

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMPLAINTS OF:

BOB SCHMELING	CASE NO. 17-2172-EL-CSS
ROBERT SCHMELING	CASE NO. 17-2180-EL-CSS
TAMMY & KARL ROSS	CASE NO. 17-2186-EL-CSS
DAVID E. SHEWMON	CASE NO. 17-2207-EL-CSS
DAVID & BEVERLY FENTON	CASE NO. 17-2208-EL-CSS
BRETT LEONARD	CASE NO. 17-2209-EL-CSS
TIMOTHY H. JONES	CASE NO. 17-2210-EL-CSS
ERIC OSWALD	CASE NO. 17-2220-EL-CSS
JEREMY & CARINA HENRY	CASE NO. 17-2221-EL-CSS
MELANIE MAUGHLIN	CASE NO. 17-2225-EL-CSS
AMBER & CHRIS FRANCOSKY	CASE NO. 17-2262-EL-CSS
SEAN & EMILY HUNT	CASE NO. 17-2263-EL-CSS
MARY & MICHAEL MENO	CASE NO. 17-2270-EL-CSS
EMMANUEL BLACK	CASE NO. 17-2322-EL-CSS
ELIZABETH VORHOLT	CASE NO. 17-2323-EL-CSS
DAVID & PATRICIA MCLEAN	CASE NO. 17-2324-EL-CSS
JACK C. DAUGHERTY	CASE NO. 17-2330-EL-CSS
JULIA M. & DAVID A. GUY	CASE NO. 17-2369-EL-CSS
TERRI BEAN	CASE NO. 17-2454-EL-CSS
JEFFREY DEATON	CASE NO. 17-2458-EL-CSS
KIMBERELY SALLAH	CASE NO. 17-2504-EL-CSS
KRISTA & MATT WAGNER	CASE NO. 17-2518-EL-CSS
ANGELA MARTIN	CASE NO. 17-2553-EL-CSS
HEATHER WRIGHT	CASE NO. 19-160-EL-CSS

COMPLAINANTS,

v.

DUKE ENERGY OHIO, INC.,

RESPONDENT.

ENTRY

Entered in the Journal on January 23, 2020

{¶ 1} Duke Energy Ohio, Inc. (Duke or the Company) 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} The Complainants identified in the caption for this Entry have filed complaints against Duke from 2017 to 2019. In their complaints, Complainants alleged that Duke is attempting to remove trees on their respective properties without making a determination that the trees actually posed a risk to the safe and reliable provision of electric service and complete removal was necessary. They further alleged that, without such a determination, Duke has no authority to engage in the practice. In each of their individual cases, the attorney examiner granted stays of Duke's vegetation management activities, with respect to the Complainants' properties, during the pendency of their cases.

{¶ 4} On November 14, 2017, Citizens Against Clear Cutting (CACC) filed a complaint against Duke in Case No. 17-2344-EL-CSS. CACC are located in a similar geographic area as Complainants, namely in Hamilton County, Symmes Township, Deerfield Township, and the City of Montgomery, Ohio. CACC also made similar allegations as Complainants. On November 16, 2017, the attorney examiner granted CACC's request to stay Duke from clear cutting trees on their properties.

{¶ 5} On July 6, 2018, the parties in Case No. 17-2344-EL-CSS filed a joint motion to modify the vegetation management stay to allow Duke to trim or prune any tree on CACC properties which came within 15 feet of a transmission line to create a 15-foot clearance distance between the tree and the nearest transmission line.

{¶ 6} By Entry dated July 11, 2018, the attorney examiner granted the parties' joint motion to allow Duke to prune trees and create a 15-foot clearance distance as agreed to by the parties. Furthermore, to maintain consistency in the application and subsequent modification of the original stay on CACC properties, the attorney examiner directed Duke to adhere to the terms of the proposed modified stay when pruning trees on the properties

of all affected complainants, including Complainants identified in the caption for this Entry, who asserted similar claims in their complaints as those made by CACC.¹

{¶ 7} A hearing in Case No. 17-2344-EL-CSS was held on November 6, 2018 and concluded on November 8, 2018. The parties in that matter filed initial post-hearing briefs on December 17, 2018 and reply briefs on January 4, 2019. Following the hearing, Duke, CACC, and the Office of the Ohio Consumers' Counsel engaged in further settlement negotiations and filed a joint stipulation and recommendation (Stipulation) on December 17, 2019.

{¶ 8} On January 15, 2020, the Commission issued an Opinion and Order approving the Stipulation in Case No. 17-2344-EL-CSS. The Commission found that the Stipulation was the product of serious bargaining among capable, knowledgeable parties; benefited ratepayers and the public interest as a package; and did not violate any important regulatory principle or practice. The Commission also found that the Stipulation struck an appropriate balance between Duke's efforts to effectively conduct its vegetation management activities along its transmission lines and the ability of property owners to knowledgably and consistently adhere to guidance from the Company in order to preserve an environment conducive to conducting those activities, without jeopardizing their ability to enjoy and reasonably landscape their properties. *In re Citizens Against Clear Cutting, et al. v. Duke Energy Ohio, Inc.*, Opinion and Order (Jan. 15, 2020) at ¶¶ 38-41. A copy of the Opinion and Order is attached to this Entry.

{¶ 9} The Stipulation in Case No. 17-2344-EL-CSS provides that Duke will offer all complainants who filed complaints related to Duke's vegetation management activities on or prior to the effective date of the Stipulation the same settlement benefits offered to CACC under the terms of the Stipulation (Stipulation at 9). The attorney examiner instructs the

¹ Complainant Heather Wright did not file her case until January 22, 2019. Consequently, the July 11, 2018 Entry did not identify Case No. 19-160-EL-CSS. Nonetheless, a similar stay was granted in Ms. Wright's case on February 19, 2019.

Complainants identified in the above-captioned cases to review the terms of the Stipulation and the Opinion and Order in Case No. 17-2344-EL-CSS and determine whether they are satisfied with the terms. If Complainants do not agree with the terms, they are instructed to file correspondence in their respective case docket within 60 days from the issuance of this Entry indicating that they wish to proceed with their case. In the correspondence, Complainants should also provide dates during which they are available for a hearing at the Commission's offices. Upon receiving such correspondence, the attorney examiner will set their case for hearing. Finally, if a Complainant does not file correspondence within the specified time frame, the attorney examiner may recommend that the Commission dismiss his or her complaint.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That Complainants identified in the caption review the terms of the Stipulation and the Opinion and Order in Case No. 17-2344-EL-CSS. It is, further,

{¶ 12} ORDERED, That Complainants who do not agree with the terms of the Stipulation in Case No. 17-2344-EL-CSS should contact the Commission, as further described in Paragraph 9. It is, further,

{¶ 13} ORDERED, That a copy of this Entry be served upon all parties identified in the caption of this Entry.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Anna Sanyal

By: Anna Sanyal
Attorney Examiner

JRJ/kck

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/23/2020 1:06:50 PM

in

Case No(s). 17-2172-EL-CSS, 17-2180-EL-CSS, 17-2186-EL-CSS, 17-2207-EL-CSS, 17-2208-EL-CSS,

Summary: Attorney Examiner Entry Complainants identified in the caption must review the Stipulation and Order in Case No. 17-2344-EL-CSS; if not in agreement, must contact the Commission within 60 days of this Entry. electronically filed by Mrs. Kelli C King on behalf of Anna Sanyal, Attorney Examiner, Public Utilities Commission of Ohio