

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
DANIEL R. BIRRELL,**

COMPLAINANT,

V.

CASE NO. 16-2281-EL-CSS

OHIO POWER COMPANY, DBA AEP OHIO,

RESPONDENT.

OPINION AND ORDER

Entered in the Journal on April 3, 2019

I. SUMMARY

{¶ 1} The Commission, considering the complaint and evidence admitted into the record, finds that Daniel R. Birrell has not demonstrated that Ohio Power Company is responsible or liable for an overvoltage event that damaged his home, acted in any manner that was unjust or unreasonable as required by R.C. 4905.26, or that the Ohio Power Company otherwise violated any provision of R.C. Title 49 or any Commission rule or order.

II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} On November 29, 2016, Daniel R. Birrell (Complainant or Mr. Birrell) filed a complaint with the Commission against Ohio Power Company dba AEP Ohio (AEP or Company). In the complaint, Complainant states that his home was damaged on September 17, 2016, because of a tree falling on power lines. Complainant requests that the Company pay for the damage to his home. Further, Complainant states that, if the tree had been trimmed, the damage would never have happened.

{¶ 3} On December 16, 2016, AEP filed its answer to the complaint, including a request that the complaint be dismissed. In its answer, AEP denies the allegations set forth in the complaint. Further, AEP claims the complaint fails to set forth reasonable grounds to sustain a complaint, as required, pursuant to R.C. 4905.26 and Ohio Adm.Code 4901-9-01(C)(3). AEP argues that it has not breached any legal duty owed to the Complainant and

Complainant has not identified any rule or regulation that AEP has violated. Therefore, according to AEP, the complaint fails to state reasonable grounds upon which relief may be granted and requests that the complaint be dismissed, with prejudice.

{¶ 4} By Entry issued January 18, 2017, this matter was scheduled for a settlement conference on February 9, 2017, at the office of the Commission, in Columbus, Ohio. At Complainant's request, the settlement conference was rescheduled for February 23, 2017. The settlement conference was held, as rescheduled; however, the parties were unable to resolve the dispute informally.

{¶ 5} By Entry issued April 21, 2017, the case was scheduled for a hearing to be held on May 25, 2017. Subsequently, the hearing date was postponed twice. First, by Entry issued May 18, 2017, a request by AEP to reschedule the hearing was granted and the hearing was rescheduled for June 21, 2017. Then, by Entry issued June 27, 2017, a request by Mr. Birrell to reschedule the hearing was granted, and the hearing was rescheduled and convened on August 9, 2017.

{¶ 6} At the hearing, Mr. Birrell testified on his own behalf. Mr. Birrell also presented Susan Birrell and Linda Miller as witnesses. AEP presented the testimony of Walter A. Sherry. At the conclusion of the hearing, the parties and the attorney examiner agreed that briefs would be filed with the Commission by October 6, 2017. Thereafter, on October 5, 2017, Mr. Birrell filed his brief and AEP filed its brief on October 6, 2017.

III. DISCUSSION

A. *Applicable Law*

{¶ 7} AEP is a public utility and an electric light company, as defined in R.C. 4905.02 and 4905.03, and, as such, is subject to the jurisdiction of this Commission.

{¶ 8} R.C. 4905.22 requires, in part, that a public utility furnish necessary and adequate service and facilities. R.C. 4905.26 requires that the Commission set for hearing a complaint against a public utility whenever reasonable grounds appear that any rate

charged or demanded is in any respect unjust, unreasonable, or in violation of law, or that any practice affecting or relating to any service furnished is unjust or unreasonable.

{¶ 9} In complaint proceedings, the burden of proof is on the complainant. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966). Therefore, it is the responsibility of a complainant, in this instance, Mr. Birrell, to present evidence in support of the allegations made in his complaint.

{¶ 10} The Commission's rule pertaining to right-of-way vegetation maintenance is set forth in Ohio Adm.Code 4901:1-10-27.

B. *Summary of the Testimony and Evidence*

{¶ 11} Complainant maintains that a tree fell on power lines near his home and caused an overvoltage event, which in turn caused damage to several personal items in his home. Complaint contends that AEP is responsible for the overvoltage event and liable for the damage it caused within Complainant's home. Further, Complainant argues that his home would not have been damaged had AEP trimmed and/or removed the tree near the right-of-way. AEP argues that it is not liable for any alleged damage that may have occurred to Complainant's home. AEP contends that, despite adhering to all vegetation management requirements within the right-of-way, (1) it could not foresee that the tree would fall into the power lines, and (2) the Company had no right or obligation to trim the tree because it was outside of the Company's right-of-way.

