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2012 APR 18 | A 10:58  
CHIEF CLERK'S OFFICE

S. Goreczny :  
-vs- : 12-0099  
Commonwealth Edison Company :  
: :  
Complaint as to non-emergency :  
vegetation management activities in :  
Bolingbrook, Illinois. :

**RESPONDENT'S MOTION TO DISMISS FORMAL COMPLAINT**

Now comes the Respondent, Commonwealth Edison Company ("Respondent" or "ComEd"), by and through its attorney, Mark L. Goldstein, and files Respondent's Motion to Dismiss the Formal Complaint filed by the Complainant, S. Goreczny ("Complainant").

On February 6, 2012, Complainant filed the Complaint, which seeks to delay ComEd's trimming of Complainant's maple tree, alleging: (1) that ComEd's clearance criteria for vegetation management are unreasonable; and (2) that ComEd failed to give Complainant a required notice regarding vegetation management. The Complaint should be dismissed because: (1) ComEd's clearance criteria are reasonable and are in accord with regulatory requirements; and (2) Complainant in fact was given the precise notice of vegetation management specified by statute in Illinois.

**ComEd's Clearance Criteria Are Reasonable**

ComEd has a comprehensive program for vegetation management, set forth in written company procedures, which is reasonable and consistent with regulatory requirements. One of the greatest threats to the reliability of the electric system is the encroachment of vegetation into ComEd's rights of way, and ComEd must enforce its

program in the face of frequent complaints from customers who object to trimming of encroaching vegetation as detracting from the aesthetics of their neighborhoods. In the extraordinary storm season of the summer of 2011 the preponderant cause of the widespread service outages that occurred was damaged trees or tree branches bringing down electrical conductors. The necessity of trimming for reliability in ComEd's rights of way must take precedence over the complaint that the value and aesthetics of Complainant's maple tree would be affected. (Complaint, ¶ 1.) A single tree that is not properly trimmed can knock out electrical service to an entire area.

ComEd's general guidelines for vegetation clearances are set forth in Exelon policy VM-ED-Y013. Specific clearance criteria for ComEd distribution facilities are set forth in Exelon procedure VM-ED-P025-2, and for ComEd transmission facilities in Exelon Procedure VM-ED-1006-1. As the Complaint correctly states, the ComEd facility that requires the company to trim Complainant's maple tree is a high-voltage (345 kV) transmission line, and Complainant's tree encroaches on ComEd's right of way for this line. Exelon Procedure VM-ED-1006-1 is therefore the relevant company procedure for establishing clearance requirements in this case. As described in more detail below in the discussion of federal regulatory requirements, this procedure recognizes that three factors must be considered in establishing lateral clearance criteria, and the procedure VM-ED-1006-1 takes them into account comprehensively for different types of nominal line voltages, span lengths and other factors.

### **ComEd's Clearance Criteria Comply With Regulatory Requirements**

Section 215 of the Federal Power Act, 16 U.S.C. § 824o (2006), gives the Federal Energy Regulatory Commission (“FERC”) jurisdiction over the reliability of the high-voltage transmission system. Under that authority, FERC has appointed the North American Electric Reliability Council (“NERC”) as the Electric Reliability Organization charged with formulating and enforcing reliability standards, subject to FERC’s approval. In the area of vegetation management, FERC has approved NERC’s reliability standard FAC-003-1. The Complaint acknowledges the relevance of this reliability standard to ComEd’s management of vegetation on its high-voltage transmission system, but the Complaint misinterprets the requirements of the standard.

Standard FAC-003-1 requires ComEd to maintain a formal transmission vegetation management program (“TMVP”), as ComEd does through the Exelon policy and procedures cited above. The standard requires ComEd to identify and document clearances, “taking into consideration transmission line voltage, the effects of ambient temperature on conductor sag under maximum design loading, and the effects of wind velocities on conductor sway.” The standard further requires ComEd to establish two clearance zones to be achieved at the time of vegetation management work, Clearance 1 and Clearance 2.

Clearance 2 is not the criterion to which trees are trimmed at the time of vegetation management work. It is a minimum air clearance that must be maintained at all times, all through the multi-year trimming cycle, to prevent flashover between vegetation and conductors. Clearance 1 is the criterion to which tree trimming is performed. The standard notes: “Clearance 1 distances shall be greater than those defined by Clearance 2 . . .” The standard specifies that Clearance 1 distances should be

“based upon local conditions and the expected time frame in which the Transmission Owner plans to return for future management work.” It goes on to provide:

“Local conditions may include, but are not limited to: operating voltage, appropriate vegetation management techniques, fire risk, reasonably anticipated tree and conductor movement, species types and growth rates, species failure characteristics, local climate and rainfall patterns, line terrain and elevation, location of the vegetation within the span, and work approach distance requirements.”

### **Derivation of ComEd’s Clearance Distance**

The Complaint asserts that NERC standard FAC-003-1 establishes a required minimum clearance of 9.45 feet, and argues that ComEd’s clearance criterion is unreasonable because it is far in excess of this requirement. (Complaint, ¶¶ 7, 8.) This is clearly an erroneous interpretation of NERC standard FAC-003-1. For establishment of Clearance 2 distances, the standard specifies that they “shall be no less than those set forth in the Institute of Electrical and Electronics Engineers (IEEE) Standard 516-2003 (*Guide for Maintenance Methods on Energized Power Lines*) and as specified in its Section 4.2.2.3, Minimum Air Insulation Distances without Tools in the Air Gap.”

