

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of William Witt,)	
)	
Complainant,)	
)	
v.)	Case No. 14-388-EL-CSS
)	
Ohio Edison Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On March 10, 2014, William Witt (Complainant) filed a complaint against Ohio Edison Company (Ohio Edison). The complaint alleges that Ohio Edison removed seven trees from the Complainant's property and is planning to remove an additional 150 to 200 trees. The complaint asserts that the trees were planted under the supervision of the Ohio Department of Natural Resources and that Ohio Edison has not demonstrated that it has received the necessary approvals and permits to remove the trees. Additionally, the complaint alleges that the trees are not on Ohio Edison's easement and are not dead, unhealthy, leaning, or encroaching.
- (2) On March 27, 2014, Ohio Edison filed a motion for an extension of time to file its answer, with a request for an expedited ruling. Ohio Edison asserted that there was good cause for granting its motion.
- (3) By Entry issued on March 28, 2014, the attorney examiner granted Ohio Edison's motion for an extension of time to file its answer.
- (4) On April 18, 2014, Ohio Edison filed its answer to the complaint admitting, in part, and denying, in part, the allegations contained in the complaint. Ohio Edison admits that it informed the Complainant that it was planning to

remove vegetation in order to maintain transmission lines that transverse the property. Ohio Edison asserts that it is without sufficient knowledge or information as to whether the trees were planted under the supervision of the Ohio Department of Natural Resources, Division of Forestry as a certified tree farm and denies that this would prevent Ohio Edison from removing the trees. Ohio Edison also denies that permission or notification is required to the state of Ohio to remove the trees or that Ohio Edison is required to obtain the Summit County Soil and Water Conservation District's permission to remove the trees.

Additionally, Ohio Edison denies that ordinances adopted by the City of Hudson apply to Ohio Edison or prohibit Ohio Edison from removing the vegetation. Ohio Edison denies all other allegations contained in the complaint and argues that the Complainant fails to state reasonable grounds for complaint. Ohio Edison also argues that it has at all times complied with the statutes, rules, regulations, and orders of the state of Ohio and the Commission, that it has lawfully complied with its rights to remove vegetation from the property under its easement and its transmission vegetation management program, and that the statutes and ordinances identified in the complaint are not applicable. Finally, Ohio Edison argues that to the extent that the complaint challenges the validity or effect of the easement, the Commission lacks subject matter jurisdiction over this matter.

- (5) 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 in lieu of an evidentiary hearing. In accordance with Ohio Adm.Code 4901-1-26, 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 any party from initiating settlement negotiations prior to the scheduled settlement conference.

- (6) Accordingly, a settlement conference shall be scheduled for May 29, 2014, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th Floor, Conference Room 1247, 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.
- (7) Pursuant to Ohio Adm.Code 4901-1-26(F), 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 authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.
- (8) 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.*, 5 Ohio St. 2d 189, 214 N.E. 2d 666 (1966).

It is, therefore,

ORDERED, That a settlement conference be scheduled for May 29, 2014, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th Floor, Room 1247, 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/Bryce McKenney

By: Bryce A. McKenney
Attorney Examiner

JRJ/sc

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in

Case No(s). 14-0388-EL-CSS

Summary: Attorney Examiner Entry scheduling a settlement conference for 05/29/2014 at 10:00 a.m. at the offices of the Commission, 180 E. Broad St., Columbus, Ohio. - electronically filed by Sandra Coffey on behalf of Bryce McKenney, Attorney Examiner, Public Utilities Commission of Ohio