

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

Charles Paquelet, M.D.	)	
	)	
Complainant,	)	
	)	
vs.	)	Case No. 11-4177-EL-CSS
	)	
Ohio Edison Company	)	
	)	
Respondent.	)	

**MOTION TO CONTINUE HEARING AND REQUEST FOR EXPEDITED RULING**

Pursuant to Rule 4901-1-12, Ohio Administrative Code (“O.A.C.”), Respondent Ohio Edison Company (“Ohio Edison”) respectfully requests a continuance of the December 15, 2011 hearing and expedited ruling of this request. Specifically, Ohio Edison requests that the Attorney Examiner continue the hearing to a mutually convenient date, after the Ohio Supreme Court renders its decision in *Wimmer Family Trust v. Ohio Edison Company*, Case No. 2011-0563.

Rule 4901-1-12(c), O.A.C. provides:

Any motion may include a specific request for an expedited ruling. The grounds for such a request shall be set forth in the memorandum in support. If the motion requests an extension of time to file pleadings or other papers of five days or less, an immediate ruling may be issued without the filing of memoranda. In all other situations, the party requesting an expedited ruling may first contact all other parties to determine whether any party objects to the issuance of such a ruling without the filing of memoranda. If the moving party certifies that no party objects to the issuance of such a ruling, an immediate ruling may be issued. If any party objects to the issuance of such a ruling, or if the moving party fails to certify that no party has any objection, any party may file a memorandum contra within seven days after the service of the motion, or such other period as the commission, the legal director, the deputy legal director, or the attorney examiner requires. No reply memoranda shall be filed in such cases unless specifically requested by the commission, the legal director, the deputy legal director, or the attorney examiner. (emphasis added).

Moreover, Rule 4901-1-12(F), O.A.C. provides:

Notwithstanding paragraphs (B) and (C) of this rule, the commission, the legal director, the deputy legal director, or the attorney examiner may, upon their own motion, issue an expedited ruling on any motion, with or without the filing of memoranda, where the issuance of such a ruling will not adversely affect a substantial right of any party.

There are two reasons for this request. First, Dr. Paquelet recently retained an expert witness. Ohio Edison requires discovery from that witness prior to the hearing in this case. Dr. Paquelet has also requested discovery from Ohio Edison. Ohio Edison discussed this continuance with Dr. Paquelet based on that reason who indicated he did not oppose a continuance of the December 15, 2011 hearing.

Second, after counsel for Ohio Edison spoke with Dr. Paquelet, the Ohio Supreme Court case *Wimmer Family Trust v. Ohio Edison*, Case No. 2011-0563 was scheduled for oral argument to be held on January 17, 2012. In that case, the Ohio Supreme Court will be deciding several issues that will be relevant to this case, namely:

1. Whether, although the Public Utilities Commission of Ohio may not interpret easements, the Commission acts within its jurisdiction when it determines that a utility's decision to remove vegetation, which the utility otherwise has the established legal right to do so, was reasonable;
2. Whether the Commission may properly rely on objective, undisputed facts in determining that vegetation interferes with or endangers a utility's transmission lines; and
3. Whether in Commission proceedings, the Complainants bear the burden of proof, and where Complainants fail to meet their burden, the Commission properly finds for Respondent.

Ohio Edison requests that the hearing in this case be continued to a date after a decision is rendered in the *Wimmer* case.

This is the first request for a continuance that Ohio Edison has made in this case. Also, Ohio Edison is not requesting this continuance for purposes of delay.

Therefore, Ohio Edison respectfully requests that the Attorney Examiner grant Ohio Edison's request for a continuance of the December 15, 2011 hearing date and expedited ruling of this request.

Respectfully submitted,

/s/ Carrie M. Dunn  
Carrie M. Dunn (#0076952)  
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On behalf of Ohio Edison Company

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of the foregoing Answer of Ohio Edison Company was served by U.S. Mail upon Complainant Dr. Charles Paquelet, 11849 Northcrest N.W., Massillon, Ohio 44647

/s/ Carrie M. Dunn  
Carrie M. Dunn  
Attorney

**This foregoing document was electronically filed with the Public Utilities**

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Summary: Motion to Continue Hearing and Request for Expedited Ruling electronically filed by Ms. Carrie M Dunn on behalf of Ohio Edison Company