

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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Robert Smith and Kathleen :
Smith, :
:
Complainants, : Case No. 13-2109-EL-CSS
:
Ohio Power Company, :
Respondent. :

- - -

PROCEEDINGS

before Mr. James Lynn, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-D, Columbus, Ohio, called at 1:00
p.m. on Thursday, June 19, 2014.

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1 APPEARANCES:

2 Mr. Robert Smith
3 Ms. Kathleen Smith
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5 Toronto, Ohio 43964

6 Pro se.

7 American Electric Power
8 By Mr. Steven T. Nourse
9 Mr. Yazen Alami
10 One Riverside Plaza
11 Columbus, Ohio 43215

12 On behalf of Ohio Power Company.

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1 Thursday Afternoon Session,
2 June 19, 2014.

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4 THE ATTORNEY EXAMINER: Let's go on the
5 record.

6 The Public Utilities Commission of Ohio
7 has assigned for hearing at this time and place Case
8 No. 13-2109-EL-CSS, In the Matter of Robert Smith and
9 Kathleen Smith versus Ohio Power Company.

10 I am Jim Lynn, Attorney Examiner assigned
11 to hear this case.

12 At this time we will have the appearances
13 of the parties, and we will begin with Robert Smith
14 and Kathleen Smith.

15 Go ahead and state your name and address,
16 please.

17 MS. SMITH: Kathleen Smith, 895 County
18 Road 42, Toronto, Ohio, 43964.

19 MR. SMITH: Robert J. Smith, 895 County
20 Road 42, Toronto, Ohio, 43964.

21 THE ATTORNEY EXAMINER: Mr. Alami.

22 MR. ALAMI: Thank you, your Honor. On
23 behalf of Ohio Power Company, Mr. Steven Nourse,
24 Yazen Alami, American Electric Power Service
25 Corporation, One Riverside Plaza, 29th Floor,

1 Columbus, Ohio, 43215.

2 THE ATTORNEY EXAMINER: Thank you.

3 At this time we will begin with the
4 arguments of the parties. We will start with the
5 Smiths.

6 Do you both wish to testify?

7 MR. SMITH: Well, Kathleen is going to
8 take the ball here, but I would like to say --

9 THE ATTORNEY EXAMINER: Well, that's okay
10 if you go first. If you can come up to the witness
11 stand and I will swear you in.

12 MR. SMITH: Just a little short blurb
13 here.

14 - - -

15 ROBERT J. SMITH
16 being first duly sworn, as prescribed by law, was
17 examined and testified as follows:

18 DIRECT TESTIMONY

19 MR. SMITH: The only thing we have here
20 is from the AEP's expert witness, Ohio Power's expert
21 witness. They said they're willing to relocate the
22 existing facilities if the complainants pay the cost.

23 Now, part of our complaint is just
24 getting the line moved. This came out of our
25 arbitration --

1 MS. SMITH: Mediation.

2 MR. SMITH: -- mediation, which I thought
3 was supposed to be we couldn't mention it and all
4 that, but it's already mentioned in here by the
5 expert witness.

6 So she is saying, hey, we'll move it as
7 long as we pay it. So that part of it, as far as
8 moving --

9 THE ATTORNEY EXAMINER: When you say "we
10 pay," you mean you, the Smiths.

11 MR. SMITH: As long as we pay for the
12 move. So that part of it, I say forget that because
13 we got an agreement there to move it. Now, who pays?

14 Other than that, Kathleen.

15 THE ATTORNEY EXAMINER: Do you have
16 anything else.

17 MR. SMITH: That's it.

18 - - -

19 KATHLEEN SMITH

20 being first duly sworn, as prescribed by law, was
21 examined and testified as follows:

22 DIRECT TESTIMONY

23 MS. SMITH: In 1937 John and Josephine
24 Rock gave an easement to Ohio Power to extend lines
25 from the main town of Toronto, Ohio, to the top of

1 the large hill where they lived by themselves.

2 THE ATTORNEY EXAMINER: What was the name
3 of those persons?

4 MS. SMITH: John and Josephine Rock.

5 THE ATTORNEY EXAMINER: R-O-C-K?

6 MS. SMITH: Uh-huh. They're his
7 grandparents and my great-grandparents.

8 THE ATTORNEY EXAMINER: All right.

9 MS. SMITH: The easement was for the
10 entire 160 acres that they owned, and it was made in
11 exchange for one dollar. The route that was chosen
12 for the line cut across fields instead of along the
13 road because it was the shortest and easiest route at
14 the time.

15 But in the 1980s Ohio Power rerouted the
16 line along County Road 42, and they abandoned the
17 pole that was used in the line cut through the field.
18 However, the primary lines around the home are still
19 in place and were not rerouted next to the road.

20 The lines as they are now prevent
21 Mr. Smith from erecting any other structures on his
22 property. They're within 60 feet of his house and
23 10 feet of his garage. They prevent me from selling
24 my land because the primary line runs directly
25 through the middle of the large field so I can never

1 sell that property because nothing can be built
2 beneath the line.

3 Ohio Power offered to move the lines away
4 from Mr. Smith's home, but in doing so, they would be
5 further into the middle of my property. AEP has
6 agreed to move the poles off of our property at our
7 expense, but we don't think we should be responsible
8 for paying because this is something that should have
9 been done in the 1980s.

