fire departments, law enforcement agencies, water and sewage treatment facilities, media communication facilities, and other institutions whose operation are essential to the safety, health and welfare of the community receive the next highest priority. (*Id.*) The Company then assesses its transmission and distribution network to prioritize lines that would restore electricity to the greatest number of customers. (*Id.*) The efforts then focus on the restoration of outages affecting smaller blocks or individual customers. (*Id.*)

B. Circuit 3101

Complainants reside in Powell, Ohio, several miles north of the 270 Outerbelt in southern Delaware County. (Complaint at ¶¶1-2.) Electric service to Complainants' residence is provided

by a service drop connected to the Company's distribution Circuit 3101. (AEP Ohio Ex. 1 at 2:23.) Circuit 3101 is a 9-mile-long circuit that originates at the Company's Sawmill Road substation, runs north and south along State Route ("S.R.") 315, and ends just south of Powell Road. The portion of Circuit 3101 serving Complainants' residence runs along S.R. 315 between Powell and Jewett Roads and is situated in a hazardous location. (*Id.* at 5:8-18.) The Company's facilities are located on a steep hill with very little space between them and the west side of S.R. 315, making access by large trimming equipment dangerous and impossible without occupying the roadway. (*Id.*)

At the beginning of each year, the Company's Forestry group develops a vegetation management plan for the circuits to be trimmed during the upcoming year, with the current goal of addressing approximately 350 miles of distribution line each year. (Transcript at 96:5-10.) (hereinafter "Tr.") The planning and trimming of a circuit occurs in three phases. (AEP Ohio Ex. 1 at 3:5-12.) First, a planner walks the entire circuit to be trimmed, contacting customers to inform them that trimming will be taking place in the future and marking vegetation and trees for trimming or removal. (*Id.*) Next, tree crews arrive on the circuit to perform the trimming and removal work, beginning at the substation and systematically working through the circuit. (*Id.*) Lastly, the work is audited both by the Company's Forestry supervisor and an outside auditing company. (*Id.*) The whole process can take several months, depending on the length and terrain of the circuit. (*Id.*)

The planning work on Circuit 3101 began the second week of April 2012 and was completed during the third week of May. (*Id.* at 3:15-18.) Tree crews began trimming the circuit during the last week of May, starting at the substation at the west end of the circuit and

moving eastward toward S.R. 315. (*Id.*) Due to the hazardous conditions, and to ensure the safety of Company personnel and the public, trimming the section of Circuit 3101 that runs along S.R. 315 required coordination with the Ohio Department of Transportation (“ODOT”) for road closure and traffic control assistance. (*Id.* at 5:13-16.) Also in April 2012, AEP Ohio developed a project to improve reliability on that same section of Circuit 3101. (Complainants’ Ex. 21 at 12:14-14:14.) The project entailed reducing that section of line from three phases to one phase. (*Id.*) Because the line project would also require road closure and traffic control assistance in order to be performed safely, the Company intended to coordinate the project with the tree trimming work to avoid multiple road closures and inconvenience to the public and landowners. (*Id.*) The tree trimming crews had reached the end of Jewett Road only days before the storm and were awaiting confirmation of the road closure and traffic control assistance from ODOT when the Derecho hit. (AEP Ohio Ex. 1 at 5:23-6:6.)

C. The Complaint

Complainants claim that AEP Ohio was negligent in three ways: 1) failing to identify the tree that fell as a tree that needed to be trimmed or removed during the planning of Circuit 3101 (Complainants Ex. 22 at 6-8.); 2) delaying the trimming of the portion of Circuit 3101 along S.R. 315 before the Derecho hit to coordinate the trimming work with the line project (*Id.* at 8-9.); and 3) failing to promptly repair the fallen line across S.R. 315 after the storm. (*Id.* at 9-11.)

