

## REPORT ON SITE CONDITIONS

In the matter of

Docket 2015-AD-057, Joseph Shirer vs. Coast EPA in Pearl River Co - Electric

Prepared for the Mississippi Public Service Commission

Thursday, 2016-01-07

**FILED**  
JAN - 8 2016  
MISS. PUBLIC SERVICE  
COMMISSION

### 1. Introduction

This case involves a complaint of damage to property caused by the electric utility company converting overhead service to underground service. The complainant is Joseph Shirer, who filed his complaint on 2015-04-08, claiming he is experiencing problems with drainage, erosion and standing water. The Respondent is Coast Electric Power Association (Coast), which holds a Certificate of Public Convenience and Necessity from the Mississippi Public Service Commission (Commission).

The location of service, the Shirer residence, is 76 Dream Hill Road, Poplarville, MS, 39470, in Pearl River County. Dream Hill Road is a private driveway. In 2011, Coast installed approximately 1,200 feet of buried power line beginning at John Amacker Road, which belongs to the county and running west, along the north side of Dream Hill, to tie into an existing underground service for the home. Approximate GPS coordinates are 30.753569, -89.661920.

The impetus for Coast to take action in 2011 was that one or more trees were growing along Dream Hill, under the existing overhead power line and were posing a danger to this line. Coast is required by the Commission to operate a reliable system. This includes maintaining a safe distance between the overhead power lines and any obstructions, including vegetation.

On 2015-06-02, the Commission appointed Shawn Shurden as Hearing Examiner for this Docket. Subsequently, Mr. Shurden requested that the Mississippi Public Utilities Staff perform a site inspection and advise the Commission.

### 2. Site Inspection

On Wednesday, 2015-09-02 at 11:15 AM, a meeting was held on site. The meeting lasted approximately one hour and was attended by the following:

- Joseph Shirer
- Peter Abide, Esq., representing Coast EPA
- David A. Boackle, P.E., Mississippi Public Utilities Staff
- Jody Ray, Mississippi Public Service Commission

### 3. Location of the Buried Power Line

In this document, the term "ditch" refers to a surface structure built for the purpose of controlling and channeling stormwater runoff and drainage. The term "trench" refers to excavation for underground facilities, a power line in this case. After facilities are placed in a trench, the trench is backfilled with soil.

Upon beginning the inspection, there existed a difference of opinion about where the power line was buried. Mr. Abide initially claimed the line was located within a 20-foot easement on the north side of Dream Hill. Mr. Shirer claimed the line, moving from west to east, is parallel and north of Dream Hill but north of the 20-foot easement. Then as the line approaches John Amacker, it curves approximately 90 degrees left, to a point approximately 60 feet north of Dream Hill.

Mr. Boackle produced a Google aerial photograph dated 2011-11-30 showing the trench, after having been backfilled. See Exhibit DAB-1 and Exhibit DAB-2. The date of this document may reflect a lag between data collection and publication to the internet. The contract between Coast and Mr. Shirer is dated approximately 8 months prior to this aerial photograph. This photograph shows the trench as straight, from the connection near the house to John Amacker (approximately 1,200 feet) and terminating at a utility pole on the west side of John Amacker Road, on or near the county right-of-way. Mr. Shirer said the photograph did not accurately depict the trench due to "curvature of the earth."

This pole was a point of contention in 2011, as Mr. Shirer expected "underground" to mean everything on his property and on the adjacent county right-of-way, would be underground. Mr. Abide stated that Coast anticipated leaving the one pole on the northwest corner of Dream Hill and John Amacker. Leaving this one pole west of John Amacker would not have posed a danger because the next connecting aerial line would be above John Amacker. However, to satisfy Mr. Shirer, Coast bored the power line under John Amacker and connected to their system on the east side of John Amacker. Currently, all infrastructure west of John Amacker, where Mr. Shirer's property lies, is completely underground, including what appears to be a water meter south of Dream Hill and AT&T equipment north of Dream Hill.