10 Although they have provided us with a
11 cost estimate, it is extremely vague and leaves us
12 vulnerable to additional charges, and, therefore, the
13 only issue remaining is who is going to pay to move
14 the line.

15 THE ATTORNEY EXAMINER: When you
16 mentioned that Ohio Power offered to move the lines,
17 and that "we would pay," so you would pay and
18 Mr. Smith would pay as well?

19 MS. SMITH: They offered initially to
20 move the lines at their own expense but further into
21 my property, where we want to move them along the
22 road, which they want us to do that at my father and
23 my expense.

24 THE ATTORNEY EXAMINER: I see. I have no
25 more questions at this time.

1 Mr. Alami, questions of the witness?

2 MR. ALAMI: No, your Honor.

3 THE ATTORNEY EXAMINER: You may take your
4 seat, please.

5 Mr. Alami, would you like to call your
6 witness?

7 MR. ALAMI: Thank you, your Honor. The
8 company calls Michele Jeunelot.

9 - - -

10 MICHELE JEUNELOT

11 being first duly sworn, as prescribed by law, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Alami:

15 Q. Good afternoon, Ms. Jeunelot.

16 A. Good afternoon.

17 Q. How are you?

18 A. Very good, thank you.

19 Q. Would you please state your full name and
20 business address for the record?

21 A. My name is Michele Jeunelot. I work at
22 850 Tech Center, Gahanna, Ohio 43230.

23 Q. And by whom are you employed and in what
24 capacity?

25 A. I'm employed by AEP Ohio as manager of

1 regulatory operations.

2 Q. Thank you. Did you cause to be filed in
3 this case Direct Testimony consisting of five pages
4 in question and answer format?

5 A. That is correct.

6 MR. ALAMI: Your Honor, may I please mark
7 for identification purposes as AEP Ohio Exhibit
8 No. 1 the Direct Testimony of Michele Jeunelot?

9 THE ATTORNEY EXAMINER: We will mark that
10 as Exhibit 1.

11 MR. ALAMI: Thank you, your Honor.

12 (EXHIBIT MARKED FOR IDENTIFICATION.)

13 Q. (By Mr. Alami) Ms. Jeunelot, do you have
14 any corrections to make to your testimony?

15 A. I do not.

16 Q. If I asked you the same questions as
17 those within your testimony, would you give me
18 substantially the same answers here today?

19 A. Yes.

20 Q. Do you adopt this testimony as your
21 testimony in this case?

22 A. Yes.

23 MR. ALAMI: Your Honor, at this time I
24 would move for the admission of AEP Ohio Exhibit
25 No. 1, subject to cross-examination.

1 THE ATTORNEY EXAMINER: Okay. We'll hold
2 off on that and see if the Smiths have any questions
3 for the witness.

4 Do you have any questions?

5 MS. SMITH: Yes.

6 THE ATTORNEY EXAMINER: Go ahead, please.

7 - - -

8 CROSS-EXAMINATION

9 By Ms. Smith:

10 Q. Do you know why AEP rerouted only part of
11 the line to the main right-of-way in the 1980s
12 leaving the section around our property?

13 A. I do not.

14 Q. Do you know why there would be any
15 explanation for it?

16 A. I can't tell you for sure why that
17 happened 30 years ago. I can only speculate that
18 there was some benefit to the company at that time to
19 move the lines to where they did, and they did so.

20 Q. Okay. In your testimony you mentioned a
21 provision from AEP's tariff concerning their
22 obligation to pay for client-requested work. The
23 tariff showed that it's on its 19th revision. Do you
24 know when the provision you mentioned was first added
25 to the tariff?

1 A. I do not.

2 Q. If you had to guess, do you think it
3 would be before or after 1937?

4 A. I'm sorry, did you say before 1937?

5 Q. Yeah.

6 A. I am not sure.

7 Q. Okay. But if it had been after 1937, my
8 great-grandparents would not have any way of knowing
9 this provision would have come into existence at the
10 time of signing the easement, correct?

11 MR. ALAMI: Objection, assumes facts not
12 in evidence. Ms. Jeunelot indicated she had no
13 information with respect to when this particular
14 provision of the company's terms and conditions came
15 into service.

16 THE ATTORNEY EXAMINER: I'll agree with
17 that. Please go on with another question.

18 Q. (By Ms. Smith) In the same provision you
19 quoted from the tariff, you mentioned that AEP
20 provided us with a cost estimate; is that correct?

21 A. That's correct.

22 Q. You also mentioned that the cost estimate
23 lists the costs of the project itemized by major
24 categories. Do you have that with you?

25 A. I have with me the cost of construction,

1 the cost of retirement --

2 Q. Yes.

3 A. -- and the cost of taxes for the project.

4 Q. Is that what would normally be included
5 in a cost estimate?

6 A. Yes. The cost of construction,
7 retirement, and taxes would be included in a typical
8 cost estimate.

9 Q. Okay. In AEP's tariff a cost estimate is
10 defined as a detailed projected expenditure,
11 including material costs and overhead, equipment
12 costs and overhead, labor costs and overhead, and all
13 taxes associated with each major material and service
14 component. Would you say that the cost estimate we
15 were provided fits this description?

