

FILE

On the Matter of PUCO Case No. 17-1435-EL-CSS

July 12th 2019 Hearing in front of Attorney Examiner Sanyal

Post Hearing Brief

Of Matthew Kubitza

PUCO

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On May 3rd 2017 there was an electrical problem at my home that turned out to be an open neutral on underground lines owned by Ohio Edison. This neutral that failed was between the pad-mount transformer and the hand hole in the corner of my property, maybe 10' from the transformer. I filed a claim which Ohio Edison denied, referencing the tariffs they have in place with the PUCO. I had over 200 volts continuously running through half of my system until I got home to turn off my main breaker (picture 1, Ohio Edison's voltage tester). This affected our dishwasher, refrigerator, washer, a chest freezer, Keurig coffee maker, water softener, paper shredder, tool battery and charger, power wheel battery and charger, copier/printer, light and sound machine, tv, cordless home phone 2 different types of surge protectors (3 surge protectors total) many lightbulbs, garage door opener, carpeting, and furnace. The following statements are my side of what happened and why I believe they were negligent for this failure.

I received a call from my wife right at lunch time on May 3rd 2017, stating that her mother had just called her and told her that there was a weird smell and the lights were acting weird, going dim and bright. I told her to call her mom and let her know I was coming home to check it out, tell her if she doesn't feel safe to take the kids outside. When I arrived home, I tried to enter my house through our new garage door opener, the way we used to enter our house. The door did not open, so I entered through the front door. Once inside it was dim so I tried to turn on some lights and they immediately burnt out with a bright flash. I could smell something so I went straight downstairs to turn off the main breaker. Coming down the steps I heard a weird noise and when I got to the bottom I saw what the noise was. My Ryobi battery charger was shooting sparks all over the carpet below it. I went back to the panel and turned off the main breaker.

I went back upstairs and called Ohio Edison to report the problem and in about an hour a trouble shooter was out to figure out what had happened. He pulled the meter from the base on the side of my house and hooked up a voltage tester to the incoming lines. I asked him if he would mind if I watched what was going on and he said he didn't. This is when I took a picture of their tester. He told me that he had a little more testing to do and he would let me know what was going on. He pulled the flush mount cover off of the hand hole and did something over at the pad mount transformer. I noticed the hand hole was completely full of water and the wires were submerged. I went back to my house to let him finish up what he was doing. When he was done, he came up to me and said he had some good and bad news. He said the bad news was he couldn't hook me back up and I would be without electricity for a little while longer. Then he said, the good news is it is on our side so I wouldn't have to pay for the line to be repaired/replaced. He then called in a

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crew to run some temporary lines until the buried line could be fixed. While the trouble shooter was cleaning up I went through my house with a flashlight to make sure nothing was on fire because I could smell a burning electric smell. The office in the basement had smoke in it and a surge strip that was blackened by heat and smoke. I took it and the battery charger that was spewing sparks outside. The second crew arrived and they strung out the temporary line and placed the meter back on the base on the side of my house. One of the linesmen, Mr. Shaffer, came up to my door to tell me it was ok to turn my main breaker back on. I told him that I had a lot of light bulbs burnt out my battery charger was shooting sparks and I had a surge strip that was hot and discolored, and that my garage door hadn't worked when I came home. He gave me a number to call to report a claim that was not on the website and told me to take my time and go over everything the next few days, that it takes a little time on some things to show up.

The next morning, we all woke up freezing! Our new furnace was obviously affected too. In the next couple of days, I filed the claim with Ohio Edison, spoke with my older brother Jim (electricians union local 306 journeyman), a retired Ohio Edison linesman, and replaced all my lightbulbs that were burnt out. I sent the picture of the voltage tester to my brother who told me it looked like an open neutral and to give the retired lines man a call. The lines man told me that was a secondary neutral fault and asked me what all happened. I told him and he said that Ohio Edison has been having a lot of problems out by me. He told me that the lines are only good for 25-35 years. I told him (at the time) my house was 32 years old. He said at one point they had to dig up all the wires in the Chapel Hill area because they didn't use the proper fill in the rocky hills they trenched. He said they had to run everything in conduit. So, when Ohio Edison came back and denied my claim, I was pretty upset. They knew the lines were at the end of their life and they claim the PUCO says they are not liable for damages. That was a little too convenient for Ohio Edison, I thought. I had started a claim with my Homeowners insurance already at this point. After making some noise wanting to talk to supervisors of supervisors Randy Frame (one of Ohio Edison's presidents at the time) gave me a call. He kept asking what Ohio Edison had done to make the wires fail, I said I don't know. He asked, what did we do that was negligent, I said I don't know. I asked him what he would do if this happened to him? He told me he would go through his homeowner insurance. I doubt this! I asked, you guys don't carry liability insurance? He told me they are self-insured, at least to a million dollars.

