

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of
Judy Alexander,

Complainant,

v.

The East Ohio Gas Company d/b/a
Dominion East Ohio,

Respondent.

Case No. 11-5601-GA-CSS

ENTRY

The attorney examiner finds:

- (1) On November 2, 2011, Judy Alexander (complainant) filed a complaint against The East Ohio Gas Company d/b/a Dominion East Ohio (DEO), alleging that the amounts of complainant's bills for February, March, and April 2011, are incorrect for properties located at 8207 and 8209 Beman Avenue, Cleveland, Ohio (downstairs unit and upstairs unit, respectively). Complainant asserts that she called DEO to have gas service to both the downstairs unit and the upstairs unit placed in her name in November 2010. Complainant further avers that there is no heat in the upstairs unit, which is still in the process of being completed, and, accordingly, complainant disputes the billed amounts.
- (2) On November 23, 2011, DEO filed an answer to the complaint. In its answer, DEO admits that complainant is a customer of record for both the downstairs unit and the upstairs unit. DEO also admits that complainant called DEO to establish gas service at the downstairs unit in November 2010 and that DEO is not currently providing service to the upstairs unit. DEO states that it generally denies any allegation not specifically admitted in its answer. DEO asserts that complainant has failed to state reasonable grounds for complaint. DEO further asserts that it has complied with all applicable rules, regulations, and tariffs. Additionally, DEO argues that it has properly billed complainant for all service at the downstairs unit and the upstairs unit, and disconnected service at

complainant's request on May 5, 2011. DEO concludes that the complaint should be dismissed.

- (3) By entry issued on February 28, 2012, this matter was set for hearing on April 24, 2012.
- (4) On April 3, 2012, DEO filed a motion to compel and request for expedited ruling. DEO requests that complainant be compelled, pursuant to Rule 4901-1-23(A)(2) and (D), Ohio Administrative Code (O.A.C.), to permit DEO to enter upon land or other property for the purpose of inspecting, measuring, and testing the gas meters at both the downstairs unit and the upstairs unit.

In support of its motion, DEO argues that a meter test would indicate whether there is any merit to complainant's contention that she was charged for more gas than she actually used. DEO asserts that complainant has refused to grant DEO access to the meters, despite DEO's right to access, inspect, and test its gas meters pursuant to Section 4933.10, Revised Code, and Rule 4901:1-13-04, O.A.C., as well as DEO's tariffs. According to DEO, complainant has explained that her brother owns the property, does not want the meters tested until after the hearing in this case, and has taken the keys to the property to prevent anyone, including complainant, from gaining access to the basement where the meters are located. DEO adds that complainant has refused to provide DEO or its counsel with any contact information for complainant's brother. In an affidavit attached to DEO's motion to compel, DEO's counsel attests to DEO's attempts to work with complainant to access the meters and complainant's refusal to permit access.

In light of the fact that the hearing is scheduled for April 24, 2012, DEO requests an expedited ruling on its motion to compel. DEO's counsel attests that attempts were made to inform complainant that DEO intended to file the motion to compel and request for expedited ruling.

- (5) Complainant did not file a memorandum contra DEO's motion to compel and request for expedited ruling, as permitted pursuant to Rule 4901-1-12(C), O.A.C.
- (6) On April 13, 2012, DEO filed a motion to continue the hearing to May 8, 2012. In support of its motion, DEO states that its counsel is scheduled for a hearing in another matter on

April 24, 2012, and that complainant does not object to the requested continuance.

- (7) Upon review of DEO's motion to compel and request for expedited ruling, the attorney examiner finds that the motion is reasonable and should be granted. Pursuant to Rule 4901-1-23(A)(2), O.A.C., any party, upon reasonable notice to all other parties and any persons affected thereby, may move for an order compelling discovery, with respect to any failure of a party to permit entry upon land or other property as requested under Rule 4901-1-20, O.A.C. Rule 4901-1-20(A)(3), O.A.C., specifically provides that any party may serve upon any other party a written request to permit entry upon designated land or other property for the purpose of inspecting, measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon. Additionally, as DEO notes, there is no question that DEO may inspect and test its gas meters pursuant to Section 4933.10, Revised Code, and Rule 4901:1-13-04(C), O.A.C., as well as DEO's tariffs.

The attorney examiner also finds that DEO's request to permit entry upon designated land or other property, specifically for the purpose of accessing and testing the gas meters in question, may lead to information that is relevant to the issues raised by the complaint. Accordingly, complainant is directed to allow DEO access to its meters for the downstairs unit and the upstairs unit, within seven days from the date of this entry, or April 23, 2012, for the purpose of inspecting, measuring, and testing such meters.

If complainant fails to comply with this order compelling discovery, DEO may seek relief from a county or municipal court as provided for under Section 4933.10, Revised Code, and/or the Commission may take action under Rule 4901-1-23(F)(4), O.A.C., which ultimately may result in dismissal of this proceeding.

- (8) Further, the attorney examiner finds that DEO's motion for continuance is reasonable and should be granted. Accordingly, the hearing should be continued to May 8, 2012, at 10:30 a.m., in Hearing Room 11-C, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793.

It is, therefore,

ORDERED, That DEO's motion to compel be granted and that complainant permit DEO access to its gas meters within seven days from the date of this entry, or April 23, 2012, as set forth in finding (7). It is, further,

ORDERED, That DEO's motion for continuance be granted, as set forth in finding (8). It is, further,


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

THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Sarah J. Parrot
Attorney Examiner

JRG/sc

Entered in the Journal
APR 16 2012


Barcy F. McNeal
Secretary