1. COMPLAINANT'S TESTIMONY AND EVIDENCE

{¶ 12} Complainant alleges that, on September 17, 2016, a power outage occurred as a result of a tree falling on an AEP transmission line. Complainant further claims that AEP had a duty to remove or trim the tree because it was within AEP's right-of-way corridor. Additionally, Complainant contends that the right-of-way corridor near his house was overgrown with vegetation that had not been cleared or maintained in recent years. As a result of the power outage, Complainant avers that several of his personal effects within his

home were damage, including his kitchen oven, air conditioning system, two security cameras, a ceiling fan, the power supply on a computer, and a digital video recorder (Tr. at 12-13, 34). Complainant's wife, Susan Birrell, verified that smoke was coming from the oven and an electrical outlet and that the smell of burnt wiring permeated throughout their house (Tr. at 69-70).

{¶ 13} In support of his allegation that AEP had a duty to trim or remove the tree, Complainant introduced as evidence Complainant's Exhibit 4, an online publication by AEP entitled *Encroachments on Transmission Rights of Way (Encroachments)*. This publication has a chart of guidelines including but not limited to typical right-of-way widths for various transmission line voltages and locations. Among the voltages recorded on the chart is one for 34 kilovolts (kV) transmission lines that lists total right-of-way widths of 50-100 feet (25-50 feet from the centerline) for urban locations and 100 feet (50 feet from the centerline) for rural locations.

{¶ 14} Complainant also submitted as evidence other exhibits that he contends have a bearing on this matter. Among those exhibits are AEP intra-office e-mails (Complainant's Exhibit 1) discussing circuit breaker operations and possible forestry plans along the North Coshocton—Newcomerstown 34.5 kV transmission circuit. Complainant states that the purpose of this exhibit is to show that there have been problems with this line (Tr. at 23). Further, Complainant submitted as evidence photographs (Complainant's Exhibit 2, 1-17) that he had taken showing, in AEP's right-of-way, encroaching vegetation, electric lines, and the remains of the tree that fell on the Company's lines. In addition, Complainant presented copies of easements (Complainant's Exhibits 3-1, 3-2, and 3-3) pertaining to other properties in the area, which are similar to the easement in this matter that covers the property related to where the fallen tree was located (Co. Ex. 1 at 10, WAS-3). Complainant offered no comment nor explained why his easement exhibits were being submitted, aside from indicating the similarity between his easement exhibits and the Company's single easement exhibit in this case (Tr. at 39-40).

{¶ 15} Complainant testified that sections of AEP's right-of-way corridor near his home have not been trimmed. He stated that AEP has not trimmed those trees after repeated requests, repeated photographs of the area sent to AEP, and even a field visit with AEP personnel to the right-of-way corridor. With specific reference to the areas in the right-of-way corridor where the tree grew into the power lines in 2016 and in front of his property, Complainant testified that photographs in Complainant's Exhibit 2, Exhibits 2-2, 2-3, 2-6, 2-7, 2-8, 2-13, 2-14, 2-15, 2-16, and 2-17 show that the areas did not get trimmed. He noted that, in the photographs, trees were growing out toward and up into the power lines and that untrimmed vegetation was growing in the area of those line spans. (Tr. at 14, 17, 22, 29-32, 57-58.) In addition, Complainant's witness, Linda Miller, testified that there has been no vegetation trimming in the right-of way corridor in front of Complainant's property since 2012, but that trimming had been done near Complainant's property line in February 2017 (Tr. at 63). Furthermore, both Complainant and Complainant's witness, Susan Birrell, testified that there was no possible way for any tree trimming to occur on their property without their knowledge about it, even if they were on vacation (Tr. at 52, 54-55, 68).

2. AEP'S TESTIMONY AND EVIDENCE

{¶ 16} AEP states that the tree that fell on its transmission and distribution lines was healthy and was at a distance of approximately 46 feet from the circuit centerline, or 26 feet outside of the right-of-way corridor. AEP thus argues that the tree was outside of the Company's control and AEP had no right to remove it. AEP notes that its response crew reported that the tree, initially came to rest on the transmission line, but then broke through the transmission circuit and the 12 kV distribution under-built circuit. AEP's response crew noted that the tree fell from outside the right-of-way. AEP further notes that its crews had restored functionality to the lines and service to affected customers by approximately noon on September 17, 2016. (AEP Ohio Ex. 1 at 4, 8.)

