

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

BOYCE PARKER,)	
)	
Complainant,)	
)	
v.)	Case No. 21-1157-GA-CSS
)	
THE EAST OHIO GAS COMPANY D/B/A)	
DOMINION ENERGY OHIO,)	
)	
Respondent.)	

**POST-HEARING BRIEF OF
THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO**

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Dated: May 6, 2022

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I. INTRODUCTION

Boyce Parker alleges that he is being charged “twice” for the same service. (Corr. (Jan. 10, 2022) at 1.) But as the evidence presented at hearing by The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO) demonstrates, these allegations are incorrect.

Mr. Parker’s bills were correctly calculated under the applicable rate schedule. The alleged double-charging reflects the fact he received commodity sales service (i.e., the natural gas itself) from his assigned supplier, Barracuda Energy LLC. Mr. Parker’s bills thus contained charges from Barracuda Energy for the cost of gas he used, and charges from DEO for the delivery of that gas. He was not charged “twice” for the same service.

Mr. Parker was given an opportunity to present evidence in support of his claims, but failed to do so. In contrast, DEO presented testimony and exhibits that demonstrated that the Company properly handled his account and billing. Since Mr. Parker has not sustained his burden of proof, his complaint should be dismissed.

II. FACTUAL AND PROCEDURAL BACKGROUND

Mr. Parker is currently a residential customer receiving natural gas service at 9505 Saint Catherine Ave., Cleveland, Ohio 44104 (the Premises), and is the primary account holder for the account ending in 5908 (the Account).

A. Removal of Complainant’s Account from PIPP

At the beginning of 2021, Mr. Parker was enrolled in the Percentage of Income Payment Program (PIPP Plus). (DEO Ex. 1.0 at 3.) PIPP Plus customers like Mr. Parker receive commodity sales service under the Standard Service Offer (SSO). (*See* Sixth Revised Sheet No. GSS-R 1.) SSO service is provided directly from DEO (*id.*), and Mr. Parker’s SSO bills included charges for “SSO gas cost” based on Mr. Parker’s usage, as well as both a fixed monthly “Basic

Service Charge” and volumetric rider charges (also based on Mr. Parker’s usage) for DEO’s delivery of the gas. (DEO Ex. 1.0 at 4; DEO Ex. 1.1 at 1-8.)

On May 24, 2021, however, Mr. Parker was removed from PIPP Plus after he failed to meet the program’s income verification requirements. (DEO Ex. 1.0 at 3; DEO Ex. 1.1 at 9-10.) Mr. Parker subsequently declined to enroll in the Graduate PIPP Plus program. (DEO Ex. 1.0 at 3.)

B. Assignment of Complainant’s Account to Barracuda Energy

Once Mr. Parker was removed from PIPP Plus, his Account became “Choice eligible,” *i.e.*, eligible to receive service under DEO’s Energy Choice Transportation Service – Residential (ECTS-R) rate schedule. (DEO Ex. 1.0 at 4.) Under DEO’s tariffs, customers who become eligible to receive service under the ECTS-R rate schedule receive up to two transitional monthly bills on SSO service. (Sixth Revised Sheet No. GSS-R 1.) After this transitional period, SSO service is no longer available, and customers must either select an Energy Choice supplier or governmental aggregation, or they will be assigned a Standard Choice Offer (SCO) supplier. (Fifteenth Revised Sheet No. B-SCO 1.) Incidentally, the price of gas under SSO service and SCO service is set through the same annual auction and is identical. (DEO Ex. 1.0 at 5; Tr. at 32, 34.)