After talking with Randy, I was so mad that I called and canceled the claim with my insurance and filed a formal complaint with PUCO. I was not going to have my premiums go up because of something that IS Ohio Edison's fault. The next few weeks and months go by and we scheduled a meeting in Columbus with Mr. Lynn (PUCO), Mr. Eckert (Ohio Edison), and myself to see if we could work something out. Mr. Eckert told me that they were willing to offer me a \$300 bill credit. My deductible is \$1,000! I asked him if that was serious? He just stared at me arrogantly. I told him he might as well have slapped me in the face! I have thousands of dollars of property damage and they want to offer me something that would end up costing them what, \$100! I took a day off work to travel down there for a slap in the face! Needless to say, nothing was resolved from this meeting and the discovery process began, or was supposed to.

Every single time I asked a discovery question it was objected to for being too broad or over burdensome. Burdensome is having a company that you pay to deliver you safe electricity cause thousands in property

damage then tell you, sorry, your insurance will have to pick that up. I tried to find out what type of cable was used along with the brand and size. I asked what the fill material was, the age of the cable, the depth of the cable. All things that could have been noted when they dug up the failed wire to fix. They would not tell me anything. I tried wording the questions differently, but always the same results. After about 10 sets of discovery questions and nothing to show for it I filed a motion to compel. The commission said they had to answer some things but not all. Then Ohio Edison decides to only half answer my questions. They decided that only information from the date we bought our house was relevant, not since the line that had gone bad had been in service. This makes no sense to me. Without knowing the brand of cable in the ground, I couldn't research the company to find out the cables designed service life, to see if the retired linesman was correct. I couldn't prove that there have been issues in my circuit for a long time, or that three cables were not buried correctly. I tried to find out how many times a fault of the same kind had happened in my area. Ohio Edison asked me questions too and I answered what I thought was pertinent. I would not tell them the retired linesmans name or the name of my homeowner insurance company. I kept telling them I know something is up, there were house fires happening (mine would have been one if no one had been home) and they need to do something to stop them. I kept telling them they are negligent if the wires are past their designed service life. Then they brought on Ms. Borsay (Jones Day) and a hearing date was set. Then a deposition date.

On the day of my deposition, they went over some social media post I had made and some back and forth conversations between Ohio Edison and myself. Ms. Borsay and/or Ohio Edison seemed so sure of themselves when she said that she wanted me to say that the retired linesman that I had referenced was in fact Rick Zito (Former UAUIW 126 President), I had to tell them the truth, it was not. I had been trying to be a "good neighbor" and not bother him even though I knew he had worked for Ohio Edison in some supervisory roll. I had taken the surge protectors with me that had failed (still smelling of burnt electric) but they didn't want to inspect them at the time. This whole day seemed like they were just trying to piss me off with stupid questions. I figured that since they had brought up my neighbor, I should at least be a good neighbor and let him know. This was the first time I talked with him about anything more than a wave hello. He wanted to know what they asked and I told him. I said I had been told the wires have a life span and have seen the same in internet searches. I said the last 20-40 years and he interrupted me. If, he said, if they are buried correctly and they are not. He said they had been doing work on the backside of the houses across the street, that there are 2 other subdivisions in the area that have had nothing but problems with their undergrounds, and that it has been such a problem that everything goes in conduit now.

I let Ohio Edison, and Ms. Borsay know that I talked with Mr. Zito and that he told me the same about service life and that the lines are not buried correctly. I asked them if I could pay to have the cables dug up while being video taped to prove they are not correctly installed. Ms. Borsay response was that Ohio Edison would resist all efforts to do so. I was also at a party that a lot (10-15) attendants were union linesmen for Ohio Edison, one of them was the business side. He told me that they know the stuffs going bad and have had meeting on how to address it, but they keep fixing it the cheapest way instead of doing it right. He told me Mr. Zito spent pretty much his whole career out in the Hartville area because of all the issues, which is nice for him, living right there.

