

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Vashon)	
McIntyre,)	
)	
Complainant,)	
)	
v.)	Case No. 08-40-GA-CSS
)	
The East Ohio Gas Company d/b/a)	
Dominion East Ohio,)	
)	
Respondent.)	

In the Matter of the Complaint of Vashon)	
McIntyre,)	
)	
Complainant,)	
)	
v.)	Case No. 08-64-EL-CSS
)	
The Cleveland Electric Illuminating)	
Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On January 15, 2008, Vashon McIntyre (complainant) filed a complaint in Case No. 08-40-GA-CSS (08-40) alleging that The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) billed complainant for gas service at complainant's property after the property had been foreclosed on, sold, and eventually torn down.
- (2) On the same day, complainant also filed a complaint in Case No. 08-64-EL-CSS (08-64) raising similar allegations against The Cleveland Electric Illuminating Company (CEI) with regards to electric service at the same property.

- (3) On February 4, 2008, DEO filed its answer to the complaint in 08-40. CEI filed its answer in 08-64 on the same day. In their answers, DEO and CEI deny the material allegations of the complaints, while also asserting that the complaints are defective because neither includes a statement of the facts constituting the basis of the complaint, nor a statement of the relief sought. In addition, both DEO and CEI state that their actions in this matter complied with all relevant statutes, rules, regulations, as well as the provisions of their respective tariffs.
- (4) DEO and CEI also filed a joint motion to dismiss on February 4, 2008. In the motion to dismiss, DEO and CEI argue that the complainant fails to state reasonable grounds for complaint, because the complainant fails to allege facts capable of supporting a finding of inadequate service and does not set forth any "sensible" allegation of any violation of a statute, rule, or Commission order. The motion to dismiss also repeats the claim raised by both DEO and CEI in their answers that the complaints are procedurally defective because they do not specify the relief sought by the complainant. Alternatively, the motion to dismiss seeks that the complainant be ordered to amend the complaints.
- (5) DEO and CEI also note in the motion to dismiss that they would not object to consolidation of the two complaint cases. Given that the two complaints involve consideration of similar issues, the attorney examiner finds that 08-40 and 08-64 should be consolidated.
- (6) The attorney examiner finds that this matter should be set for a settlement conference. The purpose of the settlement 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, Ohio Administrative Code (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 to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement discussion. However, nothing prohibits any party from initiating settlement negotiations prior to the scheduled settlement conference.

- (7) Accordingly, a settlement conference shall be scheduled for January 12, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th Floor, Hearing Room 1246, Columbus, Ohio 43215-3793. The parties should bring all relevant documents to the conference. If it becomes apparent that the parties are not likely to settle this matter, the parties should be prepared to establish a procedural schedule to facilitate the timely and efficient processing of this complaint.
- (8) As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Utilities Comm.* (1966), 5 Ohio St.2d 189.


It is, therefore,

ORDERED, That 08-40 and 08-64 be consolidated. It is, further,

ORDERED, That these matters be scheduled for a settlement conference on January 12, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th Floor, Hearing Room 1246, Columbus, Ohio 43215-3793. It is, further,

ORDERED, That a copy of this entry be served upon the complainant by certified mail, and by regular U.S. mail upon all other parties of record.

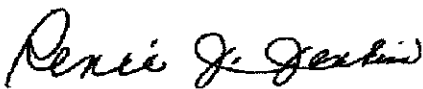
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Henry H. Phillips-Gary
Attorney Examiner

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Entered in the Journal

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Renee J. Jenkins
Secretary