16 A. I know that to establish this cost
17 estimate those things would have to -- would be
18 included in the overall packet. I'm not sure exactly
19 the whole packet you were given at this time.

20 Q. So the cost estimate we received may not
21 have been the entire packet?

22 MR. ALAMI: Objection. Can we have the
23 witness finish her response before another question?

24 THE ATTORNEY EXAMINER: Please finish
25 your response.

1 A. So you may have been given the cover
2 sheet with the overall cost estimate, but the rest of
3 that detailed information generally would support
4 what is included in the overall front page of this.

5 Q. So what we received is not actually a
6 cost estimate?

7 A. I would not say it's not the cost
8 estimate, but it doesn't have -- provided you didn't
9 get the supporting documentation behind it, it would
10 still be the cost estimate which was done at that
11 time. There would be additional information behind
12 it which would talk about the cost of, let's say, a
13 pole or the down guide.

14 Q. You also mentioned that additional
15 charges can be added after the work is performed so
16 the project could end up costing us more than the
17 projected amounts?

18 MR. ALAMI: Can I please have a reference
19 to Ms. Jeunelot's testimony?

20 MS. SMITH: It's in the tariff. It says,
21 "The actual costs for the work performed will be
22 determined after its completion and the appropriate
23 additional charge or refund will be made to the
24 customer."

25 MR. ALAMI: You are reading from the

1 quoted language?

2 MS. SMITH: From the tariff, yes.

3 THE ATTORNEY EXAMINER: For the record,
4 what was just read by Katie Smith was on page 4 of
5 5 of the exhibit of the testimony by Ms. Jeunelot.

6 MS. SMITH: Yes.

7 MR. ALAMI: Thank you.

8 Q. (By Ms. Smith) So the project could end
9 up costing more than what is projected?

10 A. That's correct.

11 Q. The same cost estimate also adds tax to
12 the total amount, correct?

13 A. Correct.

14 Q. In AEP's tariff, AEP states that
15 "'Premium service' includes, but is not limited to,
16 customer-requested oversizing of facilities,
17 underground construction, three-phase residential
18 service, seasonal operations, and any customer
19 request that is in excess of standard construction
20 and requirements necessary to provide electric
21 service to the customer."

22 Would you say that our request for
23 relocation fits into any of those premium service
24 categories?

25 A. I would not say that you're requesting

1 what we consider premium service in this quote.

2 Q. Okay. Because the tariff also says that
3 premium service is considered a contribution in aid
4 of construction, a CIAC, which is taxable.

5 MR. ALAMI: Objection. Is there a
6 question in there?

7 THE ATTORNEY EXAMINER: Well, that really
8 isn't a question, although I have a question for you,
9 Ms. Smith. Where is that in the tariff that you're
10 reading from? Do you have a page or section cite?

11 MS. SMITH: It's paragraph --

12 THE ATTORNEY EXAMINER: If you need a
13 minute to look, go ahead.

14 MS. SMITH: It's paragraph 8 of the
15 tariff under Terms and Conditions of Service.

16 THE ATTORNEY EXAMINER: Thank you.

17 Q. (By Ms. Smith) So if the service is not
18 one of the named categories, who decides it is
19 considered a premium service since it does say
20 "includes but is not limited to"?

21 A. Generally when a customer is asking for
22 premium service -- I apologize, I don't have the
23 tariff language in front of me -- generally we look
24 at it for new construction purposes, so if the
25 customer is building a house and they live in a

1 subdivision where typically it's standard overhead
2 construction and they request underground, the
3 customer would pay for that, what we consider a
4 premium service because it's not our standard in
5 subdivisions.

6 Let's say where, also, it's single phase
7 through there and a customer has maybe an arc welder
8 or something that they need three-phase service to,
9 that, again, would be premium service because that's
10 not something that would be offered as a standard to
11 that construction.

12 Q. Okay. So this would not be considered a
13 premium service?

14 A. I would say you are not requesting
15 anything that is considered a premium service.

16 Q. Okay.

17 - - -

18 CROSS-EXAMINATION

19 By Mr. Smith:

20 Q. I have a question. Why is there a tax on
21 there?

22 MR. ALAMI: Objection, your Honor.

23 Ms. Jeunelot doesn't discuss tax anywhere in her
24 testimony. She's not being offered by the company as
25 a tax expert.

1 To the extent she knows, she can answer
2 Mr. Smith's question. I just wanted to make an
3 objection for the record.

4 MR. SMITH: I take issue with that
5 because she stated in there that there was an
6 estimate of the cost, which I figure she already
7 looked at it. She should know what is in the
8 document, and now all at once she doesn't know.

9 THE ATTORNEY EXAMINER: Well, we will
10 allow the question.

11 If you can repeat the question.

12 Q. (By Mr. Smith) Why is the tax in this
13 bill?

14 A. So I'm not the expert on distribution
15 construction, but my understanding is that when we
16 are doing a project at a customer request and there's
17 a fee that would be provided to the customer, that we
18 are allowed to recover the taxable amount on the
19 project itself.

20 Q. And we already read that part, the tax
21 part, and this does not apply. This is not a premium
22 service.

23 MR. ALAMI: Objection. Is there a
24 question?

25 THE ATTORNEY EXAMINER: Again, Mr. Smith,

1 if you could limit your comment to questions at this
2 point. Did you have any additional questions?

