

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

MARK SVINKIN,

Complainant,

v.

Case No. 08-639-GA-CSS

THE DOMINION EAST OHIO COMPANY d/b/a
DOMINION EAST OHIO,

Respondent.

PUCO

2008 JUL -1 AM 9:15

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COMPLAINANT RESPONSE TO THE DEO's ANSWER

ANSWER

Respondent The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO"), for its Answer to the Complaint and pursuant to Rule 4901-9-01(D), Ohio Administrative Code, generally denies any and all allegations that it provided inadequate or unreasonable service to Complainant or violated any statute, regulation, Commission order or tariff provision. In support thereof, DEO:
Response. This Answer is untrue and has no support.

FIRST DEFENSE

1. Avers that on March 3, 2008, Complainant scheduled a March 6, 2008 appointment with DEO personnel to have his meter inspected.

Response. Complainant asked to check his gas meter and notified a DEO representative that he would not be at home at the time of a meter inspection. The DEO representative agreed with that because DEO changes gas meters without giving any information about that to the owners of apartments.

2. Avers that on March 6, 2008, DEO personnel arrived at Complainant's address and found that Complainant was not home. DEO personnel read the meter but were unable to complete a full inspection because of Complainant's absence. This read confirmed that Complainant's Automatic Meter Reading device ("AMR") was working correctly.

Response. This is wrong and misleading statement. First, a DEO employee had to know in advance that Complainant would not be at home. Second, in principle, the DEO employee did not need the Complainant presence to remove the meter for inspection. DEO does not inform apartment owners about meter replacement. Third, the DEO employee made actual reading of the meter, but the DEO employee could not made any conclusion that meter was working correctly because for such conclusion it is necessary to remove the meter and test it at the special facility. Fourth, wording about "a full inspection" is misleading on purpose. The DEO employee had to remove the meter, but he did not do that. What is 'a full inspection' Respondent talking about? After Complainant filled a formal complaint, two DEO employees at different times were in the Complainant's building and both of them did not inspect the furnace (boiler) in spite of a

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Complainant request. Talking about 'a full inspection' is a mockery of common sense and Complainant.

3. *Avers that on March 12, 2008, Complainant called DEO and asked that DEO send personnel to his house to immediately read his meter. DEO offered to schedule an appointment but Complainant would not do so.*

Response. This statement is untrue. On March 12, 2008, Complainant called to the DEO Customer Service Center at the Executive Office (phone: 888-263-8989) regarding the unfair bill for gas usage. Complainant's request to check his meter was denied and he was told that it would be necessary to check his furnace. However, the person from the Executive Office denied Complainant's request for DEO service after 4 PM on weekdays or on Saturday. It is obvious discrimination because DEO actually provides service after 4 PM on weekdays and on Saturday. After that frustrated conversation with DEO Executive Office, Complainant called to PUCO at the same day.

4. *Avers that on April 3, 2008, Complainant called DEO and complained about the amount due on his bill. DEO further avers that Complainant insisted on an appointment to be scheduled after 4p.m.; upon being informed of hours then available for appointments, Complainant hung up.*

Response. This statement confirms that DEO deliberately discriminates its customers. Respondent forgot to mention that the Ohio Code was violated. A Complainant's request for DEO service after 4 PM on weekdays or on Saturday was again denied.

5. *Avers that in the first two weeks of June 2008, DEO tested Complainant's meter and found that the meter was 0.6% slow, that is, it was recording less gas than was actually being consumed. DEO further avers that this meter was therefore accurate R.C. 4933.09.*

Response. First, this statement confirmed that the following assertion from item 2, made on the basis of a visit of the DEO employee on March 6, 2008, is untrue and it was written to mislead PUCO and Complainant: "This read confirmed that Complainant's Automatic Meter Reading device ("AMR") was working correctly." Second, the DEO ANSWER has numerous untrue statements, distortions and turns upside-down certain facts. Therefore, there is no confidence to DEO meter testing, and without doubt the meter had to be tested by the third party determined with PUCO and Complainant participation. It is necessary to point out that DEO installed a new meter for Complainant's apartment. If the old meter is OK, why was the new meter installed?

