

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
DR. THOMAS INWOOD,**

COMPLAINANT,

v.

CASE No. 18-744-EL-CSS

**THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY,**

RESPONDENT.

ENTRY

Entered in the Journal on August 16, 2018

{¶ 1} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice relating to any service furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory.

{¶ 2} Respondent, The Cleveland Electric Illuminating Company (CEI), is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On April 23, 2018, Dr. Thomas Inwood (Complainant) filed a complaint against CEI. The complaint alleges that, in February or March 2018, Complainant received a notice that trees marked at the back of his property were to be removed. The complaint describes subsequent conversations that Complainant had with a person named Jason. CEI, in its answer to the complaint, has identified this person as “‘Jason’ of Asplundh, CEI’s contractor.” Jason first advised Complainant that the involved trees “pose a hazard to the power lines” and “were to be removed,” but later, told Complainant that they were “to be trimmed.” According to the complaint, Jason also told Complainant that “there is an ash that has a crack in it” that, “needs to come down.” The complaint

alleges that Jason admitted that he did not measure the distance between the ash tree and the lines. In fact, says Complainant, Jason “did not measure any of the distances for the planned work.” Complainant believes that the ash tree poses no hazard to the lines and that others of the involved trees “are just saplings.” The complaint avers that the vegetation management work proposed is, in the final analysis, unnecessary, overly aggressive, and will entail trespass onto Complainant’s property.

{¶ 4} On May 14, 2018, CEI filed its answer to the complaint, in which it admits some allegations, denies other allegations, and denies for lack of knowledge or information sufficient to form a belief as to truth of the remaining allegations of the complaint, and sets forth several affirmative defenses. Among other things, CEI specifically admits that in early 2018 it marked trees for vegetation management along the 345-kV transmission line corridor at the back of Complainant’s property. But it specifically denies that the vegetation management activity contemplated in this case is unnecessary, overly aggressive, or would constitute trespass on Complainant’s property.

{¶ 5} 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 in lieu of an evidentiary hearing. In accordance with Ohio Adm.Code 4901-1-26, 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 process. However, nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference.

{¶ 6} Accordingly, a settlement conference shall be scheduled for September 4, 2018, at 11:00 a.m., at the Commission offices, 180 East Broad Street, Columbus, Ohio 43215-3793. The parties should bring with them all documents relevant to this matter. If a settlement is not reached at the conference, the attorney examiner will conduct a

discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates. All parties should register at the lobby desk and then proceed to the 11th floor in order to participate in the settlement conference.

{¶ 7} Pursuant to Ohio Adm.Code 4901-1-26(F) the representatives of the public utility shall investigate the issues raised on 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 authority to settle those issues.

{¶ 8} 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.*, 5 Ohio St.2d 189, 214 N.E. 2d 666 (1966).

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That a settlement conference be scheduled for September 4, 2018, at 11:00 a.m., at the Commission offices, 180 East Broad Street, Columbus, Ohio 43215-3793. It is, further,

{¶ 11} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Daniel Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/sc

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Case No(s). 18-0744-EL-CSS

Summary: Attorney Examiner Entry scheduling settlement conference for 09/04/2018 in accordance with Paragraph 6 - electronically filed by Sandra Coffey on behalf of Daniel Fullin, Attorney Examiner, Public Utilities Commission of Ohio