3 Q. (By Mr. Smith) Are you aware of that
4 section that has to do with taxes? Are you aware of
5 it at all?

6 MR. ALAMI: Objection, your Honor. I'm
7 not sure what we're talking about here, what section
8 we're referring to.

9 MS. SMITH: It's paragraph 4 of the Terms
10 and Conditions of Service under the tariff. Would
11 you like me to read it?

12 THE ATTORNEY EXAMINER: Go ahead.

13 MR. ALAMI: If we are going to read from
14 the tariff, I would ask that the witness be provided
15 a copy of the tariff so she could look at the tariff
16 and follow along with the language.

17 THE ATTORNEY EXAMINER: Do you have an
18 additional copy?

19 MS. SMITH: I only have one, sorry.

20 THE ATTORNEY EXAMINER: If you let the
21 witness look at that.

22 MS. SMITH: Yeah. It's the paragraph at
23 the top.

24 THE WITNESS: Okay. What was the
25 question again?

1 Q. (By Mr. Smith) The question is, why is
2 the tax on there when this is not a premium service?
3 There's nothing in that that says -- that indicates
4 it is. This is a pole with a wire on it. That's
5 all. It doesn't go underground, et cetera. So why
6 is the tax on there?

7 We discussed this before, by the way,
8 with the attorney, and he came back to us with
9 something in an e-mail, but it says more or less the
10 same thing, premium service. So why is the tax on
11 there?

12 A. I do see that this says that tax shall be
13 grossed-up for this as well, but I don't see anything
14 in the Terms and Conditions of Service that says it
15 cannot be applied to any other situation as well.

16 Q. So you're saying all of the above; is
17 that correct?

18 A. I'm saying that for premium service, we
19 did call out that the taxable amount can be included
20 in a premium service request as well.

21 Q. I'll ask you this. What is not a premium
22 service? Give me an example of what is not a premium
23 service.

24 A. Okay. So if you are constructing, you
25 know, a single-family residence as discussed here in

1 item No. 4 of our tariff sheet that was handed to
2 me --

3 THE ATTORNEY EXAMINER: Ms. Jeunelot,
4 what part of the tariff is that exactly?

5 THE WITNESS: It says Original Sheet
6 No. 103-8. And I apologize, I don't have the page
7 before for what heading it falls under. But it is
8 Item No. 4. And it does say the cost for residential
9 construction in excess of limits of \$5,000 for
10 single-family residences, so I believe this is
11 referencing when you're constructing a home. So,
12 again, when a customer, if you live in a
13 single-phase-overhead neighborhood, and you're
14 putting in a single-phase-overhead neighborhood,
15 these costs would apply to that. And if you were to
16 ask, again, for underground service that wasn't the
17 standard construction for that house, that would be
18 the premium then.

19 Q. (By Mr. Smith) You keep going back to
20 underground. Why do you keep going back to
21 underground?

22 MR. ALAMI: Objection, your Honor.
23 Mr. Smith asked in his question, give me an example
24 of premium service. Ms. Jeunelot responded
25 underground services as an example of premium

1 service.

2 THE ATTORNEY EXAMINER: I'll agree to
3 that objection.

4 Can you state your question differently?

5 Q. (By Mr. Smith) Is this a premium service,
6 what we are asking for?

7 MR. ALAMI: Your Honor, this is the third
8 or fourth time we've heard this question.
9 Ms. Jeunelot, to the extent she answered it fully on
10 several occasions, at this point I'll object as
11 cumulative.

12 THE ATTORNEY EXAMINER: Ms. Jeunelot, if
13 you could answer one additional time.

14 A. Again, I don't believe that you have
15 requested a premium service to serve your residence.

16 MR. SMITH: Thank you.

17 THE ATTORNEY EXAMINER: Do you have any
18 other questions?

19 MS. SMITH: No, your Honor.

20 THE ATTORNEY EXAMINER: All right,
21 Ms. Jeunelot --

22 MR. ALAMI: Your Honor, if I may have.

23 THE ATTORNEY EXAMINER: Any additional
24 questions on your part?

25 MR. ALAMI: Thank you, your Honor.

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REDIRECT EXAMINATION

By Mr. Alami:

Q. Ms. Jeunelot, if I can refer you to page 4 of your testimony.

A. I'm there.

Q. Thank you. And at line 3 you indicate that paragraph 12 of the Company's Terms and Conditions of Service address the situation raised by the complaint; is that correct?

A. That's correct.

Q. And, Ms. Jeunelot, would you agree, subject to check, that the title of paragraph 12 of the Company's Terms and Conditions of Service is Work Performed on Company's Facilities at Customer's Request?

A. Again, subject to check, yes.

MR. ALAMI: Thank you.

THE ATTORNEY EXAMINER: Mr. Alami, can you repeat that question one more time for my benefit?

MR. ALAMI: Sure.

Q. (By Mr. Alami) Ms. Jeunelot, would you agree, subject to check, or if you know without needing to check, paragraph 12 of the Company's Terms

1 and Conditions of Service, which you quoted here in
2 your testimony on page 4, the title of that paragraph
3 is, quote, Work Performed on Company's Facilities at
4 Customer's Request; is that correct?