6. *Avers that any bills issued by DEO relating to usage from December 21, 2007, to January 25, 2008 speak for themselves.*

Response. Complainant received only one bill for the mentioned above period of time. Estimate reading was done by DEO, but it was done correctly as it was described in the complaint to PUCO.

7. *Admits that Complainant paid \$157.71 on February 6, 2008. DEO further avers that no payments have been received on Complainant's account since this payment although Complainant continued to receive service.*

Response. As it was explained in the complaint sent to PUCO, DEO overcharged Complainant and did nothing to resolve the billing problem.

8. *Denies that Complainant "checked meter reading on February 3, 2008" and observed a reading of "36MCF" for lack of knowledge or information sufficient to form a belief as to the truth thereof.*

Response. Complainant was several times asked by DEO representatives over the phone to perform actual reading for the replacement of estimate reading of the gas meter in a DEO bill. It is a very simple procedure, and for meter reading, DEO sends people without engineering or technician education. Complainant has M.S. and Ph.D. in Civil Engineering and easily did meter reading. The above statement was written on purpose to humiliate Complainant.

9. *Avers that any bills issued by DEO relating to usage from January 25, 2008, to February 22, 2008 speak for themselves.*

Response. Complainant received only one bill from DEO for the mentioned above period of time, and this bill is the evidence that DEO overcharged Complainant.

10. Denies that \$240.66 "is too high payment for two bedroom apartment."

Response. There is an explanation in the complaint why \$240.66 is too high payment for a two bedroom apartment. It is understandable that DEO does not like this statement. Ms. Carmen Gabriel, DEO Inspector, called Complainant and asked him to identify apartments and houses which were used for comparison. Complainant could not do that to eliminate troubles for the owners of compared units. Complainant brought Ms. C. Gabriel's attention to the huge DEO database where all needed information can be found. Also, Complainant asked Ms. C. Gabriel to give him the permission to have an access to the DEO database. The request was denied. Obviously, the database of payments for DEO services are public records, and Complainant asks PUCO to give him the permission to have access to the DEO database.

11. Denies that Complainant "talked to person who also lives in two bedroom apartment in the next building and paid about \$120.00 for the same period of time" for lack of knowledge or information sufficient to form a belief as to the truth thereof.

Response. DEO simply denies Complainant's arguments and demonstrates a helpless unprofessional response. DEO knows that Complainant is right and the DEO database can confirm that. Please also read the response to item 10. After Complainant gets access to the DEO database, DEO will receive more than enough information in support of the complaint.

12. Denies the following allegations for lack of knowledge or information sufficient to form a belief as to the truth thereof: "The owner of two bedroom apartment in other next building moved to Florida and my neighbor paid for utility expenses of his apartment. This neighbor notified DEO about big gas usage in the apartment where nobody used gas. DEO replaced the meter."

Response. DEO simply denies Complainant's arguments and demonstrates a helpless unprofessional response. DEO knows that Complainant is right and the DEO database can confirm that. Please also read the response to item 10. After Complainant gets access to the DEO database, DEO will receive more than enough information in support of the complaint.

13. Denies that Complainant "asked DEO to check [his] meter and ... was promised that meter would be checked, but nothing was done by DEO" for lack of knowledge or information sufficient to form a belief as to the truth thereof. DEO avers that it attempted to read and inspect Complainant's meter on March 6, 2008, but the meter could only be read and could not be thoroughly checked because of Complainant's absence.

Response. This is one more false statement. Please read Responses to items 1, 2 and 5.

14. Admits that "[a] DEO employee made [an] actual reading of [Complainant's] meter on March 6, 2008.

Response. It is partial repetition of a statement from item 2.

