

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

JUDY ALEXANDER,)	
)	
Complainant,)	
)	Case No. 11-5601-GA-CSS
v.)	
)	
THE EAST OHIO GAS COMPANY D/B/A)	
DOMINION EAST OHIO,)	
)	
Respondent.)	

**POST-HEARING BRIEF OF RESPONDENT
THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO**

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EAST OHIO

Dated: August 2, 2012

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In accordance with Ohio Adm. Code 4901-1-31 and the Attorney Examiner’s ruling at the Hearing held on June 21, 2012, respondent The East Ohio Gas Company d/b/a Dominion East Ohio (“DEO”) files its Post-Hearing Brief in this proceeding.

I. INTRODUCTION

The sole allegation of unreasonable service raised in Ms. Alexander’s complaint is that “the amount [of her bills] is incorrect.” (Complaint, p. 10 (Nov. 2, 2011); *see also id.* (she is “[d]isputing the amount of the bill”); Tr. 25–26 (she alleges she should be billed for gas used “between March and April.”) But Ms. Alexander has introduced no evidence in support of her theory. The evidence points the other way: her meters tested accurately, and she has not alleged or shown that DEO misread her meters, miscalculated her bill, or charged her under the wrong rate.

What Ms. Alexander has shown—that her property was in a deplorable condition—is irrelevant to the accuracy of her bills. As in virtually every case, DEO has no way of knowing

how the gas that passed through Ms. Alexander's meter was ultimately consumed, but there is no question that it was consumed. The Complaint lacks merit and should be dismissed.

II. FACTUAL BACKGROUND

Ms. Alexander received service from DEO on two accounts, an upstairs and downstairs unit in a single building.

Service was established at the downstairs unit, 8207 Beman Avenue, on November 19, 2010. (DEO Ex. 1.0 ("Edwards Dir.") at 2.) Gas was already on at the downstairs unit, so DEO provided an initial meter read to transfer the service to Ms. Alexander. (DEO Ex. 3.0; *see also* Tr. 37, 39.) A woman, presumably Ms. Alexander, allowed a DEO employee into the property, and he found that the property had a furnace and that the furnace was working. (Tr. 33–35; *see also* DEO Ex. 3.0.) DEO did not note any leaks in Ms. Alexander's house or service lines. (DEO Ex. 3.0.)

About a month and half later, on January 6, 2011, DEO established service at the upstairs unit, 8209 Beman Avenue. (Edwards Dir. at 4.) Ms. Alexander testified that this unit also had a furnace. (Tr. 18 ("we have new furnaces. They are already in here, new furnaces on both ends . . . around November, the latter part of November, he did have the furnaces in").)

For several months, DEO sent bills to both service addresses. (Edwards Dir. at 2–5.) Ms. Alexander, however, never paid anything towards either account. (*Id.* at 2 and 4.) Although DEO did not observe any leaks in the property, Ms. Alexander testified that she "kept smelling this faint odor." (Tr. 20.) She did not call DEO to report a leak, however, until April 18, 2011. (DEO Ex. 2.0 ("Kazmer Dir.") at 2.) Within a half an hour, a DEO service technician arrived at the property, tested numerous lines at the both units, and discovered leaks. (*Id.*) He turned off

the upstairs meter and disconnected the necessary lines in the downstairs unit. (*Id.* at 2–3.) All leaks discovered were downstream of the meter, in the house lines. (*Id.*)

On May 5, 2011, DEO disconnected Ms. Alexander’s service at both units at her request. (Edwards Dir. at 2, 4.) Ms. Alexander currently owes \$397.88 for the Upstairs Unit and \$803.19 for the Downstairs Unit. (*Id.* at 2, 4.)

Ms. Alexander filed her Complaint on November 2, 2011, disputing the bills from the February, March, and April 2011 billing statements. Entry at 1 (June 12, 2012). DEO tested her meters for accuracy in her presence on May 11, 2012. (DEO Ex. 2.1 (“Kazmer Supp.”) at 3.) The downstairs meter ran slow by 0.55%, and the upstairs meter ran fast by 1.6%. (*Id.*) An evidentiary hearing was held on June 21, 2012.

III. STANDARD OF PROOF

R.C. 4905.26 provides that any person may file a written complaint that any rate, charge, or service of a public utility is in any respect unjust, unreasonable, unjustly discriminatory, in violation of law, or inadequate. In every Commission complaint proceeding brought pursuant to R.C. 4905.26, the Complainant bears the burden of proving the allegations alleged in the Complaint. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189 (1966); Entry at 2 (June 12, 2012). Therefore, if Ms. Alexander fails to prove her Complaint that DEO incorrectly billed her in February, March, and April 2011, then the Commission should rule in favor of DEO and dismiss the Complaint.