5 A. My response was, yes, subject to check,
6 that sounds to be correct.

7 Q. And, Ms. Jeunelot, you indicated earlier
8 that in response to some questioning regarding taxes,
9 you indicated that you are not a tax expert, so if
10 the you don't feel comfortable answering this
11 question, you can tell me that.

12 Looking to page 4, line 10 -- actually,
13 I'd like to start at line 9 in the block quote and
14 I'll read. It says, "This cost shall be itemized by
15 major categories and shall include the Company's
16 standard overheads." The sentence goes on, but I
17 want to stop there. That phrase, "standard
18 overheads," to your knowledge would that include
19 taxes?

20 A. I'm afraid I'm not the expert and cannot
21 answer that.

22 Q. Does the company consider taxes as an
23 overhead of doing business or a cost of doing
24 business?

25 A. I am aware that taxes are a part of

1 charges to customers on various things, so, yes, I
2 have seen it as a cost of doing business.

3 Q. Now, Ms. Jeunelot, you indicated several
4 times that the Smiths, the complainants, aren't
5 requesting new construction; is that correct?

6 A. That is correct. They are requesting to
7 have a line relocated. You know, a lot of times in
8 our costs for new service, as stated in here,
9 generally these rules are around new service to new
10 construction in houses and even addresses some of the
11 costs of what would be covered under that new
12 construction.

13 Q. But the provision in the company's
14 tariffs that addresses relocation of company
15 facilities at the request of a customer is
16 paragraph 12, the provision that you cited here on
17 page 4 of your testimony; is that correct?

18 A. That's correct.

19 Q. Now, I want to take you back to a moment
20 in response to some questioning about the cost
21 estimate that was provided to complainants. Now, is
22 it your understanding that that cost estimate is a
23 final cost estimate?

24 A. No. The cost estimate is exactly what it
25 states, an estimate. It is subject to additional

1 costs, such as looking at the cost to obtain an
2 easement for a neighborhood down guide, putting a
3 push-pull, even if we are allowed to get that type of
4 easement to put those things on the property. So it
5 can be subject to change, but it should be relatively
6 close for the work that is performed in whole for the
7 poles and the wire.

8 Q. And, in fact, oftentimes, as you
9 indicated, costs can change, and in an instance such
10 as this where the customer is requesting a
11 relocation, and I will refer you back to page 4, this
12 time line 11 of your testimony, the statement that
13 reads, "The actual costs for work performed will be
14 determined after its completion."

15 Now, does that fit with your
16 understanding of why actual costs may be different
17 than what's included in a cost estimate?

18 A. Yes, that's correct, because some things
19 can change in the field and generally our estimates,
20 too, are probably good for a short period of time due
21 to changing costs, but also changing conditions in
22 the field, as I mentioned before, obtaining
23 potentially needed easements for down guys,
24 push-pulls, other things we would have to put out of
25 the public roadway.

1 MR. ALAMI: I believe that's all the
2 questions I have. Thank you.

3 MR. SMITH: I have another question for
4 Ms. Smith.

5 THE ATTORNEY EXAMINER: Certainly.

6 - - -

7 REDIRECT EXAMINATION

8 By Mr. Smith:

9 Q. Let me ask you, you're the person, you
10 hire a painter. You hire the painter on the basis of
11 this is the amount of what I have to pay for you
12 painting it, or do you hire the person on the basis
13 of cost plus? Which would you prefer?

14 MR. ALAMI: Your Honor, I would object
15 here. It calls for speculation. If he's asking for
16 Ms. Jeunelot's personal opinion and her experience in
17 hiring painters, I don't see that it is relevant to
18 her testimony here as an expert witness on behalf of
19 the company with respect to the issues raised in this
20 complaint.

21 MR. SMITH: I'll rephrase.

22 Q. (By Mr. Smith) Would you hire anybody at
23 cost plus?

24 MR. ALAMI: Your Honor, I object. There
25 has been -- we don't know what cost plus means. If

1 Mr. Jeunelot can answer the question to the extent
2 she has an idea of what cost plus means, but I'll
3 just object as to the characterization.

4 THE ATTORNEY EXAMINER: Mr. Smith, I'll
5 ask you this question. Do you have any further
6 questions beyond that?

7 MR. SMITH: I can explain what I mean by
8 cost plus.

9 THE ATTORNEY EXAMINER: Before you go
10 into that detail, Ms. Jeunelot, you can take your
11 seat for the time being.

12 I think I'll remind all the witnesses
13 they're still under oath. I have some questions to
14 sort of clarify in my own mind the direction we have
15 been going here at the hearing.

16 - - -

17 EXAMINATION

18 By the Attorney Examiner:

19 Q. Ms. Smith, a question for you. You
20 indicated in your testimony that there is an easement
21 that had been granted to what is now Ohio Power. It
22 was in 1937 I believe.

23 A. Yes.

24 Q. And in your statements you're seeking to
25 have all the power lines moved from the property of

1 yourself and your father to County Road 42?

2 A. Yes.

3 Q. Okay. And if I understand, I believe
4 this is in your statements, you're seeking to have
5 that movement of those power lines done, but you want
6 it to be done at Ohio Power's expense?