15. Denies that "that employee did not check the meter" for lack of knowledge or information sufficient to form a belief as to as to the truth thereof. DEO avers that it attempted to read and inspect Complainant's meter on march 6, 2008, but the meter could only be read and could not be thoroughly checked because of Complainant's absence.

Response. It is a repetition of the untrue and deliberately misleading statement. Please read Responses to items 1, 2 and 5.

16. Denies that Complainant "called to DEO" and "was told that the meter was not checked because [Complainant] was not at home" for lack of knowledge or information sufficient to form a belief as to the truth thereof. DEO avers that Complainant called DEO on April 3, 2008, and was informed that his meter was read on March 6, 2008, but could not be thoroughly checked at that time because of Complainant's absence.

Response. DEO denies obvious facts and repeats wrong statements. In addition to Responses to items 2 and 5, it is necessary to underline that when Complainant called to DEO Executive Office (phone: 888-263-8989) on March 12, 2008, the Complainant's request to check his meter

was denied and he was told that it would be necessary to check his furnace. Also, the Complainant's request for DEO service after 4 PM on weekdays or on Saturday was denied. On April 3, 2008, Complainant again called to DEO with the same request and received one more refusal. The following Respondent's statement is untrue: "*Complainant...was informed that his meter was read on March 6, 2008, but could not be thoroughly checked at that time because of Complainant's absence.*" The DEO representative did not tell that. Also, please read Response to items 1, 2 and 5.

17. Denies that Complainant "immediately called to the DEO Executive Office (phone: 888-263-8989) regarding unfair bill for gas usage" for lack of knowledge or information sufficient to form a belief as to the truth thereof. DEO avers that Complainant has called DEO numerous times to complain about his bill.

Response. This is a false statement and distortion of certain facts. Complainant called to the DEO Executive Office on March 12, 2008, and received the outrageous treatment (Response to item 16). After that, Complainant filed an informal complaint with PUCO. A second call to the same office was made on April 3, 2008 (Response to Item 16).

18. Denies that Complainant's "request to check [Complainant's] meter was denied and [Complainant] was told that it would be necessary to check [Complainant's] furnace" for lack of knowledge or information sufficient to form a belief as to the truth thereof.

Response. There is no basis for this untrue statement made on purpose.

19. Denies "the maintenance crew of [Complainant's] Condominium provides multiple checks of furnaces (motor oil, gas line check, temperature pressure gage [sic], etc.) before a winter season" for lack of knowledge or information sufficient to form a belief as to the truth thereof.

Response. This statement does not make sense.

20. Denies that "that DEO does not provide service after 4 PM."

Response. This is a false answer. Complainant received DEO service after 4 PM on weekday and on Saturday only after filing a complaint against DEO.

21. Denies that Complainant's "request for DEO service on Saturday was denied" for lack of knowledge or information sufficient to form a belief as to the truth thereof. DEO avers that Complainant on more than one occasion would not schedule appointments if his first request was not available.

Response. Logic and consistency are completely missing in this untrue statement made on purpose.

22. Denies that "[c]able and phone companies make appointments after 4 PM" for lack of knowledge or information sufficient to form a belief as to the truth thereof.

Response. This statement does not make sense.

23. Denies the following allegations for lack of knowledge or information sufficient to form a belief as to the truth thereof: "The meter was replaced with new one for apartment 204 in our building in April 2008. The owner of apartment 204 was not there. I asked a DEO employee, who did that replacement, about verification and possible replacement of the meter for apartment 205. The DEO employee answered that he did not receive such an order.

Response. There is no basis for this statement which does not make sense.

24. Denies all allegations related to or describing the actions or omissions of the Commission, its Call Center, any of its representative or employees, or any Commissioner for lack of knowledge or information sufficient to form a belief as to the truth thereof.

Response. There is no proof of this statement.

