

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

ENTRY

The Commission finds:

- (1) Generally, R.C. 4905.26 authorizes this Commission to hear complaints filed against a public utility regarding any rate, service, regulation, or practice relating to any service furnished by the public utility that is unjust, unreasonable, insufficient, or unjustly discriminatory or preferential, or in violation of law or regulation.
- (2) Ohio Edison Company (Ohio Edison) is a public utility as defined in RC. 4905.02 and, as such, is subject to the jurisdiction of this Commission.
- (3) Ohio Adm.Code 4901:1-10-27(E) requires that utility companies establish a right-of-way vegetation-control program to maintain safe and reliable service. Complaints brought pursuant to R.C. 4905.26 regarding vegetation management within an easement are within the exclusive jurisdiction of this Commission. *Corrigan v. Illum. Co.* (2009), 122 Ohio St.3d 265, 2009-Ohio-2524, 910 N.E.2d 1009.
- (4) On June 8, 2010, Jacob Schad, Jr. (Complainant) filed a complaint against the Ohio Edison seeking compensation for the removal of 90 hemlock trees on Mr. Schad's property, in violation of both Ohio Edison's easement on his property and Ohio Edison's vegetation management policy. After Ohio

Edison removed the trees, Mr. Schad 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*.¹

- (5) 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 statutes and regulations. Ohio Edison admits that its contractor removed trees and brush, including 90 hemlock trees, from Complainant's property, pursuant to its easement on the property, but asserts that this action was done in accordance with its vegetation management policy, because such vegetation could potentially interfere with a 69 kilovolt transmission line running above the property.
- (6) On July 9, 2010, an entry scheduled this matter for a settlement conference on August 26, 2010. At that time, the parties requested that the hearing of this matter be postponed pending further developments in the *Corrigan* proceedings. This matter was subsequently scheduled for hearing on December 4, 2013, February 25, 2014, and May 27, 2015, but postponed each time at the request of the parties.
- (7) On June 15, 2015, counsel for Mr. Schad filed a notice requesting this Complaint be dismissed without prejudice. Accordingly, this complaint should now be dismissed without prejudice, and the record of this case should be closed.

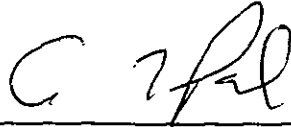
It is, therefore,

ORDERED, That this complaint be dismissed without prejudice, and the record of this case be closed. It is, further,

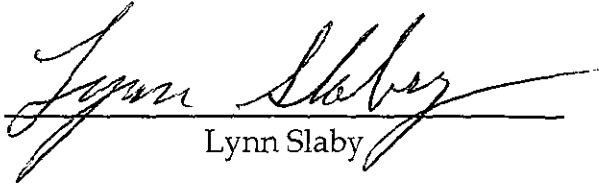
¹ The *Corrigan* case also involves a tree removal complaint against Ohio Edison's sister company that originated in the Cuyahoga County Court of Common Pleas, but was ultimately remanded to the Commission for hearing in Case No. 09-492-EL-CSS, after the Ohio Supreme Court determined that this Commission has exclusive jurisdiction over vegetation management complaints. The *Corrigan*'s appeal of the Commission's March 26, 2014 Opinion and Order in Case No. 09-492-EL-CSS is still pending on appeal in Ohio Supreme Court Case No. 2014-0799.

ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



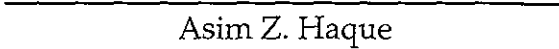
Andre T. Porter, Chairman



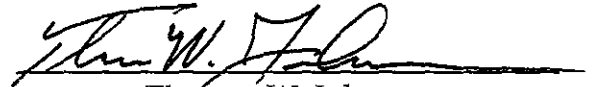
Lynn Slaby



M. Beth Trombold



Asim Z. Haque

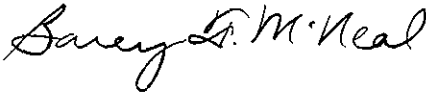


Thomas W. Johnson

RMB/dah

Entered in the Journal

JUL 08 2015



Barcy F. McNeal
Secretary