

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF  
THE EAST OHIO GAS COMPANY D/B/A  
DOMINION ENERGY OHIO,**

**COMPLAINANT,**

**v,**

**CASE NO. 18-290-GA-PWC**

**CITY OF MARIETTA, OHIO,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on June 6, 2018

{¶ 1} R.C. 4939.06(A) provides that, if a public utility does not accept a public way fee levied against it pursuant to the enactment of an ordinance by a municipal corporation, the public utility may appeal the public way fee to the Commission. The appeal shall be made by filing a complaint that the amount of a public way fee, any related classification of public way occupants or users, or the assignment or allocation of costs to the public way fee is unreasonable, unjust, unjustly discriminatory, or unlawful. The complaint must be filed not later than 30 days after the date the public utility first becomes subject to the ordinance.

{¶ 2} On March 30, 2018, The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO) filed a complaint pursuant to R.C. 4939.06, 4909.34, and 4905.26, stating that the city of Marietta, Ohio (City) passed Ordinance 316 (16-17) that enacted Chapter 910 (Ordinance). Chapter 910 is entitled “Comprehensive Right-of-Way Policy of the Codified Ordinances of the City of Marietta, Ohio.” DEO alleges that it uses the City’s public ways to provide natural gas service to customers within the City. In its complaint, DEO states that the Ordinance requires that every service provider that wishes to occupy the City’s public way must obtain the City’s consent; pay annual application, registration, amendment, or renewal fees; pay permit fees; and comply with various provisions, and

future regulations, governing the use and occupancy of the public way. DEO contends that the Ordinance is unreasonable and unlawful.

{¶ 3} On May 14, 2018, the City filed an answer to the complaint in which it concluded that DEO's claims lack merit.

{¶ 4} By Entry issued June 6, 2018, the Commission determined that DEO had provided reasonable grounds for complaint and suspended the public way ordinance as to DEO for the duration of the Commission's consideration of the complaint.

{¶ 5} R.C. 4939.06(A) requires that the Commission act to resolve the complaint by issuance of a final order within 120 days after the filing of the complaint. The parties are encouraged to work toward resolving this matter. To discuss procedural matters, a telephonic status/prehearing conference is scheduled for June 22, 2018, at 10:00 a.m. At that time, the parties to this proceeding should call the Commission at 866-209-2820 and enter conference code 7585920846. The purposes of the conference will include a discussion of discovery status, readiness for hearing, need for rebuttal testimony, and other matters as needed.

{¶ 6} The parties are reminded that, pursuant to Ohio Adm.Code 4901-1-17, discovery may begin immediately after a proceeding is commenced and should be completed as expeditiously as possible. The attorney examiner finds that the response time for discovery shall be shortened to ten calendar days. Unless otherwise agreed to by the parties, discovery requests and replies shall be served by hand delivery, facsimile transmission, or electronic message. An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming.

{¶ 7} It is, therefore,

{¶ 8} ORDERED, That a telephonic prehearing conference be held on June 22, 2018, at 10:00 a.m. It is, further,

{¶ 9} ORDERED, That the parties comply with the directives for discovery set forth in Paragraph 6. It is, further,

{¶ 10} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/L. Douglas Jennings

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By: L. Douglas Jennings  
Attorney Examiner

SJP/JRJ/sc

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**6/6/2018 4:27:20 PM**

**in**

**Case No(s). 18-0290-GA-PWC**

Summary: Attorney Examiner Entry scheduling telephonic prehearing conference in accordance with Paragraph 5 and directing parties to comply with the directive for discovery set forth in Paragraph 6 - electronically filed by Sandra Coffey on behalf of L. Douglas Jennings, Attorney Examiner, Public Utilities Commission of Ohio