

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Carl N. Lukehart,)	
)	
Complainant,)	
)	
v.)	Case No. 09-916-EL-CSS
)	
Ohio Power Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On October 7, 2009, Carl Lukehart (Complainant) filed a complaint against the Ohio Power Company (Ohio Power), alleging that Ohio Power's vegetation management policy is unjust and unreasonable, and that it has failed to follow its rules and regulations on file with the Commission, in that it has caused damage to his property when conducting vegetation management activities relating to its easement over his property. The Complainant also asserts that Ohio Power has discriminated against him in connection with its vegetation management practices on his property, as compared with its vegetation management practices on other properties along the same transmission line. He seeks Commission review of Ohio Power's vegetation management policy, and Commission oversight of Ohio Power's maintenance of the vegetation affecting the easement on his property.
- (2) On October 27, 2009, Ohio Power filed its answer to the complaint, denying the Complainant's allegations and asserting that, at all times relevant to Complainant's claims, it has provided reasonable and adequate service to the Complainant. Ohio Power also asserts that the complaint amounts to an impermissible collateral attack on a prior decision of the Allen County Court of Common Pleas.

- (3) The attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code, any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement discussion. However, nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference.
- (4) Accordingly, a settlement conference shall be scheduled for January 4, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Conference Room 1246, Columbus, Ohio 43215-3793. The parties should bring all relevant documents to the conference. If it becomes apparent that the parties are not likely to settle this matter, the parties should be prepared to establish a procedural schedule to facilitate the timely and efficient processing of this complaint.
- (5) As is the case in all Commission complaint proceedings, the Complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.* (1966), 5 Ohio St.2d 198.

It is, therefore,

ORDERED, That the matter be scheduled for a settlement conference on January 4, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Conference Room 1246, Columbus, Ohio.

ORDERED, That a copy of this entry be served upon interested parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Rebecca Hussey

By: Rebecca Hussey
Attorney Examiner

gct
/ct

Entered in the Journal

NOV 24 2009

Renee J. Jenkins

Renee J. Jenkins
Secretary