In accordance with these tariff provisions, Mr. Parker received two more bills on SSO service, after his account was removed from PIPP Plus. (DEO Ex. 1.1 at 11-14 (bills prepared on June 23 and July 27, 2021).) These bills notified Mr. Parker of his options for contacting participating Energy Choice suppliers. (DEO Ex. at 4; DEO Ex. 1.1 at 12, 14; Tr. at 26.) Mr. Parker did not choose a supplier, and as a result, his Account was assigned to SCO service with Barracuda Energy as his supplier. (DEO Ex. 1.0 at 4.) DEO sent a notice to Mr. Parker confirming that assignment. (DEO Ex. 1.2; Tr. at 27.) Although customers assigned to SCO

commodity service may not select their SCO supplier, Mr. Parker still retained the ability to choose a new supplier or participate in an aggregation program, after being assigned to Barracuda Energy. (Fifteenth Revised Sheet No. B-SCO 2; DEO Ex. 1.1 at 12, 14.)

C. Mr. Parker's SCO bills

DEO bills SCO commodity service in conjunction with charges for delivery service under the ECTS-R rate schedule. (Fifteenth Revised Sheet No. B-SCO 2.) For Mr. Parker's bills prepared August 23, 2021, through December 23, 2021, the Account was billed charges for Barracuda Energy for the supply of natural gas at the SCO rate. (DEO Ex. 1.0 at 5; DEO Ex. 1.1 at 15-26.)

This does not mean that Mr. Parker paid a different price for gas than if DEO had been his supplier under the SSO rate. As noted, the SCO rate and the SSO rate are the same. (DEO Ex. 1.0 at 5; Tr. at 32, 34.)

Nor was Mr. Parker overbilled in any particular month. The bills properly reflected the SCO charges that Mr. Parker owed for his natural gas usage. (DEO Ex. 1.0 at 5.) The same billed amounts were reflected in DEO's billing system, and no errors in the rates or quantities billed to the Account were identified. (*Id.*; *see also* DEO Ex. 1.3.)

Lastly, Mr. Parker was never charged twice for the same gas or service. The charges on Mr. Parker's bills from Barracuda Energy pertain to the natural gas commodity itself, and the charges from DEO pertain to the delivery of that commodity. (DEO Ex. 1.0 at 6; Tr. at 20, 34.) Although the DEO "Usage-Based Charges" were charged on a volumetric basis, they are associated with Commission-approved distribution riders, not the cost of the natural gas commodity. (DEO Ex. 1.0 at 5.)

D. Procedural History of Proceeding

In November 2021, Mr. Parker submitted a formal complaint, to which DEO filed its answer. It was difficult to interpret Mr. Parker's complaint. He alleged that he had "opt[ed] out of the program," but he did not specify which program. (Compl. at 1.) The complaint also included an "opt out" notice from NOPEC, a governmental aggregator, and alleged that "NOPEC says they will lower your bill mine has gone up." (*Id.* at 1-2.) Mr. Parker, however, was never enrolled in NOPEC during the time period under review. (DEO Ex. 1. at 2.) Additionally, Mr. Parker attached bills to his complaint that included handwritten notes complaining about the amounts billed and referencing Barracuda's presence on the bill. On November 29, 2021, DEO answered the complaint to the best of its ability, and on December 3, 2021, the Commission ordered a settlement conference by telephone, which was held on December 16, 2021.

On January 10, 2022, Mr. Parker submitted additional correspondence relating to the same service address and account, further clarifying his allegations. In this second document, Mr. Parker alleged that he was "paying Dominion and Barracuda for the same gas" and that he would not "pay twice for the same gas." (Corr. at 2.) He claimed that "this is a scam which violates the law O.R.C. 2913." (*Id.*) Attached to Mr. Parker's second complaint was his bill prepared on December 23, 2021. Mr. Parker questioned why his "usage [for December 2021] cost 156% more [if he was] using the same amount [in December 2020]." On February 11, 2022, DEO responded to Mr. Parker's correspondence, and on March 3, 2022, the Commission ordered that an evidentiary hearing take place remotely, which was held on April 4, 2022.

At the April 4, 2022 hearing, DEO presented the direct testimony of Ms. Angela Zeisig, a DEO Supervisor for the Customer Service Center. (DEO Ex. 1.0.) Included with her testimony were copies of Mr. Parker's bills for 2021 (DEO Ex. 1.1); a copy of the postcard that DEO sent

to Mr. Parker notifying him of the assignment of Barracuda Energy for his natural gas supply (DEO Ex. 1.2); and a copy of Mr. Parker's Account Statement for 2021 (DEO Ex. 1.3).

