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Union claims Oncor violated worker's rights in row over 'smart meter' testimony

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(Reuters) - An affiliate of the International Brotherhood of Electrical Workers has told a federal appeals court that an electrical utility company in Texas broke federal labor law by firing a worker for his testimony raising safety concerns about digital "smart meters" at a state legislative hearing.

The union urged the U.S. Court of Appeals for the D.C. Circuit in a brief filed Friday to affirm a National Labor Relations Board decision finding that former Oncor Electric Delivery Co employee Bobby Reed retained the protection of the National Labor Relations Act when he testified and that his firing for what he said about the meters was unlawful.

The union accused the company of twisting Reed's testimony into a false statement so it could terminate him.

The union has opposed Oncor's efforts to replace analog meters with the smart meters. The installation of smart meters has led to layoffs because fewer workers are needed to take readings, the union said.

The case stems from the 2012 hearing on smart meters before the Texas Senate's Business and Commerce Committee.

Reed, the union's business manager who was also involved in contract negotiations with the Dallas, Texas-based company, told the committee that he saw an increase in work orders in which both smart meters and the base that they are attached to burned, according to a transcript of the hearing. He also testified the damage was caused by the meters.

Oncor launched an investigation into smart meter safety after Reed's testimony. The company fired him in 2013, saying he had violated its code of conduct by giving false accounts of the meters damaging people's homes.

The union filed a charge with the NLRB in 2013, claiming the company violated Reed's rights to represent his union at the hearing.

In 2014, NLRB Administrative Law Judge Ira Sandron in Washington, D.C. said that Reed was "imprecise, even careless" in his testimony, particularly by not distinguishing between meters and meter bases and being "melodramatic." But Oncor's investigation into meter safety was suspect, as it failed to give Reed a chance to refute the claim that he lied, and the company failed to show the testimony was not protected, he held.

The NLRB affirmed Sandron's ruling in 2016.

Oncor appealed the ruling, arguing that Reed's testimony about the meters was not protected by the NLRA because it was not related to employee concerns or job conditions.

Moreover, the company claimed that his testimony was untrue - robbing it of legal protections - because the meters cannot cause a fire.

In its brief, the union said that Reed's testimony "was related to employee safety and increased customer-service work."

The union also said that Oncor mischaracterized Reed's testimony. The company claimed Reed attributed damage directly to the smart meter only, but he told the committee that both the meters and their bases had a burning problem, the union said.

The union's lawyer, Hal Gillespie of Gillespie Sanford, did not respond to requests for comment. Oncor's attorney, Amber Rogers of Hunton & Williams, and the NLRB declined to comment.

Oral argument in the case has not yet been scheduled.

The case is *Oncor v. NLRB*, U.S. Court of Appeals for the D.C. Circuit, Nos. 16-1278 and 16-1341.

For the appellant: Amber Rogers of Hunton & Williams

For the appellee: David Casserly and Kira Dellinger Vol of the NLRB

For the intervenor: Hal Gillespie of Gillespie Sanford