Complainants filed the Complaint because they believe AEP Ohio’s actions before and after the Derecho “just didn’t pass the smell test.” (*Id.* at 4.) They were “frustrated” and “couldn’t understand why” their outage was not restored and S.R. 315 reopened promptly after the Derecho hit. (*Id.*) Complainants testified that their motivation in filing the Complaint was

unrelated to inadequate service provided by AEP Ohio, stating that if they were without power for six days and S.R. 315 was not affected, they probably would not have filed the Complaint. (Tr. at 20:9-17.)

After initiating this action, Complainants set about on a fishing expedition in order to try and shore up their Complaint – using Company and Commission resources. Complainants served and received responses to four sets of written discovery, consisting of over a 100 interrogatories (including subparts) and resulting in over 250 documents being produced. Despite all this, as would be expected, their fishing expedition bore no fish – nothing alleged in the Complaint or produced in discovery demonstrates inadequate service by AEP Ohio either before or after the Derecho.

The Complainants have not identified any law, rule, public policy or precedent that AEP Ohio has violated. Complainants can only prevail on their Complaint if their unreasonable and subjective standards of perfection, foresight, and strict liability are to be adopted and if their self-centered perspective regarding AEP Ohio's storm restoration procedures is to be accepted. In reality, however, there is simply no legal or regulatory support for the Complaint. The Derecho was a devastating, unpredictable act of God. In the aftermath of the storm, with limited information and stretched resources, AEP Ohio quickly, effectively, and safely restored power to nearly 720,000 customers in just twelve days. (AEP Ohio Ex. 2 at 7:12-13; *See also* TLK Exhibit 1.) AEP Ohio is sensitive to the inconvenience experienced by its customers after catastrophic acts of God devastate the region and interrupt electric service. Most customers understood the devastating nature of the Derecho and the herculean restoration task that followed and were grateful for the Company's efforts.

III. STANDARD OF REVIEW

Pursuant to AEP Ohio's Terms and Conditions of Service ("Tariff") in effect on June 29, 2012 (the date of the incident at issue), which the Commission reviewed and approved, the Company must "use reasonable diligence in furnishing a regular and uninterrupted supply of energy but does not guarantee uninterrupted service." Ohio Power Company Tariff, P.U.C.O. No. 20, Terms and Conditions of Service, Section 19, Original Sheet No. 103-16. Under its Tariff, AEP Ohio may be liable for damage "directly resulting from interruptions, irregularities, delays, or failures of electric service caused by the negligence of the Company or its employees or agents. . . ." (*Id.*) But, the Tariff is clear that AEP Ohio "shall not be liable for damages in case such supply [of energy] should be interrupted or fail by reason of an act of God. . . ." (*Id.*)

The burden of proof in complaint proceedings is on the complainant. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966). The Commission has long recognized that it would be unreasonable to hold a utility to a standard of perfect service. Indeed, the Commission, as well as federal and state courts, "have often indicated that...a utility cannot insure that a customer will never be without service" and "is not expected to be an insurer of service." *In the Matter of the Complaint of Robert Sturwold v. The Ohio Bell Telephone Company*, Case No. 86-577-TP-CSS, Opinion and Order, 1987 Ohio PUC LEXIS 604, *11-12, citing *Western Union Telegraph Co. v. Esteve Bros. and Co.*, 256 U.S. 566 (1921); *Primrose v. West Union Co.*, 154 U.S. 1, 14-15 (1894); *Correll v. Ohio Bell Tele. Co.*, 63 Ohio App. 491, 27 N.E.2d 173 (Stark App. 1939) (Other citations omitted). Rather, a utility must provide "reasonably adequate service," which AEP Ohio did in this case. (*See Id.* at *11.) As discussed below, the Complainants have failed to carry their burden of proof in this case. The Complaint, therefore, should be denied.

IV. ARGUMENT

A. AEP Ohio's tree trimming practices are reasonable and appropriate, and the Company followed them in planning and trimming Circuit 3101 before the Derecho.