Complainant has evidently consulted the IEEE standard to derive the 9.45 minimum clearance stated in the Complaint. In fact, however, the minimum air insulation distance specified in the IEEE standard for the type of voltage at issue in this Complaint is only 7.5 feet, less than what the Complainant states. What Complainant fails to recognize, however, is that this minimum air insulation distance is only the starting point for establishing a reasonable Clearance 1 to perform vegetation management that complies with standard FAC-003-1. In fact, this 7.5 feet minimum air insulation distance is shown on Exelon procedure VM-ED-1006-1 for 345 kV conductors. But the procedure goes on to specify two other essential factors to be

determined for a Clearance 1 lateral distance in compliance with FAC-003-1. The first is the distance that the conductor can be expected to sway from side to side in the wind. This is composed of the maximum sag at the midpoint of a span of conductor (dependent on the length of the span) at the maximum design loading and the effect of wind on the line at such a time. Using values derived from IEEE standard 516, this yields a side sway of 13.4 feet for spans of less than 1,000 feet, which is the case with the span adjacent to Complainant's property. Adding the 13.4 feet for side sway to the 7.5 feet of minimum air insulation distance, the minimum sustained side clearance required is 21 feet.

There is an additional factor that must be considered. ComEd cannot continually trim the same trees in its extensive service area to assure that they always retain this 21 foot minimum clearance. ComEd's trimming cycle for transmission facilities is 5 years, as specified in procedure VM-ED-P011-4. Procedure VM-ED-1006-1 specifies an additional 10 foot adder to allow for tree growth between maintenance cycles, based on average tree growth in the region. Adding the 10 feet for tree growth to the 21 feet of minimum side clearance yields a required lateral clearance of 31 feet.

Finally, ComEd adds an additional 4 feet, yielding a total lateral clearance of 35 feet for a 345 kV conductor on spans of less than 1000 feet as specified in procedure VM-ED-1006-1. This additional 4 feet is based on engineering judgment from the fact that as-built construction conditions may vary somewhat from design specifications.

#### **Enforcement of NERC Reliability Standards**

Violations of NERC standards can result in fines of up to \$1 million per day, as assessed by NERC with FERC approval. Throughout the industry in North America, violations of clearance criteria under standard FAC-003-1 have been among the most

common violations of NERC standards; and NERC has assessed some large monetary penalties in this area. NERC has subordinate regional entities that conduct audits of transmission owners' compliance with NERC reliability standards and propose penalties to NERC for violations. The regional entity responsible for the ComEd transmission system is ReliabilityFirst Corporation ("RFC"). RFC has conducted an audit of ComEd's vegetation management program for compliance with standard FAC-003-1, and has found no problem with ComEd's established clearance criteria.

**Conclusion on Clearance Criteria**

For all of these reasons, the clearance criteria established by ComEd's comprehensive vegetation management program are reasonable and in compliance with the relevant regulatory requirements.

**ComEd Gave the Complainant the Notice Required by Law**

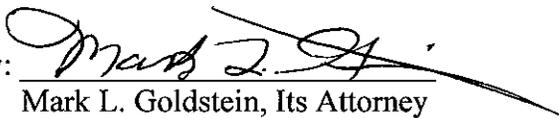
Complainant also argues that ComEd should have given notice of its clearance criteria to him/her and all potentially affected persons. (Complaint, ¶¶ 7, 8.) This argument is without merit. The notice requirements for vegetation management activities are clearly established by Illinois statute and ComEd complied with them.

The only requirement for notice regarding vegetation management activities is contained in Section 8-505.1 of the Public Utilities Act. That requirement is precise. Customers like Complainant are entitled to direct notice that vegetation management activities will take place no less than 21 days and no more than 90 days before such activities begin. As the Complaint acknowledges, Complainant was provided with such direct notice. (Complaint, ¶¶ 1, 3.) Indeed, it was this statutory notice that led to the Complaint being filed. Complainant was entitled to no more under the law.

**Conclusion**

The Complaint states no grounds on which relief could be granted. As explained above, ComEd's clearance criteria are reasonable and comply with applicable regulatory requirements, and Complainant was afforded the notice of vegetation management activities that he/she was entitled to under the law. For these reasons Commonwealth Edison Company respectfully requests that the Formal Complaint filed by S. Goreczny against Commonwealth Edison Company on February 6, 2012 be dismissed.

Respectfully submitted,  
Commonwealth Edison Company

By:   
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NOTICE OF FILING

TO: Parties on Certificate of Service

PLEASE TAKE NOTICE that on April 16, 2012, I filed with the Chief Clerk of the Illinois Commerce Commission a copy of Respondent's Motion to Dismiss Formal Complaint, attached hereto, a copy of each is hereby served upon you.

  
Mark L. Goldstein, Attorney for Respondent  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 16, 2012, I served a copy of the foregoing Respondent's Motion to Dismiss Formal Complaint by causing copies thereof to be placed in the U.S. Mail, first class postage affixed, to each of the parties as indicated below:

Ms. Elizabeth A. Rolando  
Chief Clerk.  
Illinois Commerce Commission  
527 East Capitol Avenue  
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Mark L. Goldstein