
UTILITIES - OHIO

Corrigan v. Illuminating Company

Supreme Court of Ohio - September 13, 2017 - N.E.3d - 2017 WL 4081822 - 2017 -Ohio-7555

Property owners filed a complaint with the Public Utilities Commission against electricity company, seeking to prevent the removal of a tree located on the company's easement across owners' property.

The Public Utilities Commission found that the company's plan to remove the tree was reasonable. Owners appealed.

The Supreme Court of Ohio held that:

- Evidence supported conclusion that continued pruning of tree near transmission line was not a viable option;
- Order permitting removal of tree did not contravene Commission's vegetation-management policy; and
- Evidence supported conclusion that tree could potentially interfere with transmission line.

Evidence supported conclusion by Public Utilities Commission that continued pruning of tree located on electrical company's easement near transmission line was not a viable option, in proceedings brought by property owner seeking to prevent the tree's removal. Certified arborist testified that past pruning operations were ineffective over long term and that future pruning would diminish the tree's vigor, and observed that past pruning had actually shortened the tree's expected life span.

Public Utilities Commission's order permitting removal of tree near transmission line located on electricity company's easement did not contravene Commission's vegetation-management policy. Commission concluded that pruning was no longer a viable option, that property owners failed to rebut company's evidence showing safety hazards posed by tree's continued existence, and that owners failed to prove company acted unreasonably in implementing its right-of-way vegetation-control program.

Evidence supported Public Utilities Commission's conclusion that tree located on electric company's easement could potentially interfere with transmission line, justifying its removal. Tree was outside of the horizontal clearance prescribed by the National Electrical Safety Code, parts of the tree were destined to fail and fall into the transmission lines, and property owners' comparison of disparate risks posed by different activities did not dictate a finding that the tree did not pose a risk to the lines at issue.

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