Complainants first argue is that AEP Ohio negligently failed to identify the tree that fell as a tree that needed to be trimmed or removed during the planning phase of circuit 3101. (Complainants Ex. 22 at 6-8.) Complainants' position is that the Company was negligent in failing to identify *one tree* in a dangerous, heavily-forested area containing thousands of trees before the Derecho hit, even though the process of trimming Circuit 3101 was still ongoing at that time. Even under this unreasonable standard, Complainants have offered no evidence establishing that the portion of the tree that fell was not marked. Complainants' position is without merit, highlights a lack of understanding of the industry, and suggests an overly-broad standard of perfection that is unsupported by common practice, Ohio law and the Commission's rules. Complainants' first allegation of negligence must be rejected.

1. The Company was in the process of trimming Circuit 3101 when the Derecho hit.

Complainants confuse one step of a larger process as creating an absolute final and all-encompassing duty to identify every tree for removal. Complainants argue that the tree that fell should have been identified during the planning of Circuit 3101 pursuant to the Company's internal Forestry Goals, Procedures and Guidelines. (Complainants Ex. 22 at 6.) But even under those guidelines, Company witness Lajeunesse testified that "it is likely impossible for [a planner] to mark every tree that could pose a threat to the Company's facilities or that will be trimmed or removed." (AEP Ohio Ex. 1 at 3:19-22.) Mr. Lajeunesse further testified that the planning of a circuit is just the initial step in a larger process: "the physical marking of trees is a guide that is part of the initial step in preparing a circuit for trimming and not a final blueprint for

the tree trimming process.” (*Id.* at 4:12-14; *See also* Tr. at 61:11-19). Once the Company’s tree crews reach an area they “often remove or trim trees not specifically identified by the planner and also may not trim or remove trees identified by the planner depending upon their observations once on the scene.” (AEP Ohio Ex. 1 at 4:1-4; *See also* Tr. at 61:19-21, 77:12-23.) In fact, Mr. Lajeunesse expects that in this case “had the tree crews been able to reach the tree before the Derecho hit they would have trimmed or removed the tree regardless of whether it was marked by the planner.” (AEP Ohio Ex. 1 at 4:17-19; Complainants Ex. 7 at 66:8-11.) Mr. Lajeunesse also testified that he too would have identified the tree for trimming or removal during his audit of the trimming work on the circuit had the Derecho not interrupted the process. (AEP Ohio Ex. 1 at 4:20-21.) Complainants’ misguided negligence theory ignores the fact that the trimming of Circuit 3101 was still underway, only interrupted by a catastrophic major storm.

Complainants can only prevail on their first allegation of negligence if AEP Ohio had a legal duty to identify all trees that could possibly pose a threat to its facilities during the first step of a multi-step vegetation management process and to remove all such trees before unknown catastrophic storms. The Complainants have not established that AEP Ohio breached such a duty (assuming one existed at all), and AEP Ohio is not strictly liable under its Tariff for outages or damages caused by storm-downed trees. It is possible that the planner marked the portion of the tree that fell as a result of the storm, determining that was the only portion of the tree that posed a threat to the Company’s facilities. Mr. Lajeunesse testified that although he found no markings on the remaining portion of the tree, he does not know whether the part that fell was marked because he did not examine that portion of the tree. (Tr. at 76:5-20; *See also* Complainants’ Ex. 7 at 67:1-16.) Complainants have offered no evidence establishing that the portion of the tree that fell was not marked. Further, the unreasonable duty Complainants seek to

impose on the Company would cause the Company's spending (and associated rate impact) to increase exponentially. There is simply no legal or regulatory basis to support Complainants' claim that AEP Ohio had a strict legal duty to identify the tree that fell during the initial planning phase of Circuit 3101 and to trim or remove it before the unforeseeable Derecho caused the tree to fall.