Mr. Parker appeared and testified on his own behalf. The attorney examiner permitted the filing of post-hearing briefs with a deadline of May 6, 2022.

III. STANDARD OF PROOF

R.C. 4905.26 provides that any person may file a written complaint that any rate, charge, or service of a public utility is in any respect unjust, unreasonable, unjustly discriminatory, in violation of law, or inadequate. In every complaint proceeding brought pursuant to R.C. 4905.26, the complainant bears the burden of proving the allegations alleged in the complaint. *Grossman v. Pub. Util. Comm'n.*, 5 Ohio St.2d 189 (1966); *see also* Entry (Mar. 3, 2022) ¶ 7. Therefore, if the Complainant fails to prove that any DEO rate, charge, or service related to the Account was in any respect unjust, unreasonable, unjustly discriminatory, in violation of law, or inadequate, then the Commission should rule in favor of DEO and dismiss the complaint. *See Prakash v. Columbia Gas of Ohio, Inc.*, Case No. 20-1348-GA-CSS, Opin. & Order (Mar. 10, 2021).

IV. ARGUMENT

Mr. Parker has not carried his burden of proof in this case. His arguments lack merit, as neither the allegations in Mr. Parker's complaint nor the evidence offered at the evidentiary hearing demonstrate that DEO acted unreasonably or unlawfully in any way. Moreover, DEO has offered evidence demonstrating that the Company followed the Commission's rules and DEO's tariffs in administering Mr. Parker's Account. The complaints, accordingly, should be dismissed.

A. The Complainant failed to establish reasonable grounds for his complaint, as required by R.C. 4905.26.

The core allegation of Mr. Parker's complaint seems to be that he was charged "twice for 1 gas usage," (*see* Corr. (Jan. 10, 2022) at 1). DEO presented evidence at hearing that refuted this claim and affirmatively demonstrated that the service it provided was reasonable, lawful, and in accordance with its tariffs. Mr. Parker, in contrast, offered no evidence to support his claim or to rebut DEO's evidence.

Mr. Parker says that he wants DEO to be his supplier, which would mean remaining on DEO's SSO service under the GSS-R rate schedule. But that is not possible. DEO's Commission-approved tariffs did not permit Mr. Parker to keep DEO as his supplier, after he was removed from PIPP Plus and became an eligible residential choice customer. At that point, Mr. Parker needed to select an Energy Choice supplier, or he would be assigned one. The evidence in the record shows that Mr. Parker's assignment to Barracuda Energy and the associated supply charges for natural gas billed to the Account were proper and consistent with the applicable statutes, rules, and tariff provisions. Mr. Parker has failed to demonstrate otherwise, and therefore failed to establish reasonable grounds for his complaint.

1. The assignment of the Complainant's Account to Barracuda Energy was consistent with DEO's Commission approved tariffs.

While his Account was enrolled in PIPP Plus, Mr. Parker received SSO commodity service from DEO; this was required under DEO's tariff, specifically under the Company's GSS-R rate schedule. (Sixth Revised Sheet No. GSS-R 1; DEO Ex. 1.0 at 4.) However, that all changed once Mr. Parker was removed from PIPP Plus and became Choice-eligible. DEO's approved tariffs provide that Choice-eligible residential customers who do not select another supply option will be assigned to an SCO supplier. (*See* Fifteenth Revised Sheet No. B-SCO 1.) That is what happened here: once the Account was removed from PIPP Plus for not meeting the

program's income verification requirements (DEO Ex. 1.0 at 3; DEO Ex. 1.1 at 1-8), Mr. Parker had a choice. He could enroll with an Energy Choice supplier; participate in an aggregation program; or be assigned to an SCO Supplier. (DEO Ex. 1.0 at 4; DEO Ex. 1.1 at 12, 14; Tr. at 26.) But he could not remain on SSO service with DEO as his supplier.

