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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of
Raytanda Yates,

Complainant,

v.

Ohio American Water Company,

Respondent.

Case No. 09-236-WW-CSS

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MOTION TO DISMISS AND ANSWER
OF RESPONDENT, OHIO AMERICAN WATER COMPANY

MOTION TO DISMISS

Though Ohio American Water Company ("Ohio American" or "Company") has included a formal answer (below) to the Complaint of Raytanda Yates ("Yates" or "Complainant"), Ohio American respectfully requests that the Public Utilities Commission of Ohio ("Commission") dismiss the Complaint with prejudice because the Complainant has failed to set forth any facts that constitute a complaint in accordance with Ohio Revised Code Section ("R.C.") 4905.26, nor did Complainant allege any treatment under R.C. 4905.26 that violates a statute, regulation or order of the Commission.

Before setting forth the arguments that support dismissal, it may be helpful to review the facts that preceded the filing of the Complaint.

Facts:

On October 1, 2007, Mr. Terry Cicco called to ask for service at 1616 West Prospect Road, Ashtabula, Ohio, and on October 2, 2007, service was begun in his name. Usage for the

first month was for 23 ccf and even though payment terms were set up on December 3, 2007, customer did not pay in accordance with the terms and thus a disconnection notice was sent. The customer was not disconnected as \$99.00 was paid on an account of \$379.74 on January 2, 2008.

Upon inquiry by Nakkia (Yates or Cicco) about the high bills, the Company personnel left a leak detection kit at the address. On January 5, 2008, Nakkia called to give the receipt number and on February 1, 2008, she called to state that she did not receive the leak detection kit and was advised to call the Customer Service Center at the 800 number. Later that day, the customer called about the high bill and requested a check for leaks.

Three days later on February 4, 2008, Company personnel verified that the meters readings were correct and noted that the customer had a leak on the customer's side of the meter. The customer was verbally informed of the leak. On the same day, Nakkia ("Cicco") called about a high bill and it was explained that because there had been noncompliance on a payment plan that was set up within the prior 12 months, the account did not qualify for another payment plan. She stated she had a baby and that the residence had a leak somewhere. She was advised to have the landlord fix the leak and send in proof of repairs in order to qualify for a possible leak adjustment credit. (Customer had received a notice advising of a disconnection on February 19, 2008.). Not liking the responses, Nakkia (identifying herself as Mrs. Cicco), talked with a supervisor who mentioned the possibility of a medical certificate. She stated that she would work with her doctor to obtain a medical certificate. Later the same day Collections Center received a call from a person identifying herself as Mrs. Cicco who asked a number of questions, but was advised to have her husband, the customer listed on the account, call. On February 6, 2008, Company representatives sent a letter advising the customer in writing of the leak on the customer side of the meter. The account was placed on hold for 15 days.

On February 12, 2008, Mr. Cicco asked that the name on the account be changed from Gary to Terry (stating that the account had been set up in a misspelled name). In the course of the conversation, he stated that he was on oxygen and a medical certificate was sent to his doctor's office. A second medical certificate form was faxed to his doctor's office on February 19, 2008 and the completed form was returned the same day. The account was placed on hold for 30 days. By the end of the month, on February 29, 2008, the customer was billed for 36 ccf for a two month period and his balance had risen to \$474.85.

On March 24, 2008, Mr. Cicco called to have another medical certificate faxed to his doctor's office; on April 16, 2008, he asked for another medical certificate to be faxed to his doctor's office and on April 24th, the doctor's office faxed the completed medical certificate. Prior to receipt of the medical certificate, a disconnection order had been issued. The account was placed on hold for another 30 days.

By May 22, 2008, the hold had expired and a disconnection order was issued. On May 24, 2008 and on May 30, 2008, the customer again requested medical certificates be faxed to his doctor's office which was done both times. On June 2, 2008, the completed medical certificate was received by the Company and the account was placed on hold again. By June 27, 2008, Mr. Cicco's total water bill was \$883.89, this final bill having been issued to him for 64 days of service at \$243.88 for 54 ccf of water usage.

