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October 10, 2013

Donald M. McGovern  
3833 Retreat Dr.  
Medina, Ohio 44256

Re: *In re the Complaint of Donald M. McGovern*, Case No. 13-1981-GA-CSS

Dear Mr. McGovern:

Enclosed is your service copy of the Answer that was filed in this complaint today.

Respectfully yours,

/s/ Gregory L. Williams

One of the attorneys for  
The East Ohio Gas Company d/b/a  
Dominion East Ohio

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

DONALD M. McGOVERN,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 13-1981-GA-CSS
	)	
THE EAST OHIO GAS COMPANY D/B/A	)	
DOMINION EAST OHIO,	)	
	)	
Respondent.		

**ANSWER**

In accordance with Ohio Adm. Code 4901-9-01(D), the Respondent, The East Ohio Gas Company d/b/a Dominion East Ohio ("DEO" or "the Company"), for its answer to the complaint of Donald M. McGovern states:

**FIRST DEFENSE**

1. DEO is without sufficient knowledge or information to either admit or deny whether the property at 2917 Barber Ave., Cleveland, Ohio 44113 ("the Premises") is a "multi tenant industrial building." DEO avers that the Premises is a commercial premises with four units numbered 1 through 4.

2. DEO avers that there have been three accounts related to natural gas utility service consumed at units 2 and 4 at the Premises during the following periods:

- Account No. 4503<sup>1</sup> for unit 2 (Meter No. 14602406) from October 27, 1999, through April 27, 2011;
- Account No. 0961 for unit 2 (Meter No. 14602406) from May 3, 2012, through May 3, 2013; and
- Account No. 1396 for unit 4 (Meter No. 13029793) from May 3, 2012, through May 3, 2013.

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<sup>1</sup> For ease of reference, only the last four numbers of the respective accounts are provided; the actual accounts numbers are longer.

**DEO's responses to the Complainant's allegations regarding Account No. 4503.**

3. DEO admits that Mr. McGovern was the customer of record for service consumed at unit 2 of the Premises from October 27, 1999, to April 27, 2011.

4. DEO admits that the meter was read and that service was disconnected at the curb for unit 2 on April 27, 2011, but denies that the meter was "locked" on that date. DEO avers that service at unit 2 was disconnected for nonpayment and that it made several attempts to seal the meter at unit 2 but was unable to gain access to do so until October 21, 2011. DEO further avers that on October 21, 2011, the meter at unit 2 was sealed and a final meter reading of 188.8 was taken.

5. DEO admits that "[t]he final bill was paid in full June 21, 2011." DEO avers that the due date for the final bill was May 25, 2011.

**DEO's responses to the Complainant's allegations regarding Account No. 0961.**

6. DEO denies that Mr. McGovern is the customer of record for Account No. 0961, which is related to service consumed at unit 2 of the Premises. DEO avers that the customer of record is Spang J Baking Co.

7. DEO avers the following facts with respect to this account: The meter at unit 2 of the Premises had been sealed on October 21, 2011. On May 3, 2013, the Company conducted an equipment inspection required by the Ohio Department of Transportation at the Premises. During the inspection, DEO detected unauthorized usage on the meter at unit 2; DEO found the meter unsealed and on, and the curb box on. The meter registered a reading of 354.2. DEO determined that the property was owned by Spang J Baking Co., a company associated with Mr. McGovern. Consequently, on May 6, 2013, DEO sent Spang J Baking Co. c/o Donald McGovern a bill for \$1,009.32, which represented unauthorized usage from May 3, 2012,

through May 3, 2013. The billed amount included a \$112 investigative fee and applicable taxes. DEO has since waived the investigative fee and taxes and that the balance due for the unauthorized usage is \$892.16.

**DEO's responses to the Complainant's allegations regarding Account No. 1396.**

8. DEO denies that Mr. McGovern is the customer of record for Account No. 1396, which is related to service consumed at unit 4 of the Premises. DEO avers that the customer of record is Spang J Baking Co.

