

FILE

FAX

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint
Of Gregory T. Howard,

Complainant,

-vs-

Columbia Gas of Ohio, Inc.,

Respondent.

Case No. 17-2536-GA-CSS

PUCO

2018 JAN 26 PM 1:51

RECEIVED-BOOKETING DIV

**EXPEDITED MOTION FOR PERMISSION TO FILE A LATE MOTION FOR
LEAVE TO AMEND HIS COMPLAINT TO INCLUDE CLAIMS AGAINST
INFRA SOURCE AS A RESPONDENT AND TO ADD HIS MOTION TO ADD 10-DAY
DISCONNECTION**

Now comes the Complainant and hereby moves this Commission for expedited permission to file a late motion for leave to amend his complaint to include claims against InfraSource as a Respondent and to add his Motion to add his 10-day disconnection or to otherwise treat his amended complaint and motion to add 10-day disconnection notice as if they were accompanied by a motion to amend, pursuant to Ohio Admin. Code rule 4901-1-06. The basis for this motion is that both the amended complaint and motion refer to events that occurred after the filing of his complaint filed in 2015. Complainant has raised claims occurring or relating to those events. The new service terminations claims state reasonable grounds for the complaint or amended complaint pursuant to R.C. 4905.26.. The amended complaint asserts that

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician He Date Processed 1/26/18

InfraSource damaged the driveway at complainant's residence, and adds InfraSource as a Respondent.


As fully explained in complainant's memo contra to Columbia's Motion to Dismiss Case No. 15-873-GA-CSS was dismissed without prejudice but the possibility remains open that complainant may file another lawsuit Case No. 17-2536-GA-CSS, on the same claims relating to the damage to his residence's driveway and disconnection during the 2014-2015 Winter Reconnect season, his new complaint or amended complaint must be approved because he has met his burden of proof relative to his same claims in the first lawsuit, as shown in detail above. *Portage Cty. Bd. of Commrs. v. City of Akron*, 109 Ohio St. 3d 106, 123, 2006-Ohio-954, 846 N.E. 2d 478, citing *Hapgood v. Warren*, (C.A. 6, 1997), 127 F. 3d 490, 493. Therefore, issue preclusion is inapplicable to the new claims of service terminations in this action.

In any event, the Complainant states that he is not an attorney, but it has come to his attention by Columbia that he has inadvertently failed to move to amend his complaint, as required by Ohio Admin. Code rule 4901-1-06.

For good cause shown, and in the interests of justice Complainant respectfully asks this Commission to freely grant him permission to file a late motion for leave to amend his complaint to include claims against InfraSource as a Respondent and to add his Motion to add his 10-day disconnection notice or to otherwise treat his amended complaint and motion to add 10-day disconnection notice as if they were accompanied by a motion to amend, pursuant to Ohio Admin. Code rule 4901-1-06. See Ohio Civil Rules 6(B)(2) ("upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect**") and 15(A) ("leave shall be freely given when justice so requires."). These "Civil Rules" applies equally to "quasi-judicial administrative proceedings" like

Commission proceedings. R.C. 4123.512 (D). Accordingly, the Commission must deny Columbia Gas of Ohio, Inc.'s Motion to Strike Amended Complaint and Memorandum in opposition to Complainant's Motion to Add 10-day disconnection notice. A memorandum in opposition to Columbia Gas of Ohio, Inc.'s Motion to Strike Amended Complaint and Memorandum in Support of and in opposition to Complainant's Motion to Add 10-day disconnection notice is being submitted contemporaneously herewith.

Respectfully submitted,


Gregory T. Howard
381 S. Detroit Avenue
Toledo, Ohio 43607-0096
howardguy@yahoo.com


PROOF OF SERVICE

This is to certify that a regular copy of the foregoing of Gregory T. Howard was sent via ordinary U.S. Mail or via email, or facsimile this 26 day of January, 2018 to:

Columbia Gas of Ohio
A NiSource Company
290 W. Nationwide Blvd.
Columbus, Ohio 43215
cgmcdonald@nsource.com
Facsimile to: (614) 460-8403

Fax to: (614) 466-0313
PUCO Docketing Division
Fax to: (614) 752-8351

Eric B. Gallon, Esq.
Porter, Wright, Morris & Arthur LLP
Huntington Center
41 South High Street, Suite 3000
Columbus, Ohio 43215
Facsimile to: (614) 227-2100


Gregory T. Howard
Plaintiff-Claimant, pro-se