On June 26, 2008, Raytanda Yates called for service at the same address, 1616 West Prospect Road, Ashtabula, Ohio. She gave the same telephone number as listed on the account for Mr. Cicco. Yates' first bill for 56 ccf at \$273.54 comprising 59 days of service, was issued on August 28, 2008.

On October 3, 2008, no payments having been made for water service, Yates asked that a medical certificate be faxed to a doctor's office and on October 6, 2008, the medical certificate was received for Jackory Yates and the account was placed on hold for 30 days. When Yates called to inquire about the medical certificate on October 10, 2008, she was advised it had been received, that the account was on hold for 30 days and at the end of the period, the outstanding amount of \$273.54 would have to be paid.

On November 3, 2008, Yates requested another medical certificate form be sent to the doctor for her "nephew" Jackory Yates and the next day the completed medical certificate form was received. The account was again placed on hold; Yates was called and advised that this was a second "hold" and that the then due balance of \$480.73 was due in 30 days.

On November 26, 2008, based upon the facts that the same phone number was given for both Mr. Cicco and Yates' accounts, that an Internet search showed the Nakkia and Yates were sisters; that no copy of lease had been requested by the Company, the Cicco balance of \$883.89 was transferred to Yates' account.

On December 1, 2008, Yates called stating that Cicco was her sister's boyfriend and that he was in jail. She stated that her sister had moved out and requested payment terms. She also disputed the transfer. The next day, December 2, 2008 Yates called to see what could be done to keep water service on and was advised to have the doctor send another executed medical certificate; the Company faxed another form to the doctor's office and the Company received the completed certificate the following day, December 3, 2008.

Also on December 3, 2008, Yates called to say that the medical certificate was for her son who had brain damage issues. In the meantime, the information on the account had been sent to the president of Ohio American in light of the sequence of events to see if a medical

certificate was warranted. A supervisor from the Company's call Center contacted Yates later that day to say that the account would be placed on hold for 10 days pending the decision of the president. Later that day, the supervisor called Yates to advise her that the president had denied another medical certificate on the account. Upon Yates' statements that she was awaiting a disability check and would pay as soon as possible, the supervisor provided Yates with the names of several social service agencies which might assist. Later that day Yates called the Call Center and was again advised that the medical certificate would not be issued and again asked to speak with a supervisor. Yates stated that her son, William Yates, needed the medical certificate. Yates called a third time to see if she could obtain payment terms and stated she would be calling a local agency and then call back.

The next day, December 4, 2008, Yates called the Call Center to state that her landlord had faxed information showing that Yates had moved to 1616 West Prospect Road in June 2008 and that Yates had not lived there prior to that time. Again she asked to speak to a supervisor who talked with her. This time Yates stated that her "son," Jackory, was disabled and that she would soon be receiving a disability check. She asked that the disconnection notice be sent to a local agency in order to facilitate assistance from the agency. On the same date, the Company received a letter signed by a Ms. Sharon Long, stating that she was Yates' landlord, and that Yates moved to the premises in June 2008. The following day, December 5, 2008, Yates called the Call Center to dispute the transfer of the Cicco account. In the meantime, the Company issued a disconnection notice for \$273.54 (the outstanding amount due to the first bill to Yates in August 2008).

Yates called again on December 8, 2008 claiming she needed a medical certificate and when denied, asked to speak to a Call Center supervisor who told her that there had been three

medical certificates issued to the account in the last year. She called another three times with the same complaints and finally called with a receipt number showing that she had paid \$275.00. The disconnection order was cancelled. At the time the \$275.00 was posted to the account, there was a balance of \$1,099.30 (of which \$883.89 was for service prior to June 27, 2008).

Yates called on December 23, 2008 disputing the transfer of the Cicco account to hers. Yates claimed harassment.

On December 31, 2008, another bill was issued for 40 ccf of water for 63 days of service amounting to \$224.62. On that date, the outstanding balance was \$1,323.92. Also on the same date the Company issued a disconnection notice for \$205.73. On the same day, a call was received from a person identifying "himself" as the landlord who requested that billing be reverted to the landlord's account. On January 2, 2009, the disconnection order was cancelled because of the account change.

