

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of The R.C. )  
Musson Rubber Co., )  
 )  
Complainant, )  
 )  
v. ) Case No. 14-732-GA-CSS  
 )  
The East Ohio Gas Company d/b/a )  
Dominion East Ohio, )  
 )  
Respondent. )

ENTRY

The attorney examiner finds:

- (1) On April 18, 2014, Complainant, The R.C. Musson Rubber Co. (R.C. Musson), filed a complaint against Respondent, The East Ohio Gas Company, d/b/a Dominion East Ohio (DEO or Respondent) alleging, among other things, that it has been overcharged on invoices it has received from DEO over a long period, extending back into January of 2005, due to Respondent's calculation of charges through application of a "large volume rate" that should apply only when annual service usage meets or exceeds a certain service usage threshold (of 3,000 thousand cubic feet (Mcf) annually), which, alleges Complainant, R.C. Musson has never met during the period.

Complainant also alleges that, according to information it received from Respondent, DEO conducts an annual review of its customers' service usage and, where the annual audit results so dictate, is authorized under Commission regulation to move previously non-large volume accounts into large volume status, and begin charging those accounts with the higher basic service rates that apply to large volume customer accounts. Meanwhile, alleges Complainant, the same regulation does not require DEO to correspondingly reduce charges for previously large volume customers whose service usage, during the annual audit period, decreases to below the threshold which

distinguishes large volume customers from non-large volume customers. Complainant alleges that it is an unfair regulatory practice for the Commission to allow a utility to monitor customer service usage and, when service usage surpasses a certain threshold, apply higher rates without also correspondingly requiring the utility to refrain from applying lower rates to customers whose service usage, during the annual audit period, measures below the large volume usage threshold, unless such customers affirmatively request such a rate reduction based on their usage at an annual level below large volume service usage threshold.

Among other things, R.C. Musson is seeking remedial relief that would require DEO to provide refunds both to Complainant and to "any large volume customer not meeting the 3,000 Mcf threshold."

- (2) On May 8, 2014, Respondent filed its answer. DEO denies that Complainant was overcharged for service. DEO admits that the parties entered into a contract in 1982, under which DEO provided gas service to R.C. Musson under a Large Volume General Service rate schedule. DEO avers that, in November 2013, Complainant requested service under a different rate schedule. DEO reviewed the account and determined that R.C. Musson was eligible to receive service under an alternative rate schedule, and placed Complainant under that alternative rate schedule.

DEO asserts that, in its last rate case, the Commission approved revisions to two rate schedules which are limited in their application to customers who use less than 3,000 Mcf per year. DEO admits that, to enforce those limits, it annually reviews the accounts of its customers who receive service under such schedules, to determine whether their usage exceeds the 3,000 Mcf annual threshold. DEO claims, in its answer, that customers who exceed the threshold are removed from the schedules, placed on the corresponding large-volume rate schedule, and notified of the change. DEO further avers that, if any customer inquires about possible alternative rates, DEO will disclose to the customer the availability of any applicable alternative rate schedule. Outside of these two situations, says DEO, it does not individually review the usage characteristics of each one of its customers to ensure that each customer is

being served under the most economical rate schedule. DEO denies that any of its tariffs (including its Large Volume tariff) is limited to annual usage of 3,000 Mcf or more. Asserting that the relief sought by Complainant is barred by the rule against retroactive ratemaking, and that Complainant lacks standing to assert the rights of other DEO customers, Respondent denies that any billing reversal, reimbursement, refund, or other change is appropriate in this case. Additionally, as part of its answer, DEO asserts several affirmative defenses including: that the complaint fails to contain a statement which clearly explains the facts; fails to set forth reasonable grounds for complaint; and fails to state a claim upon which relief can be granted.

- (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 Ohio Adm.Code 4901-1-26, any statement 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 August 21, 2014, at 10:00 a.m., in Conference Room 1246, at the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner may 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 Ohio Adm.Code 4901-1-26(F), the representatives of the public utility 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.*, 5 Ohio St. 2d 189, 214 N.E. 2d 666 (1966).

It is, therefore,

ORDERED, That a settlement conference be held on August 21, 2014, at 10:00 a.m., in Conference Room 1246, at the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Daniel E. Fullin

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By: Daniel E. Fullin  
Attorney Examiner

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/21/2014 4:10:32 PM**

**in**

**Case No(s). 14-0732-GA-CSS**

Summary: Attorney Examiner Entry scheduling a prehearing conference for August 21, 2014, at 10:00 a.m.; electronically filed by Vesta R Miller on behalf of Daniel E. Fullin, Attorney Examiner, Public Utilities Commission of Ohio