2. The Company is not liable for damages resulting from service interruptions caused by an act of God.

The Complaint seeks recovery of lost food pursuant to Section 19 of AEP Ohio's Tariff. (Complaint at 1.) Under its Tariff, AEP Ohio may be liable for damage "directly resulting from interruptions, irregularities, delays, or failures of electric service *caused by the negligence of the Company or its employees or agents,*" but no such negligence occurred in this case. Ohio Power Company Tariff, P.U.C.O. No. 20, Terms and Conditions of Service, Section 19, Original Sheet No. 103-16. (Emphasis added). Even Complainants understand that any damage being claimed must be "as a result of Respondent's negligence." (Memorandum in Opposition to Motion to Dismiss at 3.) Complainants have failed to establish the necessary causation to prevail on their claim. A catastrophic and unprecedented major storm caused the interruption of electric service to Complainants' residence – not any action or inaction on behalf of the Company. The 85-mile per-hour gusts of wind associated with the Derecho caused the tree limb to snap and fall on the Company's line. Complainants acknowledge that the storm caused the tree to fall. (Complaint at ¶10.) Because it was the unforeseeable Derecho that caused the tree limb to fall on the Company's line creating the power outage, the required causation between the Company's alleged negligence and the Complainants' damages is lacking.

In addition to the Complaint's dispositive causation deficiencies, AEP Ohio's Commission-approved Tariff specifically excludes the Company from liability for damages resulting from service interruptions caused by an act of God. Section 19 of AEP Ohio's Terms and Conditions of Service states that "[t]he Company will use reasonable diligence in furnishing a regular and uninterrupted supply of energy but does not guarantee uninterrupted service." Ohio Power Company Tariff, P.U.C.O. No. 20, Terms and Conditions of Service, Section 19, Original Sheet No. 103-16. More specifically, the Tariff is clear that "[t]he Company shall not be liable for damages in case such supply should be interrupted or fail by reason of an act of God. . . ." (*Id.*) Complainants recognize that the Derecho was a major storm. (Complainants Ex. 22 at 5.) The destruction caused by the Derecho was so devastating that both the Governor of Ohio and the President of the United States declared Ohio a federal disaster area. (Motion to Dismiss at 1.) Nothing about the Derecho was foreseeable and these kinds of storms cannot be characterized in any other way other than as an act of God. As discussed above, it was the 85-mile per-hour gusts of wind associated with the Derecho that caused the tree limb to fall on the Company's line creating the power outage affecting Complainants' residence. Pursuant to its Commission-approved Tariff, AEP Ohio is not liable for damage resulting from service interruptions caused by an act of God.

In sum, there is simply no legal or regulatory basis to support Complainants' unreasonable claim that AEP Ohio had a strict legal duty to identify the tree that fell during the initial planning phase of Circuit 3101 and to trim or remove it before the Derecho hit. Complainants' grounds for negligence ignores the fact that the trimming of circuit 3101 was still underway, only interrupted by a catastrophic major storm. Moreover, because it was the storm that caused the interruption of electric service to Complainants' residence, the required causation

between the Company's alleged negligence and the Complainants' damages is lacking. The Derecho was an extraordinary and unexpected act of God, and AEP Ohio's Tariff is clear that the Company is not liable for damage resulting from service interruptions caused by an act of God. Therefore, Complainants' first allegation of negligence must fail.

B. AEP Ohio's pre-storm actions regarding Circuit 3101 were reasonable and prudent.

Complainants next argue that AEP Ohio negligently delayed trimming the portion of Circuit 3101 along S.R. 315 before the Derecho due to attempts to coordinate the trimming work with the line project. (Complainants Ex. 22 at 8-9.) Here again, Complainants fail to point to a legal or regulatory basis to support their claim. Despite the obvious explanation for why trimming did not occur on along S.R. 315 prior to the Derecho (the inability to safely complete the trimming work without a road closure permit from ODOT) Complainants advance a theory of negligence that is unfounded and contrary to the evidence in the record. Complainants' second allegation of negligence must fail.

1. Efforts to coordinate the tree trimming and line project did not cause a delay in trimming Circuit 3101 before the Derecho.