25. Admits that Complainant has filed a number of informal complaints against DEO, and denies the dates on which these complaints were allegedly filed for lack of knowledge or information sufficient to form a belief as to the truth thereof.

Response. Complainant two times filed informal complaints against the gas company. It is necessary to say that East Ohio Gas substantially better resolved problems than Dominion East Ohio. Nevertheless, each complaint is a separate problem.

26. Denies that Complainant "received no response from...DEO" for lack of knowledge or information sufficient to form a belief as to the truth thereof. DEO avers that it has responded to Complainant's calls and requests for meter readings and inspections on numerous occasions.

Response. This is false and misleading statement. Only on June 7, DEO employee removed the meter for testing.

27. Denies that "a representative of the Executive Office denied [Complainant's] request to set a time for DEO service on Saturday" for lack of knowledge or information sufficient to form a belief as to the truth thereof. DEO avers that Complainant on more than one occasion would not schedule appointment if his first request was not available.

Response. This false and misleading statement is a mockery of common sense and Complainant.

28. Avers that, with respect to Complainant's request that "DEO investigate[] [Complainant's] meter," DEO has tested Complainant's meter and determined it to be accurate under R.C. 4933.09.

Response. This statement is incorrect. First, there is no confidence to the DEO testing of the Complainant's meter (Response to item 2 and 5). Second, Complainant asked DEO to check furnace (boiler) as well. It was not done. The professional skill of DEO employees involved into a solution of the complaint problems was insufficient to do such inspection.

29. Denies that "it is DEO's responsibility" to "investigate[] Complainant's... furnace and explains the causes(s) of high gas expenditure by [his] furnace."

Response. This statement underlines poor services provided by DEO to customers. Obviously, DEO is interested only in customer money. Complainant believes it is not acceptable for public services.

30. Denies that "it is DEO's responsibility" to "determine[] what should be repaired or replaced and what company is responsible form that."

Response. This statement underlines poor services provided by DEO to customers. Obviously, DEO is interested only in customer money. Complainant believes it is not acceptable for public services.

31. Denies that Complainant is entitled "to two times decrease [Complainant's] DEO payment for dispute period of time."

Response. There is no basis for this statement.

32. Admit that "it is [Complainant's] duty to pay for DEO services" that are provided to Complainant.

Response. The following is a citation from the complaint: "I have to say that it is my duty to pay for DEO services, and I paid my bills in time. However, it is my right to pay a fair price for DEO services."

33. Denies that DEO "[f]ailed to follow its rules and regulations on file with the Commission."

Response. There are numerous contradictory and inconsistent statements in the ANSWER. Therefore, the statement in item 33 is denied for lack of knowledge or information sufficient to form a belief as to the truth thereof.

34. Denies that DEO "strongly overcharged [Complainant] for gas usage" or that "DEO charges are unjust and unreasonable".

Response. There is no basis for this statement.

35. Denies that "[t]he public utility has provided inadequate service."

Response. This statement has no support. The ANSWER has underlined that DEO demonstrates no responsibility for equipment, gas leak and services but wants to receive customer money.

36. Denies that "[t]he gas meters were replaced in our and next buildings, but [Complainant's] request to check [Complainant's] meter was denied without any explanation" for lack of knowledge or information sufficient to form a belief as to the truth thereof.

Response. This is one more senseless and helpless attempt to justify DEO actions against Complainant.

37. Denies generally any allegation not specifically admitted or denied in this Answer, pursuant to Section 4901-9-01(D), Ohio Administrative Code.

Response. This statement is false for lack of knowledge or information sufficient to form a belief as to the truth thereof.

SECOND DEFENSE

38. The Complainant fails to state a claim for which relief can be granted.

Response. This is a repetition of previous numerous false statements.

THIRD DEFENSE

39. The Complainant fails to Set forth reasonable grounds fore complaint.

Response. This statement is false for lack of knowledge or information sufficient to form a belief as to the truth thereof.