At the hearing in Columbus Ms. Borsay showed up with a Jones day assistant two Ohio Edison witnesses and 2 other guys I had never seen. Mrs. Dunn Lucco, Mr. Eckert, and Mr. Endris are all Ohio Edison lawyers I have dealt with over the past 2 years were not there. I am not a lawyer and have not had any experience in what was about to happen, and I found myself nowhere near prepared. I apologize for this Attorney Examiner Sanyal. Ms. Borsay asked about the same things of me as the deposition, and I answered truthfully. She did not like the fact that I brought up Rick Zito! She knows that he is as about the best witness that there would be for my case and they all know it. She then suggest I am a liar by the fact that I changed my answer about cables failing at no fault of Ohio Edison. Of course wires can fail to no fault of Ohio Edison. That can happen if there is a car accident, a winter storm, maybe a manufacturing defect, or a dig in. They can also fail if they are not buried correctly, get nicked by a sharp object during installation, or used longer than their designed service life of 25 years. The line that failed was 40+years old at the time. She also suggests "Google" as an inferior research tool, I'm sure she uses it every single day of her life though. Google searches would lead me to company websites. This is where my information came from. A Georgia Tech address, Entergy (huge energy supplier in the south) talking about a study from 2000 where Maryland utilities (Potomac Edison is owned by First Energy) state their undergrounds cables become unreliable after 15-20 years and are at their end of life at 25-35 years. Prysmian Groups website which states their cables are designed to have a 25 year service life. Ohio energy/First Energy know that cables do not last forever and have a design life of 25 years but can last longer in a perfect situation (correct installation; depth fill, and environment. No traffic above the line, no dig ins, no manufacturing flaws, not used at full compacity). Ohio Edison isn't perfect according to their former Union President, they are not installed/ buried correctly, and the bad thing is that they know this making them liable and negligent.

Then Mr. Leonard (Ohio Edison Expert witness) was brought up and questioned. Ms. Borsay asked him about his deposition and answers and then it was my turn. I Asked him if there were any consequences for the Jackson circuit (the circuit that provide my power) being on the 8% worst performing list on 2017. He never really answers this question, talks around it. He claims that it was only on that list because of a forestry issue and an underground issue. I would have to think the Commission is smart enough to know that it is all the issues collectively, that put my circuit on that list, not just the 2 Mr. Leonard claims. I am sure 8% was chosen for a reason and 5% or 10% where not! It was not to catch the one good, reliable circuit for having 1 or 2 instances essentially 1 un normal forestry issue. Mr. Leonard showed me 6 different houses on my circuit that had secondary voltage faults in a 6-7 year span, but they say secondary neutral failures are not common. If a secondary wire fails, there is a 33.333% chance it will be the neutral which could cause a house fire! That seams a little to high of a percentage to take a chance.

Next Mr. Carson came up and was questioned by Ms. Borsay. On page 44 into 45 of the hearing transcripts, you will see Mr. Carson answer a question from Ms. Borsay, then Ms. Borsay says, "You also mentioned the temperature and load. Can you explain what you mean by that? Mr. Carson never mentioned temperature before this. Then he talks about temperatures, which was not accurate. He says 3 feet under ground the temp is a constant 55 degrees. This is not true, the constant 55 degrees happens around 10-12 feet down. At 3 feet below the surface there is a 2 hour delay, meaning if it is 75 degrees at 10 am, 3 feet below will get to 75 and 12 noon, the same with temperature decreases. I then get a chance to examine Mr.

Carson, Seemed to me he lied a few times. I ask if placing a safeguard on the one wire that could fail and send double the normal amount of voltage through a system would make a safer system and he says no. I asked him about their security/ visual inspections on the equipment. It turns out the equipment they can see, the pad mount transformers, are never even opened up and checked on. They just make sure the cover is on and no holes the hand hole and the transformers cabinet is not open or rusty. I'm sure there are probably some instances a voltage fault could have been prevented if the cabinets were opened and the lugs the wires are connected with, were retorqued. After I finished, Attorney Examiner Sanyal asked some questions. Then before Ms. Borsays redirect, she asks for a short break. She takes her witness out in the hallway. This does not seem like a normal tactic. I feel like I could have objected to that. Are you allowed to coach a witness? It seems like everything Mr. Carson talked about was coached. Mr. Carson also says that there are always safeguards on the primary side and sometimes some on others but in his discovery response to me he states the following:

Answered by: Ron Carson

As to Objections: Joshua R. Eckert

KUBITZA 11-1: I would like to know if there are any OCPD (overcurrent protection devices) or current sensing protection devices on the secondary side of the transformer that feeds my house. If there is, I would like to know the rating of said device.

RESPONSE: Objection. This request is vague and ambiguous as to "current sensing protection devices." Subject to and without waiving the foregoing objection, all pad mount transformers owned by Ohio Edison Company since the mid-1970s are protected on the primary side with a Bayonet Fuse. Consistent with industry practice, Ohio Edison Company does not supply an overcurrent protection device on the secondary side of its transformers.