7 A. Yes.

8 Q. Okay. Now, you got into some discussion
9 about premium service and parts of the tariff that
10 address that. Is that one -- is the matter of
11 premium service in the tariff one basis upon which
12 you are hoping to establish a foundation that Ohio
13 Power would move it at its expense, move the power
14 lines?

15 A. We were arguing that if we were to pay
16 it, that taxes are exorbitant and not applicable for
17 this kind of relocation because it's not a premium
18 service.

19 Q. I see. So that's why you brought up the
20 premium service. You're concerned about the tax
21 issue if you end up paying?

22 A. Yes.

23 Q. Is there any other basis from the
24 comments that you've made that you are seeking to
25 have Ohio Power move its power lines at its expense?

1 A. I think the other issue is that the
2 easement is not necessary anymore because they have
3 the road now, which is evidenced by the fact that
4 they already moved most of the lines. They left just
5 a portion around our property, so the easement is no
6 longer necessary.

7 Q. Your argument is it's no longer
8 necessary. You believe it's still -- you agree there
9 is an easement?

10 A. Yes.

11 Q. And it's still valid?

12 A. Uh-huh.

13 Q. You're saying it's no longer necessary?

14 A. Yes.

15 MR. SMITH: Have you seen how the lines
16 run?

17 THE ATTORNEY EXAMINER: Well, I need to
18 have something introduced at the hearing here to
19 illustrate that. Do you have anything of that kind?

20 MR. SMITH: It was in the filing.

21 THE ATTORNEY EXAMINER: We need to have
22 such evidence here at the hearing. We can pause for
23 a moment while you find that.

24 MS. SMITH: If we can move to have this
25 entered as evidence, we have actual pictures of the

1 property, too.

2 THE ATTORNEY EXAMINER: An aerial view,
3 maybe?

4 MS. SMITH: Uh-huh.

5 MR. ALAMI: Your Honor, I'm not sure what
6 is going on. Is somebody sponsoring or can somebody
7 be cross-examined? Can somebody testify as to what
8 it shows?

9 What the company is willing to do, and
10 I'll just say this, there was a hand-drawn map
11 attached to the complainants' complaint. The company
12 is willing to have the complainant's complaint, along
13 with the hand-drawn map attached to it, introduced as
14 an exhibit if they so choose.

15 THE ATTORNEY EXAMINER: That would be
16 suitable. We would have to actually have the
17 photographs.

18 Off the record.

19 (Discussion off record.)

20 THE ATTORNEY EXAMINER: Mr. Alami. We
21 can resume.

22 MR. ALAMI: Ms. Jeunelot was still on the
23 stand, as I understand. I have a couple of follow-up
24 questions for her regarding the discussion we've had
25 here.

1 THE ATTORNEY EXAMINER: Before we go back
2 to that, I want to just again, at this point in time,
3 at least summarize what I understand of the
4 complaint.

5 Complainants' have produced a copy of a
6 hand-drawn map of their property where the Ohio Power
7 lines are, and we'll call that Smith Exhibit 1.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. (By The Attorney Examiner) And,
10 Ms. Smith, you're saying that you acknowledge there
11 is an easement. You believe it's no longer needed
12 because some of the power lines were moved by Ohio
13 Power to County Road 42 some time ago?

14 A. Correct.

15 Q. And you had brought up the matter of that
16 premium service because you're saying if things are
17 moved at your expense, you don't want to get into
18 paying a tax on that?

19 A. Yes, your Honor.

20 MR. SMITH: Tax or pensions, it included
21 pensions in that, too, into the future under that
22 part of the tax law.

23 Q. Was there any other basis? You indicated
24 that you felt that the easement was no longer needed,
25 and that was the private easement that Ms. Jeunelot

1 referred to in her testimony, correct?

2 A. Yes.

3 Q. Was there any other argument you are
4 making aside from the fact you don't believe there is
5 no more need for the easement, the private?

6 A. The fact we are losing our property
7 rights to -- for me to sell my property or for him to
8 build any structure around his property.

9 MR. SMITH: If you look on both the east
10 and west side of the R. Smith property with the lines
11 running across, it's blocking the field, okay? And I
12 know you can't tell -- well, you can tell on the east
13 side the line running down the middle of that field.

14 Ohio Power's proposal was to put a pole
15 in the middle of that field and bring it further back
16 into Katie's property, and that would bring it away
17 from my house, but it would really cause major
18 problems for her fields. She would never be able to
19 sell them going right down the middle with a pole in
20 them. And the line goes through my property and
21 comes out on the other side and blocks that lot.
22 There's enough room in there for two lots, and it's
23 blocking the lots.

24 THE ATTORNEY EXAMINER: Thank you. I
25 have no further questions for you at this time.

1 Mr. Alami, I believe you had some
2 additional questions of your witness or Ms. Smith or
3 both?

4 MR. ALAMI: Your Honor, in the form of
5 redirect, in light of the discussion that's just
6 occurred, in light of the questions that were posed
7 to Ms. Jeunelot, and in light of questions that your
8 Honor asked Ms. Jeunelot. In the form of redirect, I
9 promise I'll be brief.

10 THE ATTORNEY EXAMINER: Please take the
11 time you need.

12 - - -

13 REDIRECT EXAMINATION

14 By Mr. Alami:

15 Q. Ms. Jeunelot, you were here and heard
16 this discussion regarding the easements, private
17 easement versus a public easement.