FOURTH DEFENSE

40. Section 4901-9-01(B), Ohio Administrative Code, requires complaints to contain "a statement which clearly explains the facts which constitute the basis of the complaint." The Complainant does not "clearly explain[] the facts" but sets forth a mixture of factual allegations, legal conclusions, and rhetorical questions. **Response. It is untrue. This false statement was made on purpose. The facts were clearly explained. The additional facts are presented below. The compound nature of many of the statements in the Complaint makes exceedingly difficult the task of discerning (and thus answering) the factual allegations contained therein. Response. Many facts were distorted and turned upside-down in the ANSWER. Therefore, Respondent had problems for answering. To comply with its obligations under the Commission's rules of procedure, DEO has answered the Complain to the best of its ability, but reserves the right to amend its Answer if DEO is prejudiced in any way by the Complainant's failure to clearly explain his allegations. Response. It would be good if Respondent will demonstrate fare and objective amendment without prejudice.**

FIFTH DEFENSE

41. DEO at all times complied with Title 49, Ohio Revised Code; the rules, regulations, and orders of the Commission; and DEO's tariffs. These statutes, rules, regulations, and tariff provisions bar Complainant's claims.

Response. This statement strongly contradicts to the DEO ANSWER which has numerous untrue statements, distortions and turned upside-down facts.

42. DEO reserves the right to raise additional defenses as warranted by discovery in this matter.

WHEREFORE, DEO respectfully requests an Order dismissing the Complaint and granting DEO all other necessary and proper relief.

Response. There is no basis for these statements.

AMENDMENT TO THE COMPLAINT

1. On May 30, 2008 about 7 AM, Complainant received a call from Ms. Carmen Gabriel, DEO Inspector, phone: 216-736-6215. Ms. C. Gabriel has started a talk with two strange assertions that Complainant has only one complaint to DEO regarding a time for DEO services and DEO does not provide services on Sunday! These are for sure provocative assertions because Ms. C. Gabriel, as she stated, received and read the complaint where there is a list of complaints to DEO and Complainant had never asked DEO services on Sunday. Then Ms. C. Gabriel eventually set a time for a DEO employee visit to Complainant building on Saturday, June 7, 2008 between 8 AM and noon, and Ms. C. Gabriel said that she was going to call to Complainant on Monday, June 9, 2008 after 5:30 PM.

2. On Wednesday, June 4, 2008 about 7:20 PM, Complainant received a call from the DEO automatic service that a DEO employee would arrive in 15 minutes. It was very strange because no appointment was assigned for such a visit. The DEO employee arrived and tested a pipeline between the meter and the furnace with the pressure of 10 oz during 10 minutes. More that 5 oz were lost. **It means that a gas pipeline has leak. Gas leak increases gas expenditure and also creates dangerous and explosive conditions in the building.** This situation was not even mentioned in the ANSWER. Complainant gas service was shut off because of gas line leak. Repair was necessary to locate and eliminate all leaks.

3. On Saturday, June 7, 2008 another DEO employee visited the Complainant's building and removed the Complainant's meter for testing.

4. On Monday, June 9, 2008 a Condominium maintenance worker made the necessary repair of Complainant's gas equipment to eliminate gas leak. The DEO employee tested a gas pipeline, determined no gas leak, and installed a **new meter**. Ms. C. Gabriel did not call to Complainant after 5:30 PM.

5. In a couple of days after the meter was removed, Complainant received a message from Ms. S. Johnson, the DEO Legal Department, phone: 216-736-6241. Complainant returned the call, but Ms. S. Johnson has never called again.

6. About a week later, Ms. C. Gabriel called to Complainant and informed him that the old meter was OK, and she did not discussed furnace inspection. Then Ms. C. Gabriel asked the names and the addresses used for a comparison in the complaint. Complainant could not make troubles for those people and suggested using the DEO database for Ms. C. Gabriel. Also, Complainant asked to receive access to the DEO database because those data are public records. Access was denied. Complainant asks PUCO to give him the permission to have access to the DEO database.

