

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of )  
Jacob Schad, Jr., )  
 )  
Complainant, )  
 ) Case No. 10-790-EL-CSS  
v. )  
 )  
Ohio Edison Company, )  
 )  
Respondent. )

ENTRY

The attorney examiner finds:

- (1) On June 8, 2010, Jacob Schad, Jr. (complainant) filed a complaint against the Ohio Edison Company (Ohio Edison), alleging that Ohio Edison clear cut 90 hemlocks on complainant's property, in violation of both Ohio Edison's easement over complainant's property and the company's vegetation management policy. After Ohio Edison removed the hemlocks, complainant filed an action for conversion of his property in the Ashland County Common Pleas Court, but this action was dismissed on the authority of the Ohio Supreme Court's decision in *Corrigan v. Illum. Co.* (2009), 122 Ohio St.3d 265. Complainant seeks compensation for the removal of the hemlocks.
- (2) On June 28, 2010, Ohio Edison filed an answer denying the material allegations of the complaint and asserting that its actions complied with all relevant statues and regulations. Ohio Edison admits that a contractor working on its behalf removed approximately 90 trees, including hemlocks, a juniper, and other brush, from complainant's property. According to Ohio Edison, the vegetation in question was removed, pursuant to its easement over complainant's property as well as its vegetation management policy, because the vegetation had the potential to interfere with the 69 kilovolt transmission line running above it.

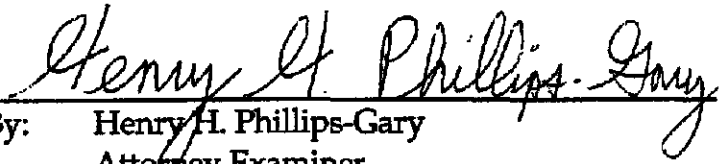
- (3) The attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code (O.A.C.), 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 August 26, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Room 1246, Columbus, Ohio 43215-3793. 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) Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference and all parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.
- (6) 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 189.

It is, therefore,

ORDERED, That the matter be scheduled for a settlement conference on August 26, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th floor, Room 1246, Columbus, Ohio 43215-3793. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
By: Henry H. Phillips-Gary  
Attorney Examiner

*HW*/sc

Entered in the Journal

**JUL 09 2010**



Renee J. Jenkins  
Secretary