

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
DOUG KURCSAK DL TOWING,**

COMPLAINANT,

v.

CASE No. 18-1437-EL-CSS

OHIO EDISON COMPANY.,

RESPONDENT.

ENTRY

Entered in the Journal on October 30, 2018

{¶ 1} Ohio Edison Company (Ohio Edison) is a public utility, pursuant to R.C. 4905.02, and is, therefore, subject to the jurisdiction of this Commission.

{¶ 2} 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.

{¶ 3} On September 17, 2018, Doug Kurcsak DL Towing (Complainant) filed a complaint against Ohio Edison alleging that Ohio Edison's trees fell on his property causing damage; including a telephone pole falling and totaling a vehicle. Complainant alleges that Ohio Edison has known about the trees for five years, but never addressed the issue.

{¶ 4} On October 9, 2018, Ohio Edison filed its answer to the complaint, denying many of the allegations contained therein. Additionally, Ohio Edison raises several affirmative defenses, including, but not limited to, the following: Complainant fails to set forth reasonable grounds for complaint; Complainant fails to state a claim upon which relief can be granted; and Ohio Edison has, at all times relevant to Complainants' claims,

provided reasonable and adequate service in accordance with all applicable rules, regulations, and orders of the Commission, and its tariffs.

{¶ 5} On October 9, 2018, Ohio Edison additionally filed a motion to dismiss. Ohio Edison argues the Commission lacks jurisdiction over the property damage claim asserted in this case.

{¶ 6} Notwithstanding the motion to dismiss, the attorney examiner finds it appropriate to schedule a prehearing settlement conference for this matter. 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 Ohio Adm.Code 4901-1-26(E), any statement 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 either party from initiating settlement negotiations prior to the scheduled settlement conference.

{¶ 7} Accordingly, a settlement conference shall be scheduled for December 6, 2018, at 10:00 a.m., at the Commission offices, 180 East Broad Street, Columbus, Ohio 43215. If it becomes apparent that the parties are not likely to settle this matter, the parties should be prepared to discuss a procedural schedule to facilitate the timely and efficient processing of this complaint. All parties should register at the lobby desk and then proceed to the 11th floor in order to participate in the settlement conference.

{¶ 8} Pursuant to Ohio Adm.Code 4901-1-26(F) and 4901-9-01(H), 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.

{¶ 9} As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That a settlement conference be scheduled, in accordance with Paragraph 7. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Stacie Cathcart

By: Stacie E. Cathcart
Attorney Examiner

JRJ/sc

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 18-1437-EL-CSS

Summary: Attorney Examiner Entry scheduling settlement conference for 12/6/2018 at 10:00 a.m. in accordance with Paragraph 7 - electronically filed by Sandra Coffey on behalf of Stacie Cathcart, Attorney Examiner, Public Utilities Commission of Ohio