{¶ 17} AEP argues that had the tree been located within or growing into the right-of-way, the Company would have noticed it during annual helicopter reviews for dangerous trees. Further, because the tree was not within the easement, AEP Ohio had no right to

maintain it. AEP states that, based upon AEP witness Sherry's observation of the tree at an August 7, 2017 site inspection, the tree was healthy and there was no reasonable way to tell that it could have fallen. Thus, according to AEP, the Company had no control over the cause of the September 17, 2016 outage. (AEP Ohio Ex. 2 at 4.)

{¶ 18} AEP states that its easement for the right-of-way in this area is a blanket easement that grants the Company the right to remove any tree within the easement that may interfere with the safety of or endanger the operation or maintenance of the transmission or distribution facilities. AEP states that because the easement is a blanket easement with no prescribed boundaries, the right-of-way is maintained to the initial width of the right-of-way at the time the line was constructed. In this case, the right-of-way's historical width was determined to be 20 feet from the centerline, which AEP witness Sherry testified is considered a safe and reliable width for the voltage levels in use. (AEP Ohio Ex. 1 at 5; AEP Ohio Ex. 2 at 5.)

{¶ 19} AEP states that the power line in question can be considered urban due to homes in the near vicinity and that the 25-foot recommended vegetation clearance distance for urban areas listed in Complainant's Exhibit 4 correlates with the Company-observed transmission line vegetation clearance guidelines that are listed in the AEP publication *AEP Forestry: Vegetation Management Goals, Procedures & Guidelines for Distribution and Transmission Line Clearance Operations (AEP Forestry)*, which was created by AEP to assist foresters and engineers in the field. AEP states that, as noted in this publication (Table 2: Transmission Line Clearance Guidelines), it desires a clearance of 20 feet between the conductor and vegetation for transmission lines carrying 34.5 kV. However, as with the clearance distances for urban power lines listed in AEP's online *Encroachments* brochure, Complainant's Exhibit 4 in this matter, these right-of-way clearances are guidelines only for normal conditions and not mandates. AEP states that these clearance distances are not necessarily the widths necessary to ensure safe and reliable electric delivery, and they are not a standard to determine whether safe and reliable electric can be delivered. Further, AEP contends that it is reasonable to deviate from any desired clearances when the

Company is limited by circumstances such as layout, structures, property rights, or safety concerns. (AEP Ohio Ex. 2 at 4-5.)

IV. COMMISSION CONCLUSION

{¶ 20} Upon reviewing the transcript and accompanying exhibits to this case, while it was relatively difficult to follow Complainant's arguments and evidence as he presented his case, there are certain undisputed facts that we can derive from the record. Specifically, the Commission observes that the power lines in the Company's right-of-way near Complainant's house are the 34.5 kV Newcomerstown-East Coshocton transmission circuit and the 12 kV West Lafayette School "underbuilt" distribution circuit (that is, the distribution lines are attached on the same poles underneath the transmission lines). We also observe that both parties agree that a power outage occurred in the area of Complainant's home on September 17, 2016, as a result of a tree falling onto power lines. (AEP Ohio Ex. 1 at 4, 7; AEP Ohio Ex. 2 at 3, 4; Tr. at 11-15.)

{¶ 21} The Commission initially notes in our analysis that Ohio Adm.Code 4901:1-10-27(D)(1) and (2) require that each electric utility inspect its distribution lines at least once every five years and its transmission lines at least once every year. The inspections are to be conducted in accordance with written programs or plans. "These programs shall establish preventative requirements for the electric utility to maintain safe and reliable service. Programs shall include, but are not limited to, * * * (f) Right-of-way vegetation control * * *." A company's decision to remove a tree is governed by its vegetation-management plan, which the Commission regulates. See Ohio Adm.Code 4901:1-10-27(E)(1).