IV. ARGUMENT

A. The evidence shows that DEO accurately measured Ms. Alexander’s gas consumption.

DEO established service to Ms. Alexander’s properties in November 2010 and January 2011. (Edwards Dir. at 2, 4.) As with every customer, DEO used meters to measure Ms.

Alexander's gas consumption. Ms. Alexander claimed that DEO was overbilling her for usage, so to determine whether this was so, DEO tested her meters in her presence. (Kazmer Supp. at 1.) The meters proved accurate. (*Id.* at 3–4.) Under R.C. 4933.09, a meter is “deemed correct if the variation is not greater than three per cent” Both of Ms. Alexander's meters met the statutory standard: on average, the downstairs meter ran slow by 0.55 percent, and the upstairs meter ran fast by 1.6 percent. (Kazmer Supp. at 3; *see also* DEO Ex. 2.11 and 2.12.) As Ms. Alexander's meters were correctly measuring the gas consumed on the property, and as she has offered no other basis for doubting the accuracy of her bills, her complaint for incorrect billing must be rejected.

Ms. Alexander attempts to argue that the measured consumption was incorrect because the property was in a “deplorable condition.” (Tr. 19.) But that her property was in a “deplorable condition” does not show in any way that gas would not have been consumed there—indeed, it is not surprising that such a property might be less energy-efficient and thus consume *more* gas. And Ms. Alexander conceded that the properties were equipped with gas-consuming appliances. (Tr. 18 (“we have new furnaces. They are already in here, new furnaces on both ends around November, the latter part of November, he did have the furnaces in”); Tr. 20–21; DEO Ex. 3.0 (noting a gas line to the water heater).) At the hearing, Ms. Alexander presented evidence that the house was unoccupied and argued that her gas appliances were not being used. No gas company can provide round-the-clock surveillance on all of its customers to disprove a later allegation that, regardless of their meter reading, they did not use the gas. Companies must rely on their meters, and Ms. Alexander has not called into question the critical facts: gas service had been established in her name at both accounts (Edwards Dir. at 2, 4);

DEO's meters measured gas consumption (*id.* at 2–5); and the meters proved accurate (Kazmer Supp. at 2–4.)

DEO accurately metered Ms. Alexander's usage, and as the customer of record, pursuant to Ohio Adm. Code 4901:1-18-01(G) and 4901:1-18-04, she is responsible to pay for the gas consumed.

B. DEO accurately billed Ms. Alexander for her gas service.

Other than claiming that she did not use the metered gas, Ms. Alexander has not put forth any theory or evidence questioning the accuracy of her bills. But DEO will point out that it did correctly bill her. Ohio Adm. Code 4901:1-13-11(B) require natural gas company bills to be “accurate and rendered at monthly intervals.” In accordance with this obligation, each natural gas company must “obtain actual readings of its customer meters at least once every twelve months” and must “make reasonable attempts to obtain actual readings of its customer meters every other month.” Ohio Adm. Code 4901:1-13-04(G)(1). When the natural gas company bases its bills on estimated usage, it must “calculate the amount due using the applicable rate(s) in effect during each period of estimated usage.” *Id.*

DEO complied with these rules when it billed Ms. Alexander. For both units, DEO made reasonable attempts to obtain an actual meter reading every other month. (Edwards Dir. at 3, 5; *see also* DEO Ex. 1.1 and 1.2.) DEO billed Ms. Alexander for estimated consumption when DEO did not acquire an actual read and for actual consumption when it did. (Edwards Dir. at 3, 5–6.) When DEO overestimated her consumption, it rebilled Ms. Alexander. (*See* DEO Ex. 1.1 and 1.2; *see also* Edwards Dir. at 4, 6.) And DEO sent all of the bills to the address on record until Ms. Alexander requested that DEO use a different billing address. (Edwards Dir. at 2–3, 4–5.) This evidence proves that DEO accurately billed Ms. Alexander for her gas service.

V. CONCLUSION

Ms. Alexander requested natural gas service, and DEO established it. Ms. Alexander's meters then measured gas consumption, and the meters proved accurate. None of Ms. Alexander's evidence regarding the condition of her property provides any reason to doubt the meter test, and she has offered no other basis for doubting the accuracy of her bills. She has not shown that DEO provided inadequate service in any way, and her complaint should be dismissed.

Dated: August 2, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Brief of The East Ohio Gas Company d/b/a Dominion East Ohio was served by electronic mail to the following person on this 2nd day of August, 2012:

Ms. Judy Alexander
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/s/ Melissa L. Thompson
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Summary: Brief Post-Hearing Brief of Respondent The East Ohio Gas Company d/b/a Dominion East Ohio electronically filed by Ms. Melissa L. Thompson on behalf of The East Ohio Gas Company d/b/a Dominion East Ohio