There is no law or rule which states that the marking of a tree as part of the normal tree trimming process requires immediate removal of the tree or that not immediately removing the tree implies negligence on the part of the utility. The entire planning and trimming process can take several months, depending on the length and terrain of the circuit. (AEP Ohio Ex. 1 at 3:11-12.) The planning phase of Circuit 3101 was completed during the third week of May 2012 and the tree crews began trimming the circuit a week later, methodically working from the substation located on the west end of the circuit and moving eastward toward S.R. 315. (*Id.* at 3:13-18.) As Company witness Lajeunesse testified, there was no delay to the tree trimming on Circuit

3101 due to the attempts to coordinate the trimming work with the line project. (*Id.* at 5:19-6:6; Tr. at 69:22-70:6.) The tree crews had reached the end of Jewett Road only days before the storm and were awaiting confirmation of the requested road closure and traffic control assistance from ODOT in order to safely complete the remaining trimming on the circuit when the Derecho hit. (AEP Ohio Ex. 1 at 5:23-6:6.) Road closure and traffic control assistance was also necessary to safely complete the line project. (Complainants Ex. 21 at 14:4-14.) Accordingly, and as discussed in the next section, it was the fact that the road closure and traffic control assistance from ODOT was never confirmed before the Derecho which prevented the trimming work and line project from being completed before the storm.

2. Neither the trimming work nor the line project on Circuit 3101 could safely be completed without road closure and traffic control assistance from ODOT.

The trimming of Circuit 3101 along S.R. 315 did not occur before the storm because ODOT had yet to confirm the requested road closure and traffic control assistance before the Derecho hit. (AEP Ohio Ex. 1 at 6:2-4; Tr. at 80.) Complainants acknowledge that the trimming along S.R. 315 would require traffic control assistance. (Complainants Ex. 22 at 8.) And road closure and traffic control assistance was also necessary to safely complete the line project. (Complainants Ex. 21 at 14:4-14.) At the hearing, Mr. Lajuenesse testified that without obtaining a permit from ODOT for the road closure it was impossible to safely complete the trimming work:

Q: That doesn't answer the question. The question is would it have been possible to remove this tree without a permit?

A: No, I don't believe so, because we needed road closure to safely -- you know to safely access the work site.

Q: You're saying this tree could not have been removed without bringing in heavy equipment or a cherry picker or something?

A: Again, sir, we'd have to close the road down in order to do that safely. We take the safety of our employees very seriously. I'm not going to put anybody on that road without a road closure.

(Tr. at 87:19-88:8.) Notwithstanding this obvious and reasonable explanation, Complainants allege that AEP Ohio "intentionally delay[ed]" trimming the portion of Circuit 3101 along S.R. 315 before the Derecho due to attempts to "save the cost of a second traffic control crew. . . ." (Complainants Ex. 22 at 9.) Although AEP Ohio was attempting to coordinate the trimming work and line project to save costs for its customers, that decision did not prevent the Company from completing the trimming work on Circuit 3101 before the Derecho hit. The fact remains that neither the trimming work nor the line project could be accomplished safely without road closure and traffic control assistance from ODOT, and the Company's request for that assistance was never confirmed before the Derecho hit.

It was not practical for AEP Ohio to initiate the ODOT permitting process earlier than when it did. Doing so would have been inefficient and potentially more costly. When trimming a circuit like Circuit 3101, the Company's tree crews work methodically from the substation outward to ensure that any potential threats to facilities are addressed systematically. (Tr. at 72:14-73:16.) It would be inefficient and possibly dangerous for the tree crews to skip ahead to address a threat on mile six when a threat on mile one could potentially leave the remaining portions of the circuit exposed. (Tr. at 85:15-24.) Countless unpredictable obstacles arise during the trimming of a circuit, making it nearly impossible to predict the exact location of the crews at any given moment – especially for a nine-mile-long circuit like 3101. (Tr. at 89:3-14.) Given this unpredictability, requesting a road closure too far in advance could result in multiple

permitting costs and perhaps avoidable road closures. Thus, when the arrival of the tree crews on S.R. 315 became more predictable, the Company made arrangements for the road closure. Even if the Company had secured a road closure permit when it began trimming Circuit 3101, it would not have jumped to trim the portion of the circuit along S.R. 315 before addressing earlier threats on the line. (Tr. at 72:14-73:16, 85:15-24.)