{¶ 22} The Commission also notes that, per Ohio Adm.Code 4901:1-10-27(E)(1), our regulation of vegetation management specifically concerns vegetation control in a utility company's right-of-way easement. A plain reading of Ohio Adm.Code 4901:1-10-27(E)(1) does not include an extension of our jurisdiction to the regulation of vegetation management outside of a utility company's right-of-way. Further, we observe that past court cases have

ruled that a utility company is not responsible for vegetation management beyond its right-of-way. See *Walker v. Dotson*, 12th Dist. No. CA95-10-071, 1996 Ohio App. WL 227485 (May 6, 1996) (holding that an electric utility did not have a duty to maintain a tree outside of its easement), citing *Estate of Durham v. Amherst*, 51 Ohio App.3d 106, 107-108, 554 N.E.2d 945 (9th Dist. 1988).

{¶ 23} In regards to the exhibits that Complainant submitted in this matter, the Commission first considers Complainant's Exhibit 4, AEP's online *Encroachments* publication. Complainant argues that, according to this publication, AEP's right-of-way corridor near his house, is 50 feet from the centerline of the Company's power lines and that AEP had a duty to trim or remove the problem tree in this case, which grew at 46 feet from the centerline of the power lines. AEP responds by indicating that the desired vegetation clearance distance for the urban area in the right-of-way corridor near Complainant's home is 25 feet listed in the *Encroachments* publication and not the 50 feet listed for rural areas. AEP also notes that the vegetation clearance distance listed in its *AEP Forestry* publication, created to assist its foresters and engineers in the field, is 20 feet from the centerline of the power lines; however, both the 25-foot distance in the *Encroachments* publication and the 20-foot distance in the *AEP Forestry* publication are guidelines for normal conditions. These guidelines do not impose additional obligations on AEP to maintain those specific trimming distances. We agree with AEP's contention that the vegetation clearance distances listed in these publications are guidelines only and are merely desired clearance distances between the power lines and vegetation. Obviously, there are considerations that can alter the vegetation clearance distances along any stretch of power lines. Of paramount importance, of course, is safety, both of people living near a right-of-way corridor and a utility company's work crews. In addition, other things, such as structures, property rights, and easements can be determinative factors in how much vegetation clearance can be maintained in a company's right-of-way corridor. We will revisit the issue of vegetation clearance distance in our discussion of easements in a successive paragraph of this opinion and order. At this point, however, with regard to Complainant's contention that AEP's

online *Encroachments* brochure establishes its right-of-way corridor in this matter at 100 feet in diameter (50 feet from the center line of AEP's power lines), we find that this argument has no merit.

{¶ 24} The Commission next considers both Complainant's Exhibit 1, the copies of AEP intra-office e-mails discussing circuit breaker operation along the North Coshocton - Newcomerstown 34.5 kV transmission circuit, and Complainant's Exhibits 3-1, 3-2, and 3-3, the easements pertaining to other properties in the area of Complainant's home. With respect to the e-mails, we note Complainant's statement that they were submitted to show that there have been problems with this line (Tr. at 23). Presumably, Complainant was referring to problems that would have caused the Company's circuit breakers to not function properly and, in turn, preventing damage to items in his home. However, the circumstances that caused AEP employees to comment on the circuit breaker operation for that section of the Company's power lines are not revealed in the e-mails. The Commission, therefore, cannot confirm a definite correlation between a discussion of circuit breaker operation in Company e-mails and Complainant's contention about property damage in his home, as the manner in which the circuit breakers operated along the stretch of power lines in question in this case might have been caused by any number of unrelated circumstances. With respect to the easements pertaining to other properties, as noted previously in this opinion and order, Complainant offered no comment or explanation as to why his easement exhibits were being submitted. Therefore, Complainant fails to present any reason why the Commission should proceed further with our consideration of this evidence.

{¶ 25} With respect to AEP's easement that covers the property related to where the fallen tree was located (Co. Ex. 1 at 10, WAS-3), an examination of the document reveals a "blanket easement," one with no set bounds to the width of the right-of-way as it relates to tree removal or trimming, i.e., the extent or distance from AEP's transmission and distribution lines within which the Company is obligated to trim or remove potentially problem trees under its vegetation management program. AEP testified that the width of a blanket easement is determined by historical practice, what has always been done in that

particular area with regard to vegetation management. In regard to this easement, the historical trimming distance is 20 feet from the centerline of AEP's power lines (Co. Ex. 1 at 5). AEP also testified that: (1) the tree that fell on the Company's power lines grew at 46 feet from the centerline of AEP's power lines — 26 feet outside of the historic trimming distance of the Company's easement (Co. Ex. 1 at 5); (2) the fallen tree on the power lines was a healthy tree with no apparent disease or defects; and (3) there was no indication, from the condition of the tree, that it would fall on the Company's power lines. (Co. Ex. 2 at 4, 7.) Complainant offered no other argument or evidence that would counter the testimony and evidence submitted by AEP at the hearing, aside from his previously-mentioned argument concerning AEP's online *Encroachments* brochure.