In accordance with DEO's tariffs and Commission rules, Mr. Parker was informed of his options for supply service. He had the option to enroll in Graduate PIPP Plus. (DEO Ex. 1.1 at 9.) He declined. (DEO Ex. 1.0 at 3.) He was informed that he would remain on SSO service, after being removed from PIPP Plus, for up to two months. (DEO Ex. 1.1 at 12, 14.) He was informed that he could choose a participating Energy Choice supplier. (*Id.*) He was informed that, after two consecutive months of SSO service, his Account would be placed on SCO service and assigned an SCO supplier, if he had not picked an Energy Choice Supplier or enrolled in an aggregation program. (*Id.*) Finally, he was informed that Barracuda Energy was assigned to his Account as his SCO supplier. (DEO Ex. 1.0 at 4; DEO Exhibit 1.2.)

DEO's evidence demonstrates that these actions it took in the assignment of Mr. Parker to Barracuda Energy were proper and consistent with the Company's Commission-approved tariffs, and thus do not constitute unjust or unreasonable service. *See, e.g., Slusser v. The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 12-1259-GA-CSS, Opin. & Order (Feb. 20, 2013) (the Company's transfer of balances between accounts listed in the name of the same customer was permitted by the Company's tariff and thus did not constitute improper conduct); *Nicholson v. The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 09-78-GA-CSS, Opin. & Order (Sept. 30, 2009) (the Company's readings of complainant's meter were consistent with the Company's tariff and thus not improper); *see also Pavicic v. The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 11-2700-GA-CSS, Entry (July 15, 2011) (complaints alleging

solely that Commission-approved rates should not be charged or solely questioning the reasonableness of Commission-approved rates do not constitute reasonable grounds for complaint). Since Mr. Parker has provided no evidence to back up his allegation that the assignment was improper, his claim must fail. *See, e.g., Tolliver v. Vectren Energy Delivery of Ohio, Inc.*, Case No. 12-3234-GA-CSS, Opin. & Order (July 17, 2013) (customer failed to sustain burden of proof that Vectren violated its tariff or any Commission rule in administration of PIPP Plus program); *Incorvia v. The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 09-355-GA-CSS, Opin. & Order (Dec. 9, 2009) (complainants failed to prove that DEO acted improperly by not enrolling them in PIPP and terminating service).

2. The Complainant's bills properly reflected supply charges from Barracuda Energy.

DEO's evidence also shows that Mr. Parker's 2021 bills, for the time period when his Account was assigned to Barracuda Energy, properly reflect the SCO charges that Mr. Parker owed for his natural gas usage. (DEO Ex. 1.0 at 5-6.) DEO demonstrated that, once assigned to Mr. Parker, Barracuda Energy was responsible for arranging commodity supply for Mr. Parker under the SCO rate, and DEO was responsible for including Barracuda's charges on the bill. DEO also demonstrated that DEO's billing system reflected the same amounts billed to Mr. Parker. (*Id.*) No error in the rates or quantities billed were identified. (*Id.*) No double billing for usage occurred. (*Id.*) The DEO "Usage-Based Charges" were not supply charges; they pertained to certain volumetric riders for delivery service. (*Id.*)

In billing the Account, DEO again acted in accordance with its tariff and Mr. Parker has offered no evidence to the contrary. *See, e.g., Alexander v. The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 11-5601-GA-CSS, Opin. & Order (Oct. 24, 2012) (complainant's testimony did not show that the Company misread her meters, miscalculated her bill, or charged

her under the wrong rate); *Abraitis v. The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 10-650-GA-CSS, Opin. & Order (Jan. 19, 2011) (complainant’s incomplete evidence did not support his allegations that his account was double billed or had inappropriate charges and did not rebut the utility’s complete historical accounting of the account’s gas usage, billed amounts, and payments). Like the *Alexander* and *Abraitis* cases, the Commission should reject Mr. Parker’s allegations of improper billing as unsupported.

