

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

EDISON ELECTRIC INSTITUTE,)	
)	
Petitioner,)	
)	
v.)	Docket No. 14-1098
)	
)	
OCCUPATIONAL SAFETY AND)	
HEALTH ADMINISTRATION, et al.,)	
)	
Respondents.)	
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Consolidated with 14-1102, 14-1117

SETTLEMENT AGREEMENT

The parties to this Settlement Agreement are the Occupational Safety and Health Administration (OSHA), the Edison Electric Institute (EEI), the Utility Line Clearance Coalition (ULCC), and the Tree Care Industry Association (TCIA).

WHEREAS, On April 11, 2014, OSHA promulgated a final rule revising the general industry and construction standards for work on electric power generation, transmission, and distribution installations (the Standard) at 79 Fed. Reg. 20316;

WHEREAS, EEI filed a Petition for Review of the Standard in the United States Court of Appeals for the District of Columbia Circuit (Case No. 14-1098);

WHEREAS, ULCC filed a Petition for Review of the Standard in the United States Court of Appeals for the District of Columbia Circuit (Case No. 14-1102);

WHEREAS, TCIA filed a Petition for Review of the Standard in the United States Court of Appeals for the First Circuit (Case No. 14-1630), which was transferred to the United States Court of Appeals for the District of Columbia Circuit (Case No. 14-1117);

WHEREAS, the United States Court of Appeals for the District of Columbia Circuit consolidated the petitions filed by EEI, ULCC, and TCIA;

NOW, THEREFORE, the parties to this Agreement do hereby agree to the following terms:

1. This Agreement will resolve all pending challenges to the Standard.
2. OSHA agrees that on or before February 20, 2015, it will issue the documents attached hereto as Exhibit A (“Questions and Answers on 29 CFR 1910.269 and 29 CFR Part 1926, Subpart V”), Exhibit B (“29 CFR 1910.269 and 29 CFR Part 1926, Subpart V– Fall protection”), Exhibit C (“29 CFR 1910.269 and 29 CFR Part 1926, Subpart V–Enforcement dates”), and Exhibit D (“Clarification of the applicability of 29 CFR 1910.269 to line-clearance tree trimming”).

3. OSHA agrees that if, at any time after the signing of this Settlement Agreement, it plans to withdraw or revise any of the documents attached as Exhibit A, Exhibit B, and Exhibit C, it will first provide interested stakeholders, including the parties to this Agreement, an opportunity to provide input on the planned change.

4. OSHA agrees that upon the signing of this Settlement Agreement it will begin the process of promulgating a correcting amendment to clarify, in relevant part: (a) that work meeting the definition of line-clearance tree trimming at 29 CFR 1910.269(x) is covered by 29 CFR 1910.269 only to the extent it is done for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and on behalf of an organization that operates, or that controls the operating procedures for, those lines or equipment; and (b) that the electrical safety-related work practices in 29 CFR 1910.331 through 1910.335 (Subpart S) may apply to line-clearance tree-trimming work near, but not directly associated with, electric power generation, transmission, or distribution installations. OSHA agrees to keep the document attached as Exhibit D in effect until such time as the correcting amendment is final and effective. If OSHA plans to revise that document, it will first provide interested stakeholders, including the parties to this Agreement, an opportunity to provide input on the planned change. In no event will OSHA revise Exhibit D to permit enforcement of 29 CFR

1910.269 with respect to line-clearance tree trimming that is not done both for the purpose of clearing space around electric power generation, transmission, or distribution lines or equipment and on behalf of an organization that operates, or that controls the operating procedures for, those lines or equipment.

5. EEI, ULCC, and TCIA agree to move to withdraw their petitions for review of the Standard within five calendar days after OSHA issues the documents attached hereto as Exhibit A, Exhibit B, Exhibit C, and Exhibit D.

6. Nothing in this Agreement constitutes an admission by any of the parties hereto for purposes of this litigation.

7. Each party agrees to bear its own attorneys' fees, costs, and other expenses that have been incurred in connection with the parties' petitions for review and the negotiation of this Agreement.

8. This Agreement constitutes the complete and exclusive statement of agreement between OSHA, EEI, ULCC, and TCIA with respect to the subject matter of this Agreement. All prior or contemporaneous statements, understandings, and agreements by and between the parties, whether written or oral, are deemed to be superseded by this Agreement.

Agreed to this ____ day of February, 2015.

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