

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of	)	
Cutter Exploration, Inc.,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 09-1982-GA-CSS
	)	
The East Ohio Gas Company d/b/a	)	
Dominion East Ohio,	)	
	)	
Respondent.	)	

ENTRY

The attorney examiner finds:

- (1) On December 21, 2009, Cutter Exploration, Inc. (Cutter Exploration) filed a complaint against The East Ohio Gas Company d/b/a Dominion East Ohio (DEO), alleging that DEO has failed to accurately measure gas at production receipt points to its distribution and transmission systems in Geauga County, Ohio. Complainant also alleges that DEO has discriminated against complainant, as DEO has artificially restricted complainant's ability to flow gas from its intermittent wells into DEO's distribution system, even though no restrictions are placed on the flow of gas from other producers into the distribution system. On January 11, 2010, DEO filed its answer to the complaint, denying the material allegations of the complaint. DEO maintains that it has fully complied with all applicable statutes, rules, orders, and tariffs.
- (2) By entry issued on June 11, 2010, this matter was set for hearing on November 2, 2010. The entry also established September 29, 2010, as the deadline for the service of discovery requests, and required the parties to respond to discovery requests within fifteen calendar days.

- (3) On August 30, 2010, Cutter Exploration filed a motion to compel DEO to fully respond to Interrogatory No. 23 of Cutter Exploration's second set of interrogatories and document requests. Cutter Exploration also requested an expedited ruling on its motion, but noted that DEO objected to an expedited ruling. On September 10, 2010, DEO filed a memorandum contra Cutter Exploration's motion to compel, and on September 16, 2010, Cutter Exploration filed a reply to DEO's memorandum contra.
- (4) In support of its motion to compel, Cutter Exploration explains that Interrogatory No. 23 seeks information regarding the type of meters used by DEO to measure gas produced from gas storage wells and whether DEO utilizes high side or low side measurement at those metering stations.<sup>1</sup> Attached to the motion are copies of the interrogatories Cutter Exploration served upon DEO, DEO's responses and objections, and an affidavit stating the efforts undertaken to obtain discovery responses. In its response to Interrogatory No. 23, DEO objected to the interrogatory on the grounds that it is not relevant and is not reasonably calculated to lead to the discovery of admissible evidence.

Cutter Exploration argues that the interrogatory is relevant and is reasonably calculated to lead to the discovery of admissible evidence. Cutter Exploration states that the parties agree that DEO requires Cutter Exploration to use rotary meters to measure gas produced from its wells, while also refusing to allow Cutter Exploration to use high side measurement at the meters. Cutter Exploration argues that, because DEO claims that rotary meters are the standard for commercial and industrial measurement, the type of meters and measurement utilized by DEO in its system is relevant in this proceeding. Cutter Exploration maintains that the information sought by Interrogatory No. 23 will help Cutter Exploration maintain its claim that DEO's rotary meter mandate, as well as its prohibition on high side measurement, is unreasonable.

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<sup>1</sup> According to Cutter Exploration, high side measurement refers to measuring gas at high pressure, and is accomplished by using pressure regulating valves to reduce gas pressure after it flows through the meter. Low side measurement refers to measuring gas at low pressure and is accomplished by placing the pressure regulating valves upstream of the meter.

- (5) In response, DEO argues that, since the discovery request at issue in the motion to compel relates to storage wells, the request is irrelevant, because the issue in this case is the measurement of gas from Cutter Exploration's production wells. DEO asserts that, unlike meters at production wells, meters at storage wells are not used to measure gas entering DEO's system, and thus measurement practices at storage wells are irrelevant. Relying on the affidavit of Brent D. Breon, manager of planning and revenue generation for DEO, DEO explains that it takes custody of a producer's gas as it flows from the production well through the DEO meter in the vicinity of the well, and that payment to producers is based on the amount of gas measured at the point of custody transfer. Accordingly, DEO asserts, the relevant point in determining whether gas deliveries are being measured accurately is at the production well. DEO states that measurement of storage gas is done only for internal operational purposes and these measurements are not relied upon to determine the amount of gas delivered by producers or the amount of payments owed to them. DEO also contends that Cutter Exploration mistakenly links DEO's firm storage service tariff with the measurement of gas in DEO's storage wells. DEO explains that, while it charges producers for storage-related services, these charges are not assessed on amounts measured at the storage well, but rather are based on written submissions of volume provided by producers.

DEO further asserts that, because storage and production wells have vastly different operational characteristics, with different measurement equipment utilized as a result of those differences, Cutter Exploration's storage well-related requests are irrelevant. According to DEO, storage meters, as compared with production meters, must be able to handle very high pressures and volumes, and "dirtier" gas containing more particulates and fluids, in addition to being able to provide bi-directional flow as gas is put into and taken out of storage. Lastly, DEO contends that an agreement between DEO and the Ohio Oil and Gas Association (OOGA) establishes the conditions for the installation (at DEO's cost) and continued use of rotary meters at Cutter Exploration's production wells. DEO contends that the fact that this agreement relates only to production wells, but has nothing to

do with storage wells, shows that the type of meter and regulation used at storage wells is not relevant to this matter.


- (6) Cutter Exploration replies that DEO mischaracterizes the nature of this case in its response, as DEO fails to recognize that not only does Cutter Exploration assert that the volume of gas produced by its production wells has not been accurately measured by DEO, but also that DEO has discriminated against Cutter Exploration by requiring the use of rotary meters and low side measurement. As a result, Cutter Exploration contends that DEO misses the point of Interrogatory No. 23, which is that the interrogatory is not related to the accuracy of measurement but rather relates to Cutter Exploration's discrimination claim. Cutter Exploration also argues that its motion to compel should be granted because DEO does not state any opposition to the portion of Interrogatory No. 23 that seeks information on the use of high side or low side measurement. Finally, Cutter Exploration points out that DEO has produced documents showing that in 2009 DEO invested over \$4 million in new storage gas meters, which Cutter Exploration asserts contradicts Mr. Breon's testimony that storage gas is rarely measured, and also shows that a response to Interrogatory No. 23 is warranted.
- (7) The attorney examiner finds that Cutter Exploration's motion to compel complies with Rule 4901-1-23, Ohio Administrative Code (O.A.C.). Upon review of the interrogatories, the attorney examiner finds that Interrogatory No. 23 may lead to information that is relevant to the issues raised by the complaint and that Cutter Exploration is entitled to responses. The attorney examiner, therefore, finds that the motion to compel has merit and should be granted. Accordingly, DEO is directed to answer Interrogatory No. 23 of Cutter Exploration's second set of interrogatories and document requests within fifteen calendar days from the date of this entry.

It is, therefore,

ORDERED, That Cutter Exploration's motion to compel be granted and that DEO answer Interrogatory No. 23 of Cutter Exploration's second set of interrogatories and document requests, as directed in finding (7). It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
By: Henry H. Phillips-Gary  
Attorney Examiner

JRG/sc

Entered in the Journal

SEP 20 2010

  
Renee J. Jenkins

Renee J. Jenkins  
Secretary