B. The Complainant has not offered any evidence contradicting DEO’s defense or supporting his own claims for which relief may be granted.

In complaint proceedings, the complainant bears the burden of proof and must support her claims with evidence. Failure to do so is fatal. *See, e.g., James Locker v. Ohio Edison Co.*, Case No. 05-1469-EL-CSS, Opin. & Order (Feb. 28, 2007) at 12 (“claims” that have “not been adequately substantiated on the record” are “therefore[] denied”).

1. The Complainant did not support the allegations in the complaint.

DEO’s evidence demonstrates that it provided reasonable service to Mr. Parker. But even if DEO had not shown this, the Commission would still be required to dismiss the case, because Mr. Parker has failed to offer sufficient evidence in support of his claims. *See, e.g., Prakash v. Columbia Gas of Ohio, Inc.*, Case No. 20-1348-GA-CSS, Opin. & Order (Mar. 10, 2021) (complainant did not meet his burden of proving that the remediation of his property following riser replacement and the repair of a gas line leak constituted unreasonable service).

At hearing, Mr. Parker provided no documentation in support of his allegations. DEO, on the other hand, provided the testimony of a customer-service manager and statements of account and billing statements for the time period in which Mr. Parker complains. (*See* DEO Exs. 1.0; 1.1; 1.2; 1.3.) DEO’s evidence shows that Mr. Parker was properly charged. (DEO Ex. 1.0 at 5-6.) And while Mr. Parker claimed in his complaint and at hearing that DEO charged him “twice,”

he presented no evidence to support this claim, and it is contradicted by DEO's billing and account records. (*Id.*) Mr. Parker's failure to support his claim is fatal.

2. The Complainant has not produced evidence of any improper conduct by DEO or its employees with regard to his service account.

At hearing, Mr. Parker also alleged that DEO automatically enrolled him with Barracuda "against the law" (Tr. at 7); that he told DEO to "leave it alone" and not change his supplier from DEO but they "changed it" anyway (*id.* at 10); that "it's a scam when they add another company on your bill" (*id.*); and that DEO was charging him "to get extra money" (*id.* at 12). None of these allegations are true or establish any meritorious claim. Contrary to these assertions, DEO has presented evidence showing that, in billing his Account and administering his enrollment in any commodity service, DEO complied with the applicable statutes, rules, and tariff provisions. (DEO Ex. 1.0 at 4.) Mr. Parker, on the other hand, has not provided any evidence suggesting otherwise. His allegations rest upon two assertions that DEO's tariff and the evidence in the record demonstrate simply are not true—namely, that he can choose to have DEO remain his supplier, when he is not enrolled in PIPP Plus, and that he was charged "twice" for the same service.

In short, there is no substantiation for the claim that DEO or its employees acted improperly with regard to his service account.

3. The Complainant's allegations related to NOPEC do not prove that DEO acted unreasonably or unlawfully.

Mr. Parker's complaint also alleged that he "opt[ed] out of the program," and attached an "opt out" notice from NOPEC. (Compl. at 1-2.) At the hearing, Mr. Parker then testified that "he did not join NOPEC." (Tr. at 6; *see also id.* at 29.) Whatever one makes of these allegations, they would not prove that DEO acted unreasonably or unlawfully. In fact, they confirm the contrary. DEO's records indicate that Mr. Parker was not enrolled in NOPEC during the time period under

review, and any NOPEC notice that he may have received was not sent on behalf of the Company. (DEO Ex. 1.0 at 2.)

In short, Mr. Parker chose not to enroll in NOPEC; Mr. Parker was not enrolled in NOPEC. For those reasons, Mr. Parker's NOPEC related allegations do not show any misconduct by DEO and should be ignored.

C. To the extent the Complainant's allegations at hearing raised new claims, such claims are improper and regardless lack merit.

As discussed above, Mr. Parker did not use his opportunity at hearing to present any evidence in support of his burden of proof. He did, however, testify on events or issues not raised in his complaint. DEO believes that these allegations are just variations on the claims discussed earlier, which DEO has already rebutted. But to the extent these are interpreted as new claims, it would be improper to consider them.