18 A. Yes.

19 Q. Now, are there additional costs or
20 burdens associated with locating lines within a
21 public right-of-way versus a acquiring a private
22 easement?

23 A. There can be. You know, one example is
24 if they did road improvement work, such as road
25 widening, sometimes the company does go after private

1 easements just so they would not have to bear the
2 cost of moving those lines a second time if there's a
3 project that goes on.

4 Q. Now, in addition, even moving the
5 facilities at issue here to a public right-of-way, as
6 complainants argued, the company may still have to go
7 and secure private easements even if it's relocating
8 its lines to within a public right-of-way; isn't that
9 correct?

10 A. That's correct. In looking at the
11 drawing, it looks like some of the materials may have
12 to fall on -- outside of the public right-of-way such
13 as a down guide or a push-pull. We would still need
14 to obtain a private easement for those items in order
15 to put a down guide in or push brace, things like
16 that, so there would still be some costs to doing
17 that.

18 Q. Now, earlier we had a discussion, and
19 complainants have made this argument several times,
20 and that argument is that the company should bear the
21 expense of the relocation. If the line is relocated
22 at the company's expense, who ultimately pays the
23 cost for the relocation?

24 A. I believe it would be every other
25 ratepayer, and that cost could be the cost of doing

1 business, and those costs are passed along to other
2 ratepayers. So when we do work such as that, it's
3 all the ratepayers who would bear the cost.

4 Q. Those other ratepayers, do they receive a
5 benefit from the relocation?

6 A. In my mind, there's no benefit to either
7 the company or to other ratepayers for the
8 relocation.

9 MR. ALAMI: Thank you, your Honor.
10 That's all my questions.

11 - - -

12 RECROSS-EXAMINATION

13 By Ms. Smith:

14 Q. Ms. Jeunelot, you mentioned that you have
15 to get a private easement on the other side of the
16 road. Are you aware that the 160 acres for the
17 easement my great-grandparents signed included the
18 property on the other side of the road so there's
19 already an existing easement on that side of the
20 road?

21 MR. ALAMI: Objection to form. It's not
22 clear what the question was. It was half
23 question/half statement; introducing facts not in
24 evidence. I object to the form of the question.

25 THE ATTORNEY EXAMINER: Can you state

1 that any other way?

2 Q. (By Ms. Smith) Are you aware you already
3 have an easement on the other side of the road?

4 A. I know that we have an easement to where
5 lines are currently located, and I believe it does
6 cover a certain amount of property. Generally, the
7 company still will obtain easements for those types
8 of issues just so we can avoid further issues.

9 - - -

10 RECROSS-EXAMINATION

11 By Mr. Smith:

12 Q. Are you aware on the other side of the
13 road it's the same easement that's on our side, same
14 property? I have the deeds here. Are you aware of
15 that?

16 A. I'm not an expert on easements, by any
17 means, but I did look over the easements, and it
18 looks like we have a valid easement in that area.

19 Q. On the other side of the road, too? I
20 have the deeds.

21 A. Okay. I would have to look. I
22 apologize. I didn't look at the road names or where
23 it was on the map.

24 Q. Let's get in the conversation, it's all
25 Rock property, 160 acres. When he signed it, he gave

1 it all away, including the other side of the road.
2 You have as much right over there as you do on the
3 other side, plus you got a 60-foot right-of-way on
4 the road. You know that?

5 MR. ALAMI: I object to that testimony.

6 MR. SMITH: I asked "if you know that."

7 Q. Do you know there's a 60-foot
8 right-of-way?

9 THE ATTORNEY EXAMINER: Mr. Smith, let me
10 clarify something here. What you're indicating, for
11 the record, you made some statements that you have
12 property on both sides of County Road 42; am I
13 correct?

14 MR. SMITH: No. My relatives own across
15 the road.

16 THE ATTORNEY EXAMINER: I see.

17 MR. SMITH: But the property was the same
18 property my grandfather signed.

19 THE ATTORNEY EXAMINER: So you're saying
20 the easement is for both.

21 MR. SMITH: Oh, yes.

22 MS. SMITH: It was split into different
23 sections for the family.

24 THE ATTORNEY EXAMINER: Mr. Alami, do you
25 have any further questions?

1 MR. ALAMI: To whom?

2 MR. SMITH: I still have one more.

3 THE ATTORNEY EXAMINER: Just a minute.

4 Mr. Alami, at this point do you have
5 further questions?

6 MR. ALAMI: No, your Honor.

7 THE ATTORNEY EXAMINER: Okay.

8 Mr. Smith, after your question, I want to
9 make a comment.

10 Q. (By Mr. Smith) You say the ratepayers
11 have to pay for this, but you got one ratepayer,
12 that's me, or two of them, me and her. We're paying
13 for it with her lots, okay, by your lines being
14 there, two lots. And then for me, I can't use the
15 back of my property to put a pole barn in, and we're
16 standing the brunt of it, where for the ratepayers it
17 would be a quarter of one percent or something like
18 that. Is that not true?