Yates called several times on January 2, 2009, at first stating that she would not dispute the transfer of account but also stating that her landlord was providing an attorney to dispute the transfer. She later spoke to a supervisor at the Call Center stating that she would be contacting an attorney to dispute the account. On January 6, 2009, a \$17.64 bill for 7 days of service (3 ccf) was sent because the account was to be transferred to the landlord's name. Yates's total balance owing Ohio American as of January 6, 2009, was \$1,341.56. She was advised that the Company information showed that she, Nakkia and Terry Cicco had all lived in the residence together, that the phone number was the same and that the Company believed that the combining of the two accounts was appropriate.

Two days later, on January 8, 2009, Yates called the Call Center repeating her assertion that she did not know the previous tenant and that identity theft may have been involved.

Apparently on January 9, 2009, Yates called the Commission's Consumer Services Department to complaint and the Company sent the Commission's staff information on the Yates account on the same day.

On March 10, 2009, Yates called to state that the account should be in her name, not the landlord's and the Company changed back the account in her name. On March 12, 2009 a bill of \$155.90 for 27 ccf of water covering a 54 day period was issued. Yates' balance was now \$1,497.46. Two days later, on March 14th, Yates called the Call Center to state again that she would not pay the total water bill, only the service that she had used.

Two days later, on March 16, 2009, Yates filed this Complaint with the Commission. As of the date the Complaint was filed, Yates owed \$1,497.90 of which \$883.89 was for service prior to June 27, 2008 and \$614.01 was for service rendered after June 26, 2008. Since Yates became a customer, she has made only one payment in the amount of \$275.00 in December 2008.

On March 24, 2009, the local customer representative, spoke with Sharon Long, the landlord for the Yates address. Ms. Long stated that she believed that Yates has lived at the address for at least a year and a half, but was in Florida and didn't have Yates' records. She denied ever having faxed the Company any information about Yates. She also stated she had not requested, nor had she known, that the account had been placed in her name in January 2009 until she received a bill. When she talked with Yates, Yates told her that she had called the Call Center when she received the January 6, 2009 "final" bill. Yates told Ms. Long that the Call Center told her that Long had called to change the account, but that Yates had requested the Call Center to have the water service transferred back to her name.

Complaint Dismissal Is Appropriate:

This Complaint should be dismissed. Ms. Yates did not state a claim for which there is a remedy pursuant to Title 49 of the Ohio Revised Code. Nor has the Company violated any law, rule or regulation. Based on all the information available to it, Company officials made an appropriate decision that Yates had been in residence at 1616 West Prospect Road, Ashtabula, Ohio during the time Mr. Cicco was listed on the account and thus the prior balance was properly transferred to the Yates account. Under these facts, no statute, rule, regulation or order prevents the consolidation of these two residential accounts or of disconnection to this address for failure of the customer to make timely payments.

ANSWER

First Unnumbered Paragraph of the Complaint beside the notation "I"

1. *I guess you can say my dispute with the Water Company began after June 2007, I took over the residence here and put the water bill in my name.*

ANSWER: Ohio American denies allegations in this sentence for lack of information, except that it denies that Yates had an account with the Company in June 2007. Company records show that on June 26, 2008 Yates requested the water service at 1616 West Prospect Road, Ashtabula, Ohio and that Yates became a customer on June 27, 2008. Information in its files from conversations Yates had with Consumer Services personnel that indicate that Yates has previously stated that she began residing at her current address in June 2008.

2. *Well, I begin to get calls about a previous tenant [sic] who lived here called Terry Cicco.*

ANSWER: Ohio American denies allegations in this sentence for lack of information about calls Yates might have received. Ohio American's records reflect that (1) Call Center personnel

placed a call to Yates one time on December 2, 2008 and the Collection Center personnel call Yates 2 times on December 5, 2008 and December 30, 2008. None of these calls involved discussions about Mr. Cicco.. Ohio American's records also reflect that the Call Center received 9 calls from Yates spanning the period of December 1, 2008 through March 14, 2009 in which Yates disputed the transfer of the Cicco balance.

