

FILE



The Public Utilities Commission of Ohio

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10-790-EL-CSS  
Case Number

Public Utilities Commission of Ohio  
Attn: Docketing  
180 E. Broad St.  
Columbus, OH 43215

# PUCO Formal Complaint Form

Jacob Schad, Jr.  
Customer Name

1157 Co. Rd. 1356  
Customer Address

Ashland, Ohio 44805  
City State Zip

**Against**

110012956105  
Account Number

(same as above)  
Customer Service Address (if different from above)

Ohio Edison Company  
Utility Company Name

City State Zip

Please describe your complaint. (Attach additional sheets if necessary)

This utility company clear cut 90 Hemlocks which had been planted by Mr. Schad in the 1950's as a scenic wind break hedge row on his westerly property line under an Ohio Edison transmission line. The utility claimed it had the right to clear cut the Hemlocks pursuant to an easement agreement which granted the utility the right to erect lines and structures, etc., and also "...the right to trim, cut, remove or otherwise control, at any and all times, such trees, limbs, underbrush or other obstructions within or adjacent to said right-of-way as may interfere with or endanger said structures, wire or appurtenances, or their operation."

At no time in the over 60 years of their existence did the Hemlocks ever extend over 15 feet in height, during which time they had been periodically trimmed both by Mr. Schad and the  
(continued on attached)

*Joseph Murray*  
Signature  
O. Joseph Murray (Sup.Ct.#0008449)  
Attorney for Jacob Schad, Jr.

Customer Telephone Number  
10 East Main Street  
Ashland, OH 44805  
Phone: (419) 289-3800  
Fax: (419) 289-6417  
E-mail: ojmurray@zoominternet.net

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utility company. At no time did the Hemlocks interfere with the utilities operation which was a right reserved by the landowners in the easement wherein it states, in part, "The Grantors reserve the right to use the ground between said structures and beneath said wires, provided that such use does not interfere with or obstruct the rights herein granted."

Mr. Schad filed an action for conversion of his property against the utility in the Ashland County Common Pleas Court which was dismissed on the authority of *Corrigan* case in which the Supreme Court of Ohio said that such cases are exclusively matters of "service" and properly a matter for the Public Utilities Commission of Ohio.

Mr. Schad, for his claim, asserts that:

1. Under the terms of the easement, he had the right to plant and maintain his 90 Hemlock hedges so long as he did not interfere with the utilities operation;
2. The utility had no right to remove the Hemlock hedge under the terms of the easement but only such vegetation which threatened to interfere with their lines;
3. The utility removed the Hemlock hedge on a cursory investigation and/or subjective conclusion without any measurement of the height of the Hemlocks and the distance between them and the utility transmission line;
4. The utility violated the terms of the easement;
5. The utility's vegetation management policy violated the terms of the easement;
6. There never has been a legally mandated "clear cut" policy and the utility intentionally and wrongfully converted the Hemlock hedge row without legal authority.

Complainant Jacob Schad seeks the following remedy:

1. A finding that he had a right to plant and maintain a Hemlock hedge under the terms of the controlling easement so long as he did not interfere with the utilities lines;
2. A finding that the utility had no right to remove by "clear cutting" all the Hemlock hedges without proof that they were a threat to its transmission line;
3. A finding that an objective rather than a subjective standard was to have been applied in arriving at a conclusion that the hedge may interfere;
4. A finding that if there was an objective finding of possible interference, the landowner, on notice, had a right to trim to alleviate the interference;
5. A finding that the utility failed to follow its own vegetation management manual which provided for pruning and did not mandate a "clear cut" policy;
6. A finding that the utility's vegetation management policy violates the terms of the easement;
7. A finding that he has been damaged by the actions of the utility and is entitled to compensation as allowed by law.