19 THE ATTORNEY EXAMINER: Did you have a
20 question?

21 MR. SMITH: I asked, "is that not true?"

22 THE ATTORNEY EXAMINER: Your question?

23 Q. (By Mr. Smith) My question, why should me
24 as a ratepayer pay more than anyone else as a
25 ratepayer?

1 A. I don't believe you pay more as a
2 ratepayer than anyone else. Generally, we look at
3 cost causation, and when a customer asks to do
4 something that doesn't benefit the company, we ask
5 the customer to pay for that.

6 Q. Why should I sacrifice my property for
7 your company?

8 MR. ALAMI: Your Honor, I'll object. I
9 think it's established the Smiths readily admit
10 there's a valid easement signed by their
11 great-grandparents since 1937. It was a contract, an
12 agreement by which Ohio Power Company received a
13 valid property interest in the Smith's property.

14 THE ATTORNEY EXAMINER: I'll agree with
15 that objection.

16 We will go off the record for a moment
17 here.

18 (Discussion off the record.)

19 THE ATTORNEY EXAMINER: Ms. Smith, if you
20 can help for the record and again indicate the part
21 of the tariff you were emphasizing about premium
22 service.

23 MS. SMITH: It is paragraph 8 under the
24 Terms and Conditions in the Definition section.

25 THE ATTORNEY EXAMINER: You brought that

1 up because of the issue of the taxes?

2 MS. SMITH: Yes, your Honor.

3 THE ATTORNEY EXAMINER: And that
4 perspective then was brought up because you were
5 saying if you and Robert Smith had to pay the cost of
6 moving these lines, you were concerned about the
7 taxes. That's why you brought that up?

8 MS. SMITH: Yes.

9 THE ATTORNEY EXAMINER: All right. So I
10 don't believe we have -- I don't have any further
11 questions at this point.

12 Mr. Alami, do you have any other
13 comments?

14 MR. ALAMI: No, your Honor.

15 THE ATTORNEY EXAMINER: Ms. Smith, do
16 you?

17 MR. SMITH: We have one.

18 THE ATTORNEY EXAMINER: What would that
19 be?

20 MR. SMITH: They came out with this
21 estimate. We did make an offer of \$1,000. We never
22 received a counteroffer.

23 MR. ALAMI: Your Honor, I would object.
24 We are getting into settlement discussions at this
25 point.

1 THE ATTORNEY EXAMINER: Settlement
2 discussions, we will address that after the hearing
3 ends.

4 MR. SMITH: Okay.

5 THE ATTORNEY EXAMINER: With that in
6 mind, I'll mention that we have a couple of exhibits.
7 One introduced by Ohio Power.

8 MR. ALAMI: Yes, your Honor. We would
9 move for admission of AEP Exhibit No. 1.

10 THE ATTORNEY EXAMINER: Thank you.

11 Ms. Smith, do you have any objections to
12 that being admitted into evidence?

13 MS. SMITH: No, your Honor.

14 THE ATTORNEY EXAMINER: Okay.
15 Complainants' Exhibit 1 is a map, which is part of
16 their original complaint, indicating where the power
17 lines at one time were and where they are now.

18 And, Mr. Alami, do you have any
19 objections to putting that into evidence?

20 MR. ALAMI: No, your Honor.

21 THE ATTORNEY EXAMINER: Thank you. We
22 will admit into evidence both AEP's Exhibit 1 and
23 Smith Exhibit 1.

24 (EXHIBITS ADMITTED INTO EVIDENCE.)

25 THE ATTORNEY EXAMINER: I have no further

1 questions, so we will close the proceedings for
2 today. Thank you.

3 MS. SMITH: Thank you.

4 MR. ALAMI: Thank you.

5 (Discussion off the record.)

6 THE ATTORNEY EXAMINER: Back on the
7 record.

8 Off the record Mr. Alami pointed out that
9 he would like the opportunity to submit a brief
10 afterwards, and Ms. Smith can certainly do so as
11 well. We are checking on possible dates to have the
12 briefs submitted by.

13 Mr. Alami, do you have any
14 recommendations that would work for you?

15 MR. ALAMI: You indicated that we can
16 expect the transcript within 30 days. We obviously
17 need the transcript to write our briefs. 28 days
18 from today would be July 17. And then an
19 additional -- the company would submit an additional
20 two weeks with the transcript would work for us in
21 order to turn around an initial brief, so that we
22 would be looking at briefs August 1, Friday,
23 August 1.

24 THE ATTORNEY EXAMINER: That's fine.

25 Ms. Smith, do you have any concern about

1 that, or would that date work for you.

2 MS. SMITH: That's fine.

3 THE ATTORNEY EXAMINER: Then we will have
4 August 1 as the deadline for briefs.

5 MR. ALAMI: Any replies to the brief from
6 the company would be two weeks later?

7 THE ATTORNEY EXAMINER: Two weeks after
8 that is August 15.

9 Again, if either party wants to do a
10 reply brief, that's fine. Thank you for bringing up
11 that point. Thank you very much, and I believe that
12 does close the proceedings.

13 (The hearing adjourned at 1:51 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, June 19, 2014, and carefully compared with my original stenographic notes.

Rosemary Foster Anderson,
Professional Reporter and
Notary Public in and for
the State of Ohio.

My commission expires April 5, 2019.
(RFA-75897)

- - -

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Case No(s). 13-2109-EL-CSS

Summary: Transcript in the matter of Robert and Kathleen Smith vs Ohio Power Company hearing held on 06/19/14 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.