3. *Well, when the[y] first called here about him I told them I did not know anything about where he was at.*

ANSWER: Ohio American denies this allegation. Ohio American records show that (1) Yates called the Call Center on December 1, 2008 and stated that Terry Cicco was her sister's boyfriend and he was now in jail; (2) on December 3, 2008, she stated that she did not know the previous tenant but that she knew he was in jail; and (3) on January 8, 2009 when Yates called the Call Center she stated that she did not know who the previous tenant was.

First Unnumbered Paragraph of the Complaint beside the notation "II" on page 2

4. *When I told them (Water Co.) I did not know where Terry Cicco was at I thought that would be it.*

ANSWER: Ohio American denies allegations in this sentence for lack of information about what Yates was thinking.

5. *Oh No!! the harassing started.*

ANSWER: Ohio American denies allegations in this sentence.

6. *First I was called a "liar" and then I was told someone told them that Terry Cicco was my boyfriend.*

ANSWER: Ohio American denies allegations in this sentence. Ohio American's records do not indicate that any Company personnel called her a liar.

7. *I told them no-no-no.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

8. *But did it stop? No!*

ANSWER: Ohio American denies allegations in this sentence for lack of information as to what this sentence means.

9. *The calls would come late in the evening when my son was in distress or needed me.*

ANSWER: Ohio American denies allegations in this sentence. Ohio American's records reflect that only two calls were ever initiated to Yates by the Company's Collection Center, one on December 5, 2008 at 12:40 PM and the other on December 30, 2008 at 1:00 PM.

10. *Yes! The water company calling me "liar" telling me they had information that he was married to one of my sisters all sorts of stuff.*

ANSWER: Ohio American denies allegations. Ohio American's records reflect that no Company representatives who talked with Yates ever called her a liar. Notes in the records reflect a Nakkia, sister to Yates, claimed that she was married to Mr. Cicco and that Yates claimed that Mr. Cicco was her sister's boyfriend.

11. *I told them I can't be on the phone with you. My son needs me and he is more important to me that what you are talking about and I would hang up.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

12. *My son William Yates a high school student in 2004 he and three of his fellow students crashed on highway going to Cleveland. My son William Yates was throwed [sic] from the back passenger side hit the concrete.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

First Unnumbered Paragraph of the Complaint beside the notation "III" on page 3

13. *And he got the worst. He had brain damage and lost an eye. He was in a coma. By the time we found him he was at Saint Elizabeth in Youngstown, Ohio. All I saw was a 17 yr. old. My son on tubes coming out of his head [,] his mouth [---]he was on life support. And they told me they didn't think he was going to make it through the night. Long story short! He lives. Thank God. But he's not my before William, he 's different but I'll take him thank God he lives he's on meds for the rest of his life. I am his mother and care giver, he's had several operations since the accident and more to come. I don't need the hassle of the Water Co.*

ANSWER: Ohio American denies allegations in these sentences for lack of information.

14. *If they cut me off, he doesn't get to take his bath or take his meds.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

15. *I'm tired of them threatening me.*

ANSWER: Ohio American denies that any Company representative made threats and denies the other part of the statement for lack of information.

16. *They told me, the Water Co., told me pay \$274 and you will be fine, no more calls or nothing. They lied as usual.*

ANSWER: Ohio American denies allegations in these sentences. Ohio American's records show that a disconnection order on account of an unpaid balance of \$273.54 was issued on December 5, 2008. The records show that on December 8th, Yates made three calls to the call Center stating that she would be getting a local agency to pay and asking for a medical certificate and being advised that the Company would deny the medical certificate and finally calling with receipt information that \$275.00 had been paid. On the same date the disconnection order was cancelled.

17. *Enclosed is a copy of my paying the \$274.00 they asked for.*

ANSWER: Ohio American admits that Yates attached two bills to the complaint. One is a copy of the Yates bill for October 29, 2008 that shows a balance of \$287.22 (\$273.54 plus a late charge of \$13.68) from the previous two months and a total of \$480.73 due by November 19, 2008. The other is a Yates bill dated January 6, 2009 showing a prior balance of \$1,323.92 and a current charge of \$17.64 for seven days service for a total owing of \$1,341.56. Ohio American's records show that on December 8, 2008 Yates paid \$275 and that since that date, Yates has not paid subsequent water bills leaving her an unpaid balance of \$1,497.46. Even without considering the \$883.89 that was transferred to her name for service prior to June 27, 2008, Yates is \$613.57 in arrears and is eligible for disconnection.