To begin with, raising new claims at hearing is clearly improper. The complaint sets the scope of relevance for all proceedings that follow. The Commission cannot fairly consider such new claims. *See, e.g., OHIOTELNET.COM, INC. v. Windstream Ohio, Inc.*, Case No. 09-515-TP-CSS, 2010 WL 5055080, Entry (Dec. 1, 2010) ¶ 8 (striking testimony relating to issues that were not raised in the complaint and explaining that “[t]he complaint does not raise these issues . . . these claims fall outside the scope of the complaint . . . [t]o be heard, this claim should have been pleaded”); *Cleveland Elec. Illuminating Co. v. Medical Center Co., et al.*, Case No. 95-458-EL-UNC, Order on Remand (Dec. 21, 2004) at 4 (“It would be inappropriate to consider additional allegations not raised in this original complaint”); *see also Tandy v. Cleveland Elec. Illuminating Co.*, Case No. 12-2102-EL-CSS, Entry (Nov. 1, 2012) ¶ 7 (“to the extent that the information filed by the complainant on October 29, 2012, raises claims which were not part of

the original complaint filed on July 17, 2012, those new claims will not be addressed as part of this case”).

In addition to wasting the time and resources of the Commission, raising new claims at hearing deprives the company of a fair process and an opportunity to investigate and either respond to the claim or prepare a defense. *See Helwig v. The East Ohio Gas Co.*, Case No. 87-1927-GA-CSS, 1988 WL 1620611, Entry (June 30, 1988) (finding that allegations in complainant’s post-hearing correspondence were “new matters that could constitute a new complaint” and that a complaint must provide “pertinent facts that would allow East Ohio to answer the specific allegations of the complaint and would allow the Commission to determine if reasonable grounds for complaint have been alleged pursuant to Section 4905.26, Revised Code.”).

During the hearing, Mr. Parker alleged that DEO kept him on PIPP Plus in 2020, even though he did not sign or send in the PIPP Application. (Tr. at 5.) He contended that DEO was supplying “everybody on this street but me” and that he had neighbors not on PIPP that had DEO as their supplier. (*Id.* at 11, 16.) He tried to argue with DEO’s witness regarding his most recent bill, which was not in the record. (*Id.* at 35-36.) And he alleged that DEO had improperly cashed a check not made out to DEO. (*Id.* at 37-38.) He did not provide any documentation in support of these assertions, and these allegations appear to relate to his claims previously discussed and rebutted. But even these allegations were supported and could be considered different claims, none of these allegations were included in Mr. Parker’s complaints and thus could not be fairly considered in this case.

Mr. Parker also alleged during the hearing that DEO committed “fraud, theft, and misrepresentation” in assigning Barracuda Energy as his supplier, (Tr. at 12.) He also suggested

that the assignment of Barracuda was “the same thing” as the controversies surrounding First Energy and former Ohio House Speaker Larry Householder. (*Id.* at 38-39.) Although his subsequent correspondence generally referred to O.R.C. Chapter 2913 and said “[t]his is a scam,” it did not contain any pertinent facts or specific assertions explaining how DEO’s conduct was fraudulent. DEO, on the other hand, has submitted the evidence detailed above showing that it applied any credits or charges to Mr. Parker’s Account, and administered his enrollment in any commodity service, in a manner consistent with the applicable statutes, rules, and tariff provisions. Mr. Parker’s claims are meritless, as explained throughout, including these allegations of fraud, but to the extent that the Commission believed that Mr. Parker raised a new fraud claim at hearing, the Commission should disregard it as not properly raised in the complaint.

V. CONCLUSION

The evidence shows that Complainant failed to demonstrate that any DEO rate, charge, or service related to his Account was in any respect unjust, unreasonable, unjustly discriminatory, in violation of law, or inadequate. The Commission should dismiss the complaint.

Dated: May 6, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Post-Hearing Brief was served by U.S. mail this 6th day of May, 2022, to the following:

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