9. DEO avers the following facts with respect to this account: On December 13, 2002, DEO generated a service order to verify the status of the meter at unit 4, which had been inactive since October 1998. On December 13, 2002, DEO inspected the Premises, found that the meter for unit 4 was off and locked, and read the meter, which registered a reading of 94.8. Several years later, on May 3, 2013, the Company conducted an equipment inspection required by the Ohio Department of Transportation. During the inspection, DEO detected usage on the meter at unit 4; DEO found the meter unlocked and on, and the curb box on. The meter at unit 4 registered a reading of 195.0. DEO determined that the property was owned by Spang J Baking Co., a company associated with Mr. McGovern. Consequently, on May 6, 2013, DEO sent Spang J Baking Co. c/o Donald McGovern a bill for \$788.81, which represented unauthorized usage from May 3, 2012, through May 3, 2013. The billed amount included a \$112 investigative fee and applicable taxes. DEO has since waived the investigative fee and taxes, and that the balance due for the unauthorized usage is \$671.65.

**DEO's responses to the Complainant's general allegations.**

10. DEO admits that it removed the meters for both units 2 and 4 of the Premises on May 3, 2013, after unauthorized usage was detected. DEO denies that "[b]oth meters were subsequently . . . tested by Dominion."

11. DEO denies that the charges for unauthorized usage are "unvalidated [sic]."

12. DEO is without sufficient knowledge or information to either admit or deny whether "the space serviced by these meters was vacant and secured during the locked period."

13. DEO denies that it "has not provided statements with actual readings showing dates of usage during 2002 to 2013" and denies that it provided Mr. McGovern "inadequate service in not providing [him] with billing information in a timely fashion." DEO avers that monthly statements were neither generated nor sent for Account Nos. 0961 and 1396 because the accounts pertain to unauthorized usage and were not active accounts.

14. DEO denies generally any allegations not specifically admitted or denied in this Answer in accordance with Ohio Adm. Code 4901-9-01(D).

**AFFIRMATIVE DEFENSES**

**SECOND DEFENSE**

15. The complaint does not comply with the Commission's rules requiring "a statement which clearly explains the facts." Ohio Adm. Code 4901-9-01(B). The allegations are not in numbered-paragraph, but narrative, form; many of the allegations and statements in the complaint are compound; and many of the allegations omit numerous details necessary to answer them. The Company has attempted, to the best of its ability, to answer the allegations, but reserves the right to amend its answer in the event it has incorrectly understood the allegations.

### **THIRD DEFENSE**

16. The complaint fails to set forth reasonable grounds for complaint, as required by R.C. 4905.26.

### **FOURTH DEFENSE**

17. The complaint fails to state a claim upon which relief can be granted.

### **FIFTH DEFENSE**

18. The Company at all times complied with Ohio Revised Code Title 49; the applicable rules, regulations, and orders of the Public Utilities Commission of Ohio; and the Company's tariffs. These statutes, rules, regulations, orders, and tariff provisions bar the Complainant's claims.

### **SIXTH DEFENSE**

19. The complaint is barred by the doctrines of laches, estoppel, and waiver.

### **SEVENTH DEFENSE**

20. With respect to Account Nos. 0961 and 1396, Mr. McGovern is not the customer of record, and therefore lacks standing to file the complaint.

### **EIGHTH DEFENSE**

21. Spang J Baking Co. is a company apparently being represented by Mr. McGovern in violation of Ohio law and the rules of this Commission. Ohio Adm. Code 4901-1-08(A) states, "[E]ach party not appearing in propria persona shall be represented by an attorney-at-law authorized to practice before the courts of this state. Corporations must be represented by an attorney-at-law." As a corporation, Spang J Baking Co. cannot act except through its agents. Therefore, Spang J Baking Co. cannot appear "in propria persona" in this case and accordingly "shall be represented by an attorney-at-law authorized to practice before the courts of this state."

Mr. McGovern, who does not appear to be an attorney authorized to practice law in Ohio, signed the Complaint.

**NINTH DEFENSE**

22. The Company reserves the right to raise other defenses as warranted by discovery in this matter.

Accordingly, the Company respectfully requests an order dismissing the complaint and granting it all other necessary and proper relief.

Date: October 10, 2013

Respectfully submitted,

/s/ Gregory L. Williams  
Mark A. Whitt (Counsel of Record)  
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ATTORNEYS FOR  
THE EAST OHIO GAS COMPANY D/B/A  
DOMINION EAST OHIO

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer was served to the following person  
by U.S. mail on this 10th day of October 2013:

Donald M. McGovern  
3833 Retreat Dr.  
Medina, Ohio 44256

/s/ Gregory L. Williams

One of the attorneys for  
The East Ohio Gas Company d/b/a  
Dominion East Ohio