First Unnumbered Paragraph of the Complaint beside the notation "III" on page 4

18. *Well, the Water Co. keep on calling and added Mr. Cicco bill on my bill which put it up to \$1,341.56 now.*

ANSWER: Ohio American admits that as of March 11, 2009, Yates had been billed \$1,341.56. However, as of the date of this Motion and Answer, her total bill is \$1,505.26. Based upon information it received, Ohio American believes that Yates was living at 1616 West Prospect Road, Ashtabula, Ohio at the time Mr. Cicco was listed as the customer.

19. *Since I have never never had the water bill in my name I called and ask why is my bill so high? Oh, the rep. said, You lied to us about Terry Cicco so you are going to pay his bill. So I said "I will not pay someone else bill and if you are going to make me responsible for some one else bill, why don't you put your bill on these too. Since I'm paying for other people bills."*

ANSWER: Ohio American denies allegations about telling Yates she was a liar; it denies for lack of information the other allegations.

20. *I paid a lawyer \$50.00 for information .he aid the Water co. is taking away my rights.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

21. *I'm not paying some one else bills and I mean it. I'll fight the Water Co.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

22. *All I want is to be left along so I can take care of my disabled son.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

23. *If I continue to be harrassed[sic] like this I will move because of the Water Company harassing[sic] me even after I paid them.*

ANSWER: Ohio American denies harassing Yates and denies the other allegations in this sentence for lack of information.

24. *Even after I paid them they continued to harass[sic] me.*

ANSWER: Ohio American denies harassing Yates.

25. *My land lord will be angry if I move because I pay my bills.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

First Unnumbered Paragraph of the Complaint beside the notation "V" on page 5

26. *And the Water Company ask my land lord for a fax saying I live here and I took over the Water Co. in June of 2007 they did that, and that didn't please the Water Co. they said I still had to pay someone else bill.*

ANSWER: Ohio American denies that Yates was a customer in June of 2007. Ohio American admits on December 4, 2008 the Company received a letter purporting to be from the landlord stating that Yates had moved to the premises in June 2008, but when the landlord was contacted personally on March 24, 2009, the landlord stated that she had never sent the letter.

27. *I want the Water Co to leave me alone. I'm sick and tired of this whole ordeal and I will sue them if I'm not left alone.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

28. *I will not pay some one else bill.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

29. *Next thing you know I'll be paying for anyone they choose to say I have to pay for.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

30. *I'm responsible for my bills and my son's bills. I won't be responsible for any one else bills and I won't be.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

31. *Please have the Water Co. leave me and my son alone or we will end up in a court of law and let them take care of this.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

32. *Thank you kind people for hearing me out. We need your help.*

ANSWER: Ohio American denies allegations in this sentence for lack of information.

FIRST DEFENSE

Ohio American has at all times provided service in accordance with its Tariff, P.U.C.O. No. 15, and the rules, regulations and laws promulgated by the Commission and the State of Ohio respectively.

SECOND DEFENSE

Ohio American avers that Ohio American has breached no duty owed to the Complainant.

THIRD DEFENSE

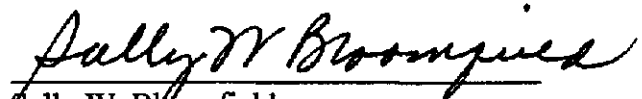
Ohio American avers that Ohio American has at all times acted in accordance with all applicable statutes, Commission orders, and Commission rules and regulations.

FOURTH DEFENSE

The Complainant has failed to state a claim against Ohio American upon which relief can be granted pursuant to R.C. 4905.26.

WHEREFORE, having fully answered the Complaint, Ohio American respectfully requests that the Commission dismiss the Complaint with prejudice.

Respectfully submitted on behalf of,
OHIO AMERICAN WATER COMPANY



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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Dismiss and Answer of Respondent Ohio American Water Company was served upon the Complainant at 1616 West Prospect Road, Ashtabula, Ohio 44004 via regular U.S. Mail this 13th day of April, 2009.


Sally W. Bloomfield