7. On June 20, 2008, Complainant received the ANSWER written by Mark A. Whitt, JONES DAY Company.

8. In spite of a formal complaint was filed by Complainant against DEO, DEO forwarded Complainant's account to a collection agency, the CBE Group, Inc., 131 Tower Park Dr., Suit 100, Waterloo, IA 50701, phone: 888-887-5430. This DEO step means that DEO demonstrates no respect to rules and regulations established by Ohio State and PUCO.

SUMMARY

1. Complainant was several times discriminated by DEO personnel when Complainant's request was denied to set a time for visit of DEO representative(s) to check Complainant's gas equipment after 4 PM on weekdays or on Saturday. It is necessary to underline that discrimination is completely unacceptable for any company and specifically for DEO which provides public services. Complainant received DEO service after 4 PM on weekday and on Saturday only after filing a formal complaint against DEO. Also, Respondent deliberately humiliated Complainant.

2. Complainant asked DEO to perform technical expertise to find the causes of high gas expenditure in Complainant's two bedroom apartment. There are three parts of gas equipment for Complainant's apartment: a meter, a furnace (boiler) and a pipeline between them. Gas leak was found in the pipeline between the meter and the furnace. This is the first source of high gas expenditure. The second source of high gas expenditure could be the meter. There is no confidence to DEO meter testing. The "good" meter was replaced with a new one. The third source of high gas expenditure is the furnace. In spite of that the employee of the Executive Office expressed an opinion about the necessity to check the furnace, it was not done. DEO failed to provide complete professional investigation of high gas expenditure by Complainant's gas equipment. Probably DEO does not have the professionals who can do that. DEO employees, who arrived to inspect Complainant's gas equipment, have no engineering or technician education. They attended some lectures and received the permission from DEO to do something. At the best of Complainant's knowledge, such DEO services discredit the profession. DEO demonstrates poor services to customers. Obviously, it is not acceptable for the utility company which provides public services.

3. Complainant also asked DEO to check the overcharged bill for gas usage. DEO did nothing to investigate and resolve this problem. However, DEO decided to increase a pressure on Complainant, and in spite of a formal complaint filed by Complainant against DEO, DEO forwarded Complainant's account to a collection agency. This action demonstrates DEO's disrespect to the Public Utility Commission of Ohio and Complainant. DEO hired a lawyer company to deny any complaint claims. It seems that a payment for the attorney work is even higher than the Complainant's bill. DEO demonstrates that this company is not responsible for gas equipment and has only interest to receive money from Complainant though the bill is wrong. It is doubtful that such a policy is acceptable for the utility company which provides public service.

4. Ms. C. Gabriel asked the names and the addresses used for a comparison in the complaint. Complainant could not make troubles for those people and suggested using the DEO database for Ms. C. Gabriel. Also, Complainant asked to receive access to the DEO database because those data are public records. Access was denied. Complainant asks PUCO to give him the permission to have access to the DEO database.

5. It is understandable that the DEO's and Complainant's opinions could be different. Nevertheless, Complainant expected a professional response from Respondent. Unfortunately, the ANSWER contains numerous inconsistent and false statements, denies obvious facts, and repeatedly uses the same formal wording. The whole Respondent ANSWER could be presented in one paragraph: *Denies all Complainant's claims for lack of knowledge or information sufficient to form a belief as to the truth thereof.* The ANSWER demonstrates that there are no rules and regulations for DEO, and the ANSWER could not refute the Complainant's claims and arguments.

6. Complainant has asked to place his RESPONSE on the PUCO website. People in Ohio have the right to know how DEO serves customers. In addition, Complainant will submit articles about DEO services to Columbus DISPATCH and Cleveland PLAIN DEALER newspapers.

Respectfully submitted,

Mark Svinkin, Ph.D.