

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of
Mary-Martha and Dennis Corrigan,

Complainants,

v.

The Cleveland Electric Illuminating Company,

Respondent.

Case No. 09-492-EL-CSS

MOTION FOR STAY - EXPEDITED RULING REQUESTED

Now come Mary Martha and Dennis Corrigan, complainants, through counsel, and move for a stay of the Commission's March 26, 2014, Order authorizing the utility to remove complainant's tree, and further request for an expedited ruling in that the undersigned was informed by an attorney for the utility that the utility has scheduled the removal of the Corrigan's tree on March 28, 2014. A Memorandum in Support is of the within Motion for Stay and request for expedited ruling is attached.

Respectfully submitted,



Lester S. Potash (#0011009)
Attorney for Complainants
25700 Science Park Drive, Suite 270
Beachwood, OH 44122
Tel.: (216) 771-8400
Fax: (216) 771-8404
E-mail: lsp@potash-law.com

Certificate of Service

A true copy of the foregoing Motion for Stay and Request for Expedited Ruling has been served electronically this 27th day of March 2014 on the following counsel for defendant, to wit, Carrie M. Dunn, Esq., at cdunn@firstenergycorp.com and Lydia Floyd, Esq. at lfloyd@jonesday.com.



Lester S. Potash
Attorney for Complainants

**Memorandum in Support of Motion for Stay and
Request for Expedited Ruling**

The matter before this Commission involves complainants Mary Martha and Denis Corrigan's challenge to the removal of their mature silver maple tree by The Cleveland Electric Illuminating Company ("utility"). This matter has its origins in 2004, when the Corrigan's initiated an action in the Cuyahoga County Common Pleas Court obtaining an injunction preventing the tree's removal. Appeals brought the matter to the Ohio Supreme Court which ruled that this issue was within the exclusive jurisdiction of the Public Utilities Commission of Ohio. *Corrigan v. Illum. Co.*, 122 Ohio St.3d, 2009-Ohio-2524. The Corrigan's tree remained in place throughout these proceedings.

Following the decision of the Ohio Supreme Court, the Corrigan's initiated the within action seeking the same relief as granted by the common pleas court and upheld on appeal by the court of appeals. During the proceedings before the Commission, the tree was to remain in place.

On March 26, 2014, the Commission issued its Opinion and Order which found as reasonable the utility's planned removal of the Corrigan's tree.

On March 27, 2014, at 7:30 am, the undersigned spoke with Harry Flannery, an attorney for the utility,¹ discussing the Commission's Opinion and Order. At that time, the undersigned advised Mr. Flannery of the Corrigan's intention of filing a Motion for

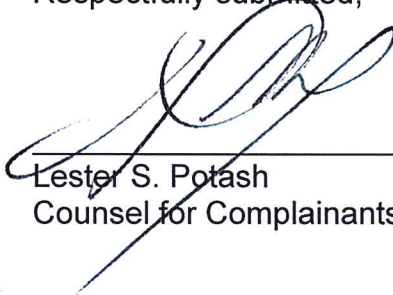
¹ Although Mr. Flannery is not an attorney of record in this matter, from the outset and throughout the court and administrative proceedings Mr. Flannery, on behalf of the utility has regularly conferred with the undersigned and has been active in this matter including but not limited to visiting the Corrigan's property to view the tree and was present when the utility sought to have the property surveyed, meeting with the undersigned to discuss possible resolution, etc.

Reconsideration and asked whether the previous stay can remain in place. Mr. Flannery indicated that he would inquire and respond.

At 9:38 am, Mr. Flannery called the undersigned to advise that the utility planned to remove the Corrigan's tree on Friday, March 28, 2014, and would not consent to a stay.

The Corrigan's respectfully request that the Commission issue an Order staying the removal of the tree pending resolution of the Motion for Reconsideration to be timely filed with the Commission, the failure of which will cause irreparable harm to the Corrigan's. The Corrigan's further request an expedited ruling given the utility's decision to remove the Corrigan's tree tomorrow.

Respectfully submitted,



Lester S. Potash
Counsel for Complainants

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/27/2014 11:37:35 AM

in

Case No(s). 09-0492-EL-CSS

Summary: Motion for Stay and Request for Expedited Ruling electronically filed by Mr. Lester S. Potash on behalf of Corrigan, Mary Martha