{¶ 26} The Commission further notes that Complainant did not offer any quantifiable evidence as to what damages he sustained. Complainant and his wife testified only in general terms about the extent of the damage that his home sustained on September 17, 2016. Complainant did not offer repair receipts that would substantiate his assertion that a power surge damaged electrical devices in his home. (Tr. at 12-13, 34, 69-70).

{¶ 27} Accordingly, lacking any probative evidence from Complainant to the contrary, the Commission finds that, according to this record, the above-noted points of evidence presented by AEP in this matter depict an accurate assessment of AEP's easement, vegetation clearance distance from the centerline of the Company's power lines, and the tree that fell on the Company's power lines. The Commission, therefore, concludes that the tree was outside of AEP's right-of-way, that AEP had no duty to trim or remove the tree, and that AEP could not have determined that the tree, which appeared to be healthy, was going to fall.

{¶ 28} Following a review of the evidence presented, the Commission finds that insufficient evidence has been presented by Complainant for us to conclude that AEP should be held accountable for any alleged damages to Complainant's property. As we have previously noted, in complaint proceedings such as this one, the complainant has the

burden of proof. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966). Based on the evidence of record in this case, the Commission finds that Complainant has not sustained his burden of proof. Complainant has not demonstrated that AEP acted in any manner that was unjust or unreasonable, as required by R.C. 4905.26, or that the Company otherwise violated any provision of R.C. Title 49.

{¶ 29} The Commission observes that AEP witness Sherry testified that the last time the Company's transmission lines along this stretch of AEP's right-of-way corridor was cleared end-to-end was in 2005. He further testified that, according to AEP's records, its distribution lines, which are attached on the same poles underneath the transmission lines in this same right-of-way corridor, were completely cleared in 2014. (AEP Ex. 1 at 6.) However, we also note Mr. Sherry's testimony stating that AEP's transmission line department and its distribution line department operate separately, have different management, do not have the same goals, and are not covered under the same cost recovery rider mechanism. Mr. Sherry explained that the transmission line department is the overall "owner" of the transmission lines and the "underbuilt" distribution lines in this stretch of AEP's right-of-way corridor near Complainant's home. So, according to Mr. Sherry, vegetation overhang on the transmission lines will not be cleared by the distribution line forestry crews; that is the responsibility of AEP's transmission department. (Tr. at 87-88, 101-102.) Considering this testimony, the unanswered question that remains for us is: Did AEP's transmission line forestry crews clear the vegetation completely from the distribution line in this section of AEP's right-of-way corridor in 2014?

{¶ 30} In support of its assertion that complete distribution line clearing occurred in 2014, AEP submitted Exhibit WAS-5, which is attached to the pre-filed testimony of AEP witness Sherry (AEP Exhibit 1 at 13). That exhibit shows the following information:

Year	Month	Work Order	Circuit Desc	Circuit Number
2014	May	G0000250	West Lafayette School	7104802
2014	May	W002507601	West Lafayette School	7104802

{¶ 31} While the Commission makes no comment on AEP's representation for this exhibit, we do note that it lacks sufficient detail for us to conclude, with certainty, that AEP's distribution lines in this section of its right-of-way corridor were cleared completely in 2014. However, the Commission notes that Staff completed a review of AEP's vegetation clearing activity in 2014. *In re Ohio Power Co.*, Case No. 15-1549-EL-RDR (*AEP ESSR Review Case*), Finding and Order (Sept. 5, 2018). In that case, the Commission approved AEP's application, with modifications, to recover certain expenditures related to its enhanced vegetation management program through its enhanced service reliability rider (ESSR), after agreeing with the results of Commission Staff's thorough investigation of the vegetation management activities of AEP during 2014, which included, in part, physical verification of vegetation line clearance. While we are empathetic to Mr. Birrell's concerns regarding the clearance distance in the right-of-way in front of his house, we have been presented little evidence to contradict our findings in the *AEP ESSR Review Case*. Moreover, even assuming that AEP had not complied with its vegetation management plan in the portion of right-of-way in front of Mr. Birrell's house, we note that there is no evidence presented in the record which provides that improper vegetation management on that portion of the distribution circuit was the cause of the subject tree falling into the line.

