

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of APT)	
Management, Inc.,)	
)	
Complainant,)	
)	
v.)	Case No. 10-667-GA-CSS
)	
Northeast Ohio Public Energy Council,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On May 17, 2010, APT Management, Inc. (complainant) filed a complaint against the Northeast Ohio Public Energy Council (NOPEC) stating that, in November 2009, NOPEC began servicing 462 of complainant's accounts that were previously serviced by Columbia Gas of Ohio. Complainant states that, due to price differences, this resulted in a significant increase in gas costs. According to complainant, it was unsuccessful in attempting to opt out of NOPEC's program until May 2010, despite contacting NOPEC in February 2010. Complainant requests a refund of what it believes to be overcharges.
- (2) On June 7, 2010, NOPEC filed its answer to the complaint. In its answer, NOPEC asserts that it operates a lawful opt-out natural gas aggregation program for the city of Elyria. NOPEC further states that opt-out notices were mailed in July 2009, and, if responses were not received within 21 days, customers were automatically enrolled in NOPEC's aggregation program. NOPEC asserts that complainant has failed to set forth reasonable grounds for its complaint, that NOPEC has complied with all applicable statutes and regulations, and that the Commission lacks jurisdiction to provide the requested relief. Accordingly, NOPEC requests that the complaint be dismissed.
- (3) At this time, the attorney examiner finds that this matter should be scheduled 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 process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.

- (4) Accordingly, a settlement conference shall be scheduled for July 20, 2010, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Room 1246, Columbus, Ohio 43215-3793. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.
- (5) Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of NOPEC shall investigate the issues raised in the complaint prior to the settlement conference and all parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.
- (6) As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.* (1996), 5 Ohio St.2d 189.

It is, therefore,

ORDERED, That a settlement conference be scheduled for July 20, 2010, at 10:00 a.m., at the offices of the Commission. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Katie L. Stenman
By: Katie L. Stenman
Attorney Examiner

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/dah

Entered in the Journal

JUN 14 2010

Renee J. Jenkins

Renee J. Jenkins
Secretary