

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

JEFF SLUSSER)	
)	
Complainant,)	
)	
v.)	Case No. 12-1259-GA-CSS
)	
THE EAST OHIO GAS COMPANY D/B/A)	
DOMINION EAST OHIO,)	
)	
Respondent.)	

**MOTION TO STRIKE OF
THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO**

In accordance with Ohio Adm. Code 4901-1-12(A), The East Ohio Gas Company d/b/a Dominion East Ohio (“DEO”) hereby requests that the Commission strike certain statements from the document entitled “Briefing Letter” filed by the Complainant, Jeffrey Slusser, on January 18, 2013. The statements to be struck are the following:

- “On page 23 of the transcript, Dominion East Ohio (DEO) never notified me that the 665 N. Bever St. had been running up to \$4,999.”
- “Secondly, they moved the gas bill from the Bever property to 439 N. Market St., also in Wooster, without notifying me.”

Good cause exists to grant this motion for the following reasons.

Until the filing of the briefing letter, Mr. Slusser never alleged that DEO failed to give him proper notice. Issues of notice were not presented in either of his complaints. That alone is grounds for holding that the issue was waived. *See, e.g., In re Complaint of OHIOTELNET.COM v. Windstream Ohio, Inc.*, Case No. 09-515-TP-CSS, 2010 Ohio PUC LEXIS 1314, at *14 (Dec. 1, 2010) (granting motion to strike testimony outside the scope of the complaint; “[t]he hearing in this matter shall be confined to the scope of the complaint.”); *In re Complaint of Cleveland Elec. Illum. Co. v. Med. Center Co.*, Case No. 95-458-EL-UNC, 2004

Ohio PUC LEXIS 627, at *9 (Dec. 21, 2004) (quotation of earlier entry on rehearing: “It would be inappropriate to consider additional allegations not raised in this original complaint.”).

Moreover, his failure to present these allegations has prejudiced DEO by depriving it of an opportunity to respond to and present evidence regarding these allegations. Were the Commission to rule against DEO on this issue, it would deprive DEO of due process of law. Due process demands notice and an opportunity to be heard—“each side of the controversy must be given an opportunity to present its case.” *Motor Service Co. v. Pub. Util. Comm.*, 39 Ohio St.2d 5, 10 (1974); *Cent. Ohio Lines v. Pub. Util. Comm.*, 123 Ohio St. 221, 227 (1931) (“The principle is elemental that, upon any hearing, each side of the controversy must be given an opportunity to present its case.”). While DEO obviously participated in the hearing, it did not have notice of the claims raised in Mr. Slusser’s brief, and thus it had no opportunity to present its case. Because Mr. Slusser failed to timely raise these issues, they are forfeited and the Commission should strike them.

Confirming that this was not a properly raised issue, Mr. Slusser did not present any testimony or evidence at hearing suggesting that DEO had failed to provide him any proper notice. This is also grounds for rejecting the claim on the merits. *See, e.g., In re Complaint of Judy Alexander v. DEO*, Case No. 11-5601-GA-CSS, 2012 Ohio PUC LEXIS 819, at *9 (Oct. 24, 2012) (rejecting claims where complainant “offered insufficient evidence in support of her claim”). Indeed, the evidence affirmatively rebuts the idea that Mr. Slusser lacked notice. Mr. Slusser agreed at hearing that his name was on all the bills at issue in this complaint, and when asked whether he “should have stopped service if [he] thought the arrearage was getting too high or if [he was] unable to pay on any of [his] accounts,” he did not say that he did not know about the bills, that the bills had lacked important information, or that he otherwise lacked notice of

what occurred on the account. (Tr. 21–22.) Rather, he repeatedly (and incorrectly) stated that he could not cancel service to a property containing more than one apartment. (Tr. 20–22.)

For the foregoing reasons, DEO respectfully requests that the Commission strike the identified portions of Mr. Slusser’s Briefing Letter.

Dated: January 23, 2013

Respectfully submitted,

/s/ Andrew J. Campbell
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EAST OHIO

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Strike was served by U.S. mail to the following person this 23rd day of January, 2013:

Mr. Jeff Slusser
1740 Westwood Circle
Wooster, Ohio 44691

/s/ Andrew J. Campbell
One of the Attorneys for The East Ohio Gas
Company d/b/a Dominion East Ohio

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Case No(s). 12-1259-GA-CSS

Summary: Motion Motion to Strike Portions of Complainant's Briefing Letter electronically filed by Mr. Andrew J Campbell on behalf of The East Ohio Gas Company d/b/a Dominion East Ohio