{¶ 32} Nevertheless, we remain steadfast in our support of preventative vegetation management programs intended to facilitate efforts to reduce the impact of weather events and minimize tree-related outages and service interruptions. The Commission reminds AEP that our expectation, which the Company committed to, and which the Commission accepted, in AEP's vegetation management program case in 2014, is for a four-year trimming cycle of all distribution lines, even those distribution lines that run in tandem with transmission lines. *In re the Commission's Review of the Ohio Power Company's Revised Vegetation Management Program Resulting from Commission Case No. 11-346-EL-SSO et al.*, Case No. 12-3320-EL-ESS (*AEP Program Case*), Finding and Order (Feb. 26, 2014). Further, we continue to believe that the Company should take reasonable and proactive steps with

respect to its tree-trimming and other vegetation clearance activities. *AEP ESSR Review Case*, Finding and Order (Sept. 5, 2018) at ¶ 20.

{¶ 33} As a measure of good faith for those residing on the Company's West Lafayette School distribution circuit, including Mr. Birrell, we believe it is appropriate to direct the Company to file a report in this docket within 30 days of this Opinion and Order regarding AEP's vegetation management efforts for that circuit following the 2014 clearing cycle. The report should detail the efforts taken by the Company since 2014 on the West Lafayette School distribution circuit to ensure continuing compliance with its Commission-approved vegetation management plan, as described in the *AEP Program Case*. Staff may then utilize this report, if relevant for the time period under review, as well as any additional information it deems necessary, in its annual audit of AEP's ESSR, including its ultimate recommendations to the Commission regarding cost recovery for the rider. See *In re Ohio Power Co.*, Case No. 16-1852-EL-SSO, et al., Opinion and Order (Apr. 25, 2018) (where the Commission continued the ESSR, subject to annual audit and reconciliation).

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 34} AEP is a public utility, as defined in R.C. 4905.02 and 4905.03 and, as such, is subject to the jurisdiction of the Commission.

{¶ 35} On November 29, 2016, Complainant filed this complaint against AEP.

{¶ 36} A settlement conference was held on February 23, 2017.

{¶ 37} A hearing was convened on August 9, 2017.

{¶ 38} In a complaint case, the burden of proof is on the complainant. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 39} Complainant failed to sustain his burden of proof for this Commission to conclude that AEP should be held accountable for any alleged damages to Complainant's property.

{¶ 40} Complainant has not demonstrated that AEP acted in any manner that was unjust or unreasonable, as required by R.C. 4905.26, or that the Company otherwise violated any provision of R.C. Title 49.

{¶ 41} AEP complied with its vegetation management plan, as approved by the Commission, when conducting vegetation management activities on its West Lafayette School distribution circuit in 2014.

VI. ORDER

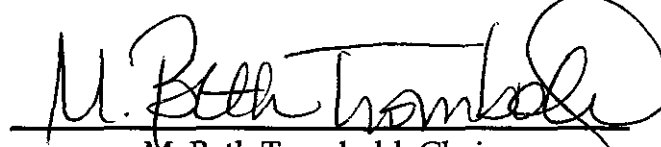
{¶ 42} It is, therefore,


{¶ 43} ORDERED, That the complaint be denied. It is, further,


{¶ 44} ORDERED, That AEP file a report, within 30 days of this Opinion and Order, regarding its vegetation management activities on its West Lafayette School distribution circuit since 2014, as directed in Paragraph 33. It is, further,

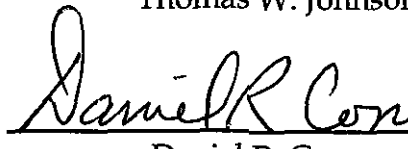
{¶ 45} ORDERED, That a copy of this Opinion and Order be served upon each party of record.

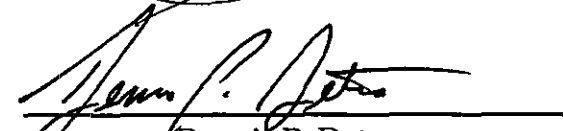
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