

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Daniel L. Whisner,)	
)	
Complainant,)	
)	
v.)	Case No. 13-1979-GA-CSS
)	
Columbia Gas of Ohio, Inc.,)	
)	
Respondent.)	
)	

ENTRY

The attorney examiner finds:

- (1) On September 20, 2013, Daniel L. Whisner (complainant) filed a complaint with the Commission against Columbia Gas of Ohio Inc. (Columbia or respondent). In the complaint, Mr. Whisner states that, on or about March 22, 2013, he and his son-in-law, Chad Ford, began digging a hole to install a curtain drain around a septic system. The complainant states that he initially began the process several months earlier, including contacting the Ohio Utilities Protection Service (OUPS), to locate and mark the line. Mr. Whisner admits that, as he and Mr. Ford dug the hole, they punctured the gas line. Mr. Whisner states that they were unaware that a newer line had been installed below the exposed line. The complainant states that they immediately stopped digging and contacted Columbia.

According to the complaint, Columbia sent a lineman within an hour to assess the situation. Columbia's lineman informed Mr. Whisner that, because he had not contacted OUPS, he would be charged for the damage. Mr. Whisner accepts responsibility for the puncture of the line and claims he is ready to pay for the reasonable cost of repairs. However, the complainant argues that the damage he caused could have been repaired using a coupler, but Columbia brought in earth moving equipment, excavated the line to the meter, and upgraded their facilities. Mr. Whisner states that Columbia billed Eastern Sky Landscaping, LLC (Eastern Sky), his son-in-law's company,

assuming that, because he was assisting Mr. Whisner, Eastern Sky was contracted to install the curtain drain. Mr. Whisner states that, despite his efforts otherwise, Columbia has refused to recognize that he is the party responsible for the damages to the line and to provide him a detailed description of the charges. Mr. Whisner also argues that Columbia is attempting to upgrade their facilities at his expense.

- (2) On October 10, 2013, Columbia filed its answer to the complaint. In its answer, Columbia admits that it repaired the gas service line at Mr. Whisner's home, at 522 North Clayton Street, on or about March 22, 2013. Columbia also admits that it billed Eastern Sky \$1,551.97 for damages to the gas line. However, Columbia states that it is without sufficient knowledge to admit or deny that Eastern Sky or Chad Ford were not responsible for the damage to the gas service line. Columbia denies that it upgraded its service line at the North Clayton Street address. Further, Columbia denies any allegations not specifically admitted or denied in its answer.

Among the affirmative defenses offered, Columbia asserts that the complaint does not meet the requirements of Rule 4901-9-01(B), Ohio Administrative Code (O.A.C.), to include a statement which clearly explains the facts and fails to set forth reasonable grounds to sustain a complaint pursuant to Section 4905.26, Revised Code. Columbia also argues that the complainant failed to comply with Section 3781.28(A), Revised Code. Further, Columbia states that the company has acted in compliance with all applicable Ohio statutes, its tariff on file with the Commission, and the rules and regulations of the Commission.

- (3) At this time, the attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, O.A.C., any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible in future proceedings in this case or be admissible to prove liability or invalidity of a claim. Nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference. An attorney examiner with

the Commission's Legal Department will facilitate the settlement process.

- (4) Accordingly, a settlement conference shall be scheduled for November 14, 2013, at 11:00 a.m., in Hearing Room D, at the offices of the Commission, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215.
- (5) Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of Columbia shall investigate the issues raised in the complaint prior to the settlement conference. Further, all parties participating in the conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties participating in the settlement conference should have with them all documents relevant to this matter.
- (6) At the conference, the parties should also be prepared to establish a procedural schedule for discovery and a hearing date to facilitate the timely and efficient processing of this complaint in the event this matter cannot be resolved during the conference.
- (7) As is the case in all Commission complaint proceedings, the complainant, Mr. Whisner in this instance, has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

It is, therefore,

ORDERED, That this case be scheduled for a conference on November 14, 2013, at 11:00 a.m., in Hearing Room D, at the offices of the Commission, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

ORDERED, That a copy of this entry be served upon Mr. Whisner, Columbia and its counsel, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ Greta See

By: Greta See
Attorney Examiner

jrj/vrm

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in

Case No(s). 13-1979-GA-CSS

Summary: Attorney Examiner Entry scheduling a settlement conference for November 14, 2013, at 11:00 a.m.; electronically filed by Vesta R Miller on behalf of Greta See, Attorney Examiner, Public Utilities Commission of Ohio