In a further attempt to establish the location of the trench, Mr. Abide contacted Louis Lee by phone. Mr. Lee is employed by Coast. Abide assembled the parties for a conference call and gave one final assurance to Lee, that he was not under oath. Abide then put Lee on speaker phone and Lee stated the power line was buried underneath the Coast-dug drainage ditch and the power line did in fact curve to match the ditch above. Mr. Lee said the curve was dug with a backhoe. It is not clear if this was a reference to the ditch or the trench. However, Mr. Lee then stated he was not involved with placing the line, so he did not know it's location with any degree of certainty.

#### 4. Ditches and Drainage

There are three ditches discussed here. Two ditches are located on Mr. Shirer's property and the other on the county right-of-way. All three ditches are shown in Exhibit DAB-3.

One of the ditches on Mr. Shirer's property, constructed by the county, begins roughly parallel to Dream Hill and, moving east, curves left about 90 degrees to become parallel to John Amacker. It is shallow, with gradually sloping sides. The other ditch on Mr. Shirer's property was constructed by Coast, just north of the county ditch.

Both ditches on Mr. Shirer's property are fully grown over with grass and vegetation. There are no signs of erosion in these ditches.

Pearl River County maintains the third ditch, in their right-of-way, along John Amacker Road. This ditch appears to gradually slope to the north. It is well maintained and there are no significant signs of erosion.

Approximately 80' north of Dream Hill, there is a tree which is halfway on Mr. Shirer's property and halfway in the county right-of-way. This is the only tree referenced in this report. The tree's roots swell the surrounding ground and create a small mound in the county ditch. After a rain, some water may collect in the county ditch, south of the tree roots. Mr. Shirer indicated to Mr. Ray that this tree should be removed and work done to improve drainage in this area. See Exhibit DAB-4.

Other utilities are located in this area as well. AT&T equipment is visible and located on the same side (north) of the driveway as the power line. There is a vault marked "AT&T" sunk into the ground in the northwest corner of Dream Hill and John Amacker.

Dream Hill connects to John Amacker as a "dry ramp", i.e. there is no culvert under Dream Hill. This means there is no path for water to traverse under the driveway.

#### 5. Area Affected

Peanuts are planted on both sides of Dream Hill and up to John Amacker. Mr. Shirer stated that farm equipment sometimes ruts up the ground in places.

In his claim, Mr. Shirer states, "..there is a severely damaged area of approximately two acres..." Mr. Boackle asked Mr. Shirer to locate this area for the parties. Mr. Shirer pointed to the Coast ditch. In this ditch, the vegetation is well established, covering the bottom of the ditch as well. See Exhibit DAB-5 for an overview and Exhibit DAB-6, where Mr. Boackle has knocked down some grass and stepped into the Coast ditch, finding the bottom well packed and hard.

Calculating the unmowed area around this ditch, including some area on either side of the ditch itself, the area is approximately 1-1/2 feet wide (average) by approximately 100 feet long = 150 square feet. This is the only area Mr. Shirer pointed out to us as being damaged.

The Coast trench could be mowed. Mr. Abide asked Mr. Shirer why he does not mow this area. Mr. Shirer responded that if he mowed it and sprayed "Roundup" on it, then there would be erosion. It is not clear why "Roundup" would be needed.

Currently, this area is experiencing unusually dry conditions. To check for erosion or other damage in the recent past, we have an aerial photograph from 2013, which shows the trench was grown over and has been mowed or used for farming at the time the image was captured. See Exhibit DAB-7.

#### 6. Inquiry About the Correct Method of Installing Underground Power Line

Mr. Boackle asked Mr. Shirer how Coast should have installed the buried line to be "correct" and without causing problems. Mr. Shirer stated it is not possible to adequately bury the power line in this location.

Mr. Shirer went on to say he does not now and has never wanted the power line buried on his property. Mr. Abide referenced the contract signed by Mr. Shirer and Mr. Shirer's payment check. A discussion ensued. Mr. Boackle advised the parties they could bring their claims before the Hearing Examiner.

#### 7. Top of the Hill, Similar Buried Power Line

At the request of Mr. Shirer, the parties moved west along Dream Hill approximately 1,200 feet where the 2011 line in question tied into an existing buried underground line installed in 1995, which led the balance of the distance to Mr. Shirer's home.