I do not claim to be an expert on this matter. I did complete a 2 year technical school program on Residential and Industrial Electric in 2000. I worked at Six Flags the year they bought it as an Electrician. I was a maintenance electrician at a retirement village for 5 years, then worked in a manufacturing maintenance position for 7 years till promoting into engineering/sales. I was in charge of our preventative maintenance program for about 5 of those years. Every month we would inspect every machine. If there was a cabinet we opened it, if there were guards in place we would have to remove them to inspect. Things we knew could shift or loosen were always retorqued. When I worked at six flags, we were pulling buried lines and replacing them because they were old and unreliable. I know there is a designed service life for wires,

On August 1st 2019, Mr. Zito was walking the neighborhood and stopped by to talk with me while I was working on my porch. He asked me how the hearing went, and I told him I should have gotten representation, that I was not prepared enough (I am sorry for that Attorney Examiner Sanyal). He just shook his head and we discussed a few things (All 10 minutes videoed on my Ring doorbell). He said the wires are beyond their life expectancy and not buried correctly! I asked him if the secondaries are all the same age or if they get put in as the houses are built. He told me they all go in when the system is laid out, then when

houses are built, they just connect the house to the already buried cables in the hand hole. The allotment was built in 1976-77, this means that the secondary that failed is 42+ years old now. Mr. Zito Knows Mr. Leonard but didn't recognize Mr. Carson's name. Hopefully you can see there is an engineered design life to cables even though that would be a blow to Ohio Edison stating there is no such thing. I hope you also caught that the inspection/preventative maintenance they have in place for undergrounds is a joke! Visual, security type only! In discovery they provided me with addresses and dates for properties on my circuit since I have lived at my home only. There were 6 addresses affected from a secondary failure (doesn't seem rare to me), I am sure some of those may have been preventable if, during their inspections the lugs the wires are connected to were to be retorqued, but the transformer cabinets are never even opened up during an inspection.

I have talked with quite a few, current and retired employees that all tell me the same stories. Underground system problems, lines not properly installed, life expectancy, meetings that had been held on the subjects. All this proves they were negligent! I know the Commission cannot reward me money (that's the judicial system), but you can have them make changes and let them know that I really do have a strong case against them. I've just been too nice of a guy and have had enough. My next step, if needed, will have very reliable witnesses, subpoenaed if needed, and representation. They have been getting away with this "out of sight out of mind" mindset for too long. With the 3 electrical house fires that have been on my circuit in the last 5 years, they are lucky they do not have a death on their hands!

All this new money they have been allotted for modernizing and they won't replace old wires that are past their designed life makes no sense! Then, they are allowed to profit more and more as long as it isn't too "significantly excessive". Making political donations (buying favors), paying for the naming rights to a stadium, should come after doing the right thing. The right thing is to keep up with the aging/ excessively aging system, and being fair when they know they have a problem, do nothing to fix it, and be responsible for the liability they took by using lines past their designed limits! This should have never even gotten this far!

Please forgive me for my ramblings, I am almost done.

I just want everyone involved to know, if Ohio Edison/First Energy does not accept my claims, I will escalate this. This will be looked at deeper (Jackson circuit since installation) and the truth will come out! I am still trying to be the nice guy here by giving everyone their chance to end this now, to save time, money and not involve more people that do not need to be. They need to start upgrading the lines or put an overcurrent devise on the secondary sides, since they know they can start a house fire if their old lines keep failing, which they will. I just want the right thing to be done. I just sent Randy Frame (High Ranking Ohio Edison Employee) an email detailing the same, but he has yet to respond.

I really hate that this had to happen, I'm just glad someone was at our house on May 3rd 2017, and that this didn't happen at night because we would have all been home sleeping with sparks flying all over our basement carpeting and a surge protector in the next basement room literally smoking laying on carpet against a wood panel wall. Things could have been much worse! Our house, belongings, even us and our pet might not be here. Ohio Edison thinks they have a "safe" system. I do not see using direct bury underground lines past its designed life without having a safeguard in place to prevent this known occurrence from happening as being safe! A system that can destroy property with 1, not viewable/ forgotten item without a safeguard in place for prevention cannot be considered safe! it just doesn't seem like Ohio Edison cares and this, is why I will not give up!

If more information is needed you should reference the articles I tried to give as evidence from Entergy (a company like Ohio Edison/ First Energy but from the south) and the Maryland public safety commission, or the study from Georgia Tech that First Energy was a part of. All of those are articles on underground cables, or I believe the only one I was allowed to give, from Prysmian Group, that states their cables are designed for a service life of 25 years.

Best regards,

Matthew R. Kubitza

A handwritten signature in black ink, appearing to read 'Matt Kubitza', written in a cursive style.