Complainants' claim suggests that the Derecho was a known deadline on the Company's calendar for completing the trimming work on Circuit 3101. Of course, that position is without merit. The trimming work was not completed prior to the storm because ODOT had yet to confirm the requested road closure and traffic control assistance before the Derecho hit – not because the Company delayed the trimming to combine the work with the line project, as Complainants argue. Complainants' second allegation of negligence, like their first, is not based in law or rule and should be rejected.

C. AEP Ohio's actions during the restoration effort were reasonable and prudent.

The Derecho was the most destructive and expensive storm in the history of the Company. (AEP Ohio Ex. 2 at 3:21-22.) Before midnight on Friday, June 29, nearly 720,000 customers in AEP Ohio's service territory had experienced a service interruption. Restoration began on June 29 and concluded on July 10. (*Id.*; *See also* TLK Exhibit 1.) It is unfortunate that power could not be restored to all customers immediately, but this does not imply inadequate service on the part of AEP Ohio. Without any basis whatsoever, Complainants allege for their third claim of negligence that AEP Ohio failed to promptly repair the fallen line across S.R. 315 after the storm. (Complainants Ex. 22 at 9-11.) Complainants' position demonstrates a lack of

understanding of industry practice and a self-interested perspective regarding AEP Ohio's storm restoration procedures. Complainants' final negligence claim should be rejected.

1. Restoration efforts after the Derecho were in accordance with AEP Ohio's Service Restoration Plan.

Restoration efforts after the Derecho were prioritized based on the priorities outlined in the SRP. (AEP Ohio Ex. 2 at 8:2-11.) Pursuant to the SRP, public safety hazards receive the highest restoration priority, followed by essential governmental services such as hospitals, fire departments and police stations. (*Id.*) The Company then assesses its transmission and distribution network to prioritize lines that would restore electricity to the greatest number of customers. (*Id.*) The efforts then focus on the restoration of outages affecting smaller blocks or individual customers. (*Id.*; Tr. at 115-116:14.)

The outage affecting the Complainants' residence was restored in accordance with the SRP. The outage received "the lowest priority during Derecho restoration work given the relatively small number of customers affected by the outage on that circuit." (AEP Ohio Ex. 2 at 8:12-22.) There were no hospitals, fire departments or police departments affected so as to elevate the restoration priority of Complainants' outage. (Tr. at 50:13-19.) Similarly, the closure of S.R. 315 did not elevate the restoration priority of the outage because the road closure did not pose an emergency situation or public safety concern. Mr. Kirkpatrick testified during the hearing that after the Derecho, the public did not have access to the fallen line on S.R. 315: "The road was blocked...traffic was not allowed to pass through. . .[s]o I don't think on the surface I would call that a public safety issue." (Tr. at 116:25-117:4.) Mr. Mottice, the Company employee in charge of dispatching restoration crews to the area surrounding Complainants' residence after the storm, also testified that the closure of S.R. 315 did not elevate the restoration

priority of the outage because the road closure did not involve an emergency situation, stating that he received no information from ODOT advising the Company that an emergency situation existed on S.R. 315 following the Derecho. (Complainants' Ex. 20 at 19-22:8, 24:7-11.)

Without any perspective or knowledge regarding power restoration following a major storm (Tr. at 43:21-23), Complainants simply thought it "inconceivable" that motorists would be inconvenienced by the closure of S.R. 315. (Complainants' Ex. 22 at 2.) But, as Mr. Kirkpatrick testified, inconvenience alone would not have been sufficient to elevate the restoration priority of the outage affecting Complainants' residence, considering the hundreds of thousands of customers without power at that time. (Tr. at 110:21-111:6.)