Mr. Shirer stated he had "exactly the same" problem with this 1995 trench on the hill, as he is currently having down by John Amacker in the trench dug in 2011. Mr. Shirer stated that after a rain, water would come down the hill on the inside of the 1995 trench. Upon reaching the east end, the water would shoot straight up out of the trench. [To demonstrate, Mr. Shirer held his hand approximately two feet above the ground.]

Mr. Abide noted that the 1995 trench had been filled in and fixed with gravel and dirt. Mr. Shirer agreed the 1995 trench was fixed. When Mr. Abide asked why Mr. Shirer could not do the same at the street, Mr. Shirer responded that this was a "completely different" situation from the 2011 trench because of the presence of John Amacker Road.

## 8. Input from Pearl River County

On Wednesday, 2015-09-02, after the site inspection, Mr. Boackle and Mr. Ray met with representatives of Pearl River County. They were the County Engineer, Les Dungan, P.E., P.L.S. and the County Administrator, Adrain Lumpkin. Mr. Lumpkin disclosed that he is on the advisory board of Coast EPA. They both stated the county has worked with Mr. Shirer in the past on drainage issues in the disputed area but the county was unable to satisfy him.

The tree partially in the county right-of-way was discussed in this meeting with Mr. Dungan and Mr. Lumpkin. Both Mr. Dungan and Mr. Lumpkin said they are willing to write a letter that they have no objection to Mr. Shirer removing the tree. This may have to be voted on by the Board of Supervisors.

## 9. Analysis

The ground is well healed, which created confusion among the parties as to the location of the line. This is evidence there is no longer any damage.

Even though Mr. Shirer stated that farm equipment sometimes ruts up the ground in places and there are peanuts planted on both sides of Dream Hill, there is no significant erosion or disturbed ground on either the north or south side of Dream Hill. The power line on Mr. Shirer's property is located entirely on the north side of Dream Hill.

It appears Mr. Shirer is leaving the ditch and surrounding area unkempt. The ditch and surrounding ground could be mowed with the same lawn equipment used to mow the area adjacent to the ditch.

The photograph from 2013 appears to show the ground was healed even then. This indicates that not only is there not a problem now but there has not been a problem for a number of years.

Coast gave Mr. Shirer a price to relocate the overhead service away from the trees underneath. Coast completed the work as promised. However, Mr. Shirer was not satisfied with the power pole remaining in the northwest corner of John Amacker and Dream Hill. Coast put forth additional and uncompensated effort to bore the power line under John Amacker and remove this pole, even though Coast was not necessarily obligated to do this extra work.

This road bore, along with constructing a ditch on Mr. Shirer's property, illustrates Coast appears to have made a good faith effort to remedy the alleged damage. The same can be said for Pearl River County.

Furthermore, the ground around the entrance to Mr. Shirer's property was found to be relatively flat. Therefore, some water would be expected to linger in the area after heavy rains. Even though this condition may result in wet ground, it does not appear to be the fault or responsibility of Coast or any other utility serving or passing through this area.

10. Conclusion

No evidence was found to support Mr. Shirer's claims against Coast.

Respectfully submitted,



David A. Boackle, P.E.  
Chief Engineer  
Mississippi Public Utilities Staff



Attachments: Exhibit DAB-1 through Exhibit DAB-7



Google earth

Imagery Date: 11/30/2011 309°45'18.35" N - 89°33'53.13" W elev. 132 ft eye alt. 2583 ft

76 Dream Hill Dr

tabbles®  
**EXHIBIT**  
DAB - 1

11/30/2011

1996  
Four Grids

11/30/2011

tabbles®  
DAB - 2  
EXHIBIT

**Ruler**

Line Path Pro

Measure the distance between two points on the ground

Map Length: 60.07 Feet

Ground Length: 60.07

Heading: 158.71 degrees

Mouse Navigation

Save Clear

Google earth





DREAM HILL DR

tabbles

EXHIBIT

DAB - 3



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**EXHIBIT**

DAB - 4



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**EXHIBIT**

DAB - 5



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**EXHIBIT**  
DAB - 6



Google earth



Imagery Date: 11/19/2013 30°45'20.28" N 89°39'42.97" W elev 170 ft eye alt 1649 ft

76 Dream Hill Dr

tabbles<sup>®</sup>  
**EXHIBIT**  
DAB - 7