

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaints of Good	)	
Hope Township,	)	
	)	
Complainants,	)	
	)	
v.	)	Case Nos. 09-161-EL-CSS
	)	09-162-EL-CSS
American Electric Power and Ohio Power	)	
Company,	)	
	)	
Respondents.	)	

ENTRY

The Commission finds:

- (1) On March 3, 2009, Good Hope Township (complainant) filed two complaints against American Electric Power and Ohio Power Company (respondents) in Case Nos. 09-161-EL-CSS (09-161) and 09-162-EL-CSS (09-162).
- (2) In 09-161, complainants allege that, from the last week in October 2008, through most of November 2008, respondents drove overweight and oversized vehicles on Donaldson Road, a road in Good Hope Township, in order to construct a 350-foot tower owned by respondents. Complainants claim that respondents never requested a permit for overweight or oversized vehicle use of Donaldson Road. Complainants further contend that, as a result, Donaldson Road sustained severe damages which will result in approximately \$7,500 in restoration costs, which complainants seek from respondents in damages.
- (3) In 09-162, complainants allege that respondents constructed poles and accompanying guy wires on lands located in Good Hope Township. Complainants claim that these poles were placed within 30 feet of the center of Donaldson Road and the guy wires from a fourth pole were placed within 30 feet of the center of Donaldson Road. Complainants contend that respondents never submitted applications to complainants for placement of the utility structures within 30 feet of Donaldson Road and, therefore, could not have been granted approval.

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Complainants argue that the four poles and accompanying guy wires stand alone, have never supported the transmission of electricity, and serve no public utility purpose. As relief, complainants seek the removal of all poles and accompanying guy wires within 30 feet of the center of Donaldson Road.

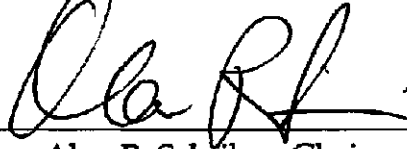
- (4) On March 20, 2009, respondents filed answers denying the material allegations of both complaints. Respondents also filed motions to dismiss both complaints. In their motions to dismiss, respondents argue that the complainants fail to set forth reasonable grounds for its complaints. Respondents also argue that these complaints are tort and negligence actions and the Commission lacks subject matter jurisdiction to determine a tort or negligence action and to award injunctive relief and monetary damages. With respect to the poles that are the subject of 09-162, respondents point out that the poles and electric line are under construction and have been found by the Hocking County Court of Common Pleas to serve a public utility purpose. In addition, respondents claim that the Hocking County Court of Common Pleas is the appropriate forum for pursuing these claims and monetary damages from respondents.
- (5) The powers of the Commission are conferred by statute and it possesses no authority other than that vested in it. *City of Cincinnati v. Public Utilities Commission of Ohio* (1917), 96 Ohio St. 270, 117 N.E. 381. Upon reviewing the pleadings filed in these cases, the Commission finds that it has no jurisdiction to order removal of poles installed in alleged violation of township application and permit processes or to enforce township requirements for permits for overweight or oversized vehicles to travel on township roads or to award costs for damage allegedly caused by such vehicles. In addition, complainant has not stated reasonable grounds in its complaints for a violation under Section 4905.26, Revised Code. Accordingly, the complaints should be dismissed for lack of jurisdiction.

It is, therefore,

ORDERED, That the complaints be dismissed. It is, further,

ORDERED, That a copy of this entry be served on all parties of record.

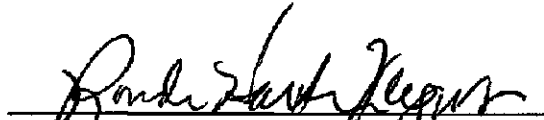
THE PUBLIC UTILITIES COMMISSION OF OHIO



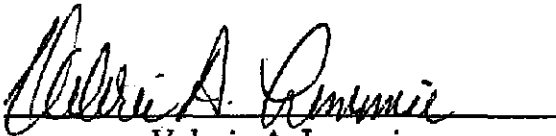
Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



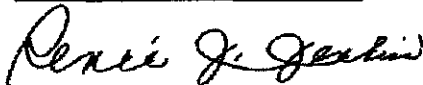
Valerie A. Lemmie



Cheryl L. Roberto

SEF:ct

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APR 29 2009



Renee J. Jenkins  
Secretary