Restoration efforts after the Derecho went according to the SRP – a plan that is based on industry best practices, represents the collective experiences of previous major storms, is developed in accordance with regulatory rules and principles and reviewed by the Commission Staff. Complainants' self-centered perspective of how AEP Ohio's storm restoration procedures should have went is not based in law or rule and cannot be the basis for finding the Company provided inadequate service with respect to the Derecho restoration. The Complainants disposed of their food on the fourth day after the Derecho, July 3, 2012. (Complainants Ex. 22 at 9.) At that time, nearly 300,000 customers were still without power. (*See* AEP Ohio Ex. 2 at TLK Exhibit 1.) Given that only roughly two dozen customers were impacted by the outage affecting Complainants' residence, it would have been imprudent for the Company to dispatch a restoration crew to restore the outage before Complainants disposed of their food, considering the hundreds of thousands of customers still without power at that time. (Tr. at 128:11-25.)

2. It was prudent for the Company to do all the work on Circuit 3101 during the restoration effort.

Complainants also theorize that the decision to do the trimming work and line project at the same time as the restoration work delayed the restoration of the outage affecting Complainants' residence and the repair of the fallen line across S.R. 315. (Complainants Ex. 22 at 10.) Complainants' claim is without merit. AEP Ohio first learned that the situation on S.R. 315 involved Company facilities when the Governor issued a report on the morning of Thursday July 5. (Complainants Ex. 20 at 5:21-6:20.) By that afternoon, some 30 employees were on the scene addressing the situation. (*Id.* at 10:18-23.) "While the downed line was being repaired, crews were trimming trees, and two phases of the line were being removed. All the work was being performed simultaneously." (AEP Ohio Ex. 1 at 6:9-11.) It took crews just two to three hours to complete all the work. (Complainants Ex. 20 at 10:24-11:4.) Indeed, Complainants testify that the restoration went quickly and that power was restored to their residence around dinner time on Thursday. (Complainants Ex. 22 at 3.) There is no basis to support the Complainants' claim that doing all the work simultaneously delayed the restoration by any significant amount of time. Mr. Kirkpatrick testified at the hearing that any such delay was "very, very small" and a matter of "hours or less." (Tr. at 121:17-122:9.)

Performing all the work while S.R. 315 was already closed was a prudent decision that saved costs for customers and inconvenience to the public. Mr. Roahrig testified that to complete the tree trimming on Circuit 3101 and to complete the line project both lanes of S.R. 315 from Jewett to Powell roads would need to be closed for three to four days, eight to ten hours each day. (Complainants Ex. 21 at 18:4-19:3.) As Mr. Kirkpatrick testified, it was a prudent decision for the Company to do all the work on Circuit 3101 simultaneously after the

storm to take advantage of the fact that the road was closed, traffic was controlled and the safety of Company's personnel was ensured. (Tr. at 118:7-25.)

In sum, AEP Ohio's actions during the Derecho restoration effort were reasonable and prudent. The Company would like to have been able to restore service to all 720,000 customers right away, but that was not possible or reasonable to expect. Given the relatively few customers impacted by the outage affecting Complainants' residence and the fact that the closure of S.R. 315 did not pose a public safety hazard, it would have been imprudent for the Company to deviate from the SRP and dispatch a restoration crew to repair the outage any sooner than it did. The Company prudently took advantage of the road closure and addressed all the work that needed to be done on Circuit 3101 after the Derecho hit, eliminating multiple road closures, reducing traffic disruptions and minimizing inconvenience to the public.

V. CONCLUSION

For the foregoing reasons, all three of Complainants' claims should be rejected. Complainants have not proven a violation by AEP Ohio of any statute, public policy, regulatory rule, or precedent regarding the Company's actions before and after the storm. Therefore, the Complaint should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail upon counsel for Complainant at the address listed below on this 25th day of September, 2013.

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