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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

Jon A. Olivito

Complainant,

v.

Columbia Gas of Ohio, Inc.

Respondent.

Case No. 09-1841-GA-CSS

**MOTION TO DISMISS BY
COLUMBIA GAS OF OHIO, INC.**

Now comes the Respondent, Columbia Gas of Ohio, Inc. ("Columbia"), and files its Motion to Dismiss the Complaint filed on November 20, 2009. For the reasons more fully discussed in the attached memorandum in support, Columbia submits that the Complainant has failed to state reasonable grounds for a complaints as required by Ohio Revised Code § 4905.26. Therefore, Columbia respectfully requests that the Public Utilities Commission of Ohio ("Commission") dismiss the Complaint herein.

Respectfully submitted by,

COLUMBIA GAS OF OHIO, INC.



Brooke E. Leslie, Trial Attorney

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Date Processed 12/10/09

Stephen B. Seiple, Assistant General Counsel
Brooke E. Leslie, Counsel
200 Civic Center Drive
Columbus, OH 43216-0117
Telephone: (614) 460-5558
Fax: (614) 460-6986
Email: bleslie@nisource.com

MEMORANDUM IN SUPPORT

Complainant filed the instant action with the Commission on November 20, 2009. In four pages of incoherent rambling and anti-Semitic rhetoric, Complainant alleges that Columbia is part of a "network of creepy, sneaky, deceitful, criminal fraternities like the Shriners and Freemasons who opperate [*sic*] billing fraud in every business in every city in the United States of America." While Complainant makes sundry wild accusations against Columbia, he fails to state reasonable grounds for a complaint; therefore, the instant Complaint should be dismissed.

Reasonable grounds for a complaint must exist before the Commission, upon the complaint of another party, can order a hearing, pursuant to O.R.C. § 4905.26. In the case of *In re Beres v. Ameritech Ohio*, the Commission stated that "[f]or a Complaint to state reasonable grounds under O.R.C. § 4905.26, it must allege facts that would lead to a finding that the public utility has engaged or will engage in unjust, unreasonable, or unlawful behavior." 2000 Ohio PUC LEXIS 367, *2-3 (Ohio PUC 2000), Case No. 00-509-TP-CSS (Entry, April 20, 2000).

The Complaint is full of outrageous, baseless allegations of conspiratorial plots. These do not constitute reasonable grounds for complaint. They are, on their face, unreasonable. The only allegation that comes close to being in the purview of the Commission is Complainant's allegation that he was charged \$500 a month during the summer when his gas was shut off. Complainant continues, however, to shift the blame for this billing to the "ShrinerFreemason [*sic*] criminal organisaion [*sic*]." However, even this allegation contains no specific assertion of unreasonable action by Columbia. Complainant alleges noth-

ing further in support of this assertion, thus has not alleged *facts* that would lead to a finding that Columbia has engaged in unjust, unreasonable, or unlawful behavior.

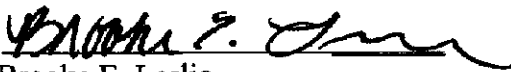
Further, this particular allegation mirrors an allegation made by Complainant in a Commission complaint that he filed against Columbia in 2002. Complainant voluntarily abandoned that claim in letter to the Commission stating “[t]he way you slimeball bastards worked me over you must be brethren in a Freemasonic lodge.” *Jon A. Olivito v. Columbia Gas of Ohio*, Case No. 02-2681-GA-CSS (Letter, December 30, 2002). The Commission subsequently dismissed the case. Complainant should not be afforded another opportunity to pursue a claim he voluntarily abandoned, notwithstanding the fact that he has failed to allege any facts to support his claim.

Complainant also alleges that Columbia owes him \$3,000 for damages to his lawn, legal expenses and postage and “tens of thousands” of dollars for dental care. These claims – which lack any coherent explanation in the Complaint – most closely resemble common law tort claims. A common law tort action that relates neither to service nor rates is outside the jurisdiction of the Commission. See *In the Matter of the Complaint of Anne Eisher v. Columbia Gas of Ohio*, 2001 Ohio PUC LEXIS 841 (Ohio PUC 2001), Case No. 01-885-GA-CSS, (Entry, November 20, 2001). Here, Complainant fails to allege that any of the damages he suffered relate in any manner to the service or rates of Columbia. Therefore, the Commission lacks jurisdiction over these claims. Further, the Commission does not have the authority to award monetary damages. *In the Matter of the Complaint of Kersting Enterprises, Inc., d.b.a. Charley’s Oyster Bar & Grille v. The Cincinnati Gas & Electric Company*, 1993 Ohio PUC LEXIS 1006 (Ohio PUC 1993), Case No. 93-1170-EL-CSS (Entry, November 17, 1993).

Complainant has failed to state any *reasonable* grounds for a complaint against Columbia pursuant to O.R.C. § 4905.26. Complainant merely speculates that that some allegedly conspiratorial connection exists between Columbia, the Freemasons and Shriners who Complainant alleges have conspired to ruin his life. The Commission is not an appropriate forum for Complainant to air his wild conspiracy theories nor is it an appropriate forum for Complainant to espouse anti-Semitic rhetoric. Complainant has not alleged anything that would be properly before this Commission

For the foregoing reasons, Columbia respectfully requests that the Commission dismiss the instant Complaint with prejudice.

COLUMBIA GAS OF OHIO, INC.

By: 
Brooke E. Leslie
Trial Attorney

Stephen B. Seiple, Assistant General Counsel
Brooke E. Leslie, Counsel
200 Civic Center Drive
Columbus, OH 43216-0117
Telephone: (614) 460-5558
Fax: (614) 460-6986
Email: bleslie@nisource.com

Attorneys for Applicant
COLUMBIA GAS OF OHIO, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of December, 2009, a true and accurate copy of the foregoing *Motion to Dismiss of Columbia Gas of Ohio, Inc.* was served by ordinary U.S. mail, postage prepaid, upon Mr. Jon Olivito at the address below:

Mr. Jon Olivito
501 Buena Vista Blvd.
Steubenville, OH 43952


Brooke E. Leslie
Attorney for Respondent