

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

ERIN DAHL,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 17-1822-GA-CSS
	)	
THE EAST OHIO GAS COMPANY D/B/A	)	
DOMINION ENERGY OHIO,	)	
	)	
Respondent.	)	

**MEMORANDUM CONTRA MOTION FOR CONTINUANCE OF  
THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO**

**I. INTRODUCTION**

On January 22, 2019, Ms. Erin Dahl (Complainant), filed her fourth motion for a continuance in this case. In accordance with Ohio Admin. Code 4901-1-12(B)(1), The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO or the Company) files this memorandum contra Complainant’s request.

**II. ARGUMENT**

This complaint has been pending for nearly a year and a half. There have been four scheduled settlement conferences, and to date, four hearing dates set, through no fault or delay by the Company. Each of these times, except for a single settlement conference, the Complainant has either failed to appear or requested continued delays. In response to her last request, the examiner made clear that “absent extraordinary circumstances, no further continuances of the hearing [would] be granted.” November 8 Entry ¶ 10.

The repeated continuances and delays in these proceedings have unduly prejudiced DEO and caused it to incur expenses far in excess of the original amount in dispute. The blame the Complainant attempts to place on DEO is completely unfounded, and she admits that the requested information was in her possession no later than January 12, which is more than enough

time to review and prepare. The motion does not even establish good cause, much less the “extraordinary circumstances” required to receive yet another continuance. Complainant’s motion is unreasonable and should be denied.

**A. Complainant admits that she already has the requested information, and she already has ample time to review it and prepare for the hearing.**

First, before rebutting Complainant’s claims that DEO has not provided requested information, DEO would point out that she *admits* that she has received the information. The information is not voluminous, just a number of bills, and by her own admission has been in her possession at least since January 12.

The nearly three weeks between January 12 and the January 31 hearing date provides far more than enough time to review this information and prepare for the hearing. And it bears noting that this information is of questionable relevance to the complaint, which goes to meter testing procedures, and regarding which DEO filed testimony back in October. The alleged failure to provide documents is no basis for further delaying the hearing. Certainly it does not establish the “extraordinary circumstances” that the examiner has required before granting another continuance.

**B. DEO has made reasonable efforts to fulfill all requests for documents from Complainant.**

Moreover, the premise of the motion (that DEO has not responded to requests for records) is simply false.

The Complainant claims that she has been requesting documents “for over a year.” (Mot. at 2, 3.) This claim does not comport with DEO’s records, which show no such requests until October 4, 2018, which happens to be the same date as the Complainant’s second motion for continuance. On October 9, 2018, in response to this motion and request, DEO personnel mailed the document in question, an account statement for January 1, 2016, through January 1, 2017, to

the Complainant at 1901 W. Madison Street, Apartment 86, Phoenix, AZ 85009 (Arizona Address). This was the address provided by the Complainant. DEO would have provided the documents electronically, but prior to any requests for documentation, Complainant specifically indicated that she did not consent to service by email. DEO respected her request.

Yet again, on November 1, 2018, Complainant filed a motion for continuance, this time stating that she had called DEO twice to request billing statements from October 2015 through September 2017. DEO has no record of these calls, but in response to the motion, on November 2, 2018, DEO personnel re-mailed the requested billing statements to the same Arizona Address, which she again specified.

In short, DEO has fulfilled or attempted to fulfill each request it has received from Complainant for the specific documentation she has requested. DEO has sent each requested document, first an account statement and second a set of billing statements, to the mailing addresses specified by Complainant to DEO at the time. Given that the Complainant has had at least three addresses over the course of this proceeding, in two different states, it is unfortunate but not unexpected that issues with mail receipt may have occurred. But DEO cannot be held responsible for the Complainant's changes of address, nor that Complainant refused electronic service. Additionally, the Complainant has largely refused to communicate directly with either DEO or its counsel, instead choosing to make her requests via the public docket. All of these factors have caused delays in DEO's ability to respond and in Complainant's receipt of requested materials, and all of them are attributable to Complainant, not DEO.

DEO provided the information promptly when it was requested, and abided by Complainant's directions as to where and how to provide it. She now has the information, and she has had ample time to review it. This provides no basis for delaying this hearing a fourth time.

**C. Complainant would still have requested multiple continuances even if she had received the documents in question earlier.**

Two of the three previous motions for continuance Complainant filed in this case were at least partially based on personal reasons of the Complainant that had nothing to do with DEO or a lack of documentation. On August 21, 2018, Complainant filed her first motion for continuance of the hearing then scheduled for August 30 (August 21 Motion). In her motion, she explained that she was required to appear at two court hearings in Arizona, the dates of which would presumably have made travel to Ohio for the hearing in this case impractical. (August 21 Motion at 2-3.) There was no mention in this motion of a request for documents or any accusation that DEO had been refusing to provide documents. The August 21 Motion was granted on August 24, and the hearing was rescheduled for October 11.

As previously mentioned, on October 4, 2018, Complainant filed her second motion for continuance of the October 11 hearing date (October 4 Motion). This motion contained the first public statement made by the Complainant that she had been unable to retrieve either her personal DEO billing statements or copies from DEO. (October 4 Motion at 3.) In fact, this was the first time DEO or its counsel were made aware that the Complainant was in need of documentation. In fact, as stated above, the date of this motion is also the first date on which DEO has a record of a call from Complainant to DEO customer service requesting the account statement. But the document request was only part of the request for a continuance. In the October 4 Motion, Complainant stated that one of the hearings for which she was required to appear in Arizona had also been rescheduled, and therefore she would have been unable to appear at her hearing in this proceeding regardless of whether or not she had access to her DEO documentation. As before, the October 4 Motion was granted in the Attorney Examiner's October 11 Entry, and the hearing was continued to November 9.

The Complainant has received more than her fair share of consideration from this Commission, and DEO has been subject to more than its fair share of delay. Further delay of this proceeding is unwarranted and unreasonable, and request for such should be denied.

**D. Complainant’s request fails to comply with the November 8 Entry in this case.**

In response to Complainant’s last request for continuance, the Attorney Examiner issued a November 8, 2018 Entry granting the motion, setting the hearing date for January 31, 2019, and stating that, “absent extraordinary circumstances, no further continuances of the hearing will be granted.” Entry ¶ 10. No such circumstances exist, and the motion should be denied.

Complainant admits that as of January 12, 2019, she has received the requested documents. (Mot. at 3.) Despite this admission, Complainant still seeks a continuance, arguing that she has “not had adequate time to prepare.” (*Id.*) Complainant does not explain why this timeframe is insufficient or how this constitutes “extraordinary circumstances.” Complainant has to this point received no fewer than four chances to make her case before this Commission. DEO has been ready and willing to litigate this proceeding each of those times. Further delay prejudices DEO and would violate the November 8 Entry. The motion should be denied.

**III. CONCLUSION**

For the foregoing reasons, the Complainant’s motion for continuance should be denied.

Dated: January 24, 2019

Respectfully submitted,

/s/ Andrew J. Campbell

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ATTORNEYS FOR THE EAST OHIO GAS  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by mail to the following person  
this 24th day of January, 2019:

Erin Dahl  
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/s/ Rebekah J. Glover  
One of the Attorneys for The East Ohio Gas  
Company d/b/a Dominion Energy Ohio

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

**Commission of Ohio Docketing Information System on**

**1/24/2019 11:55:12 AM**

**in**

**Case No(s). 17-1822-GA-CSS**

Summary: Memorandum Contra Motion for Continuance electronically filed by Ms. Rebekah J. Glover on behalf of The East Ohio Gas Company d/b/a Dominion Energy Ohio