

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMPLAINT OF
MARIO D. BLUE VS. THE EAST OHIO GAS
COMPANY D/B/A DOMINION ENERGY
OHIO.

CASE NO. 22-855-GA-CSS

IN THE MATTER OF THE COMPLAINT OF
MARIO D. BLUE VS. THE EAST OHIO GAS
COMPANY D/B/A DOMINION ENERGY
OHIO.

CASE NO. 22-1075-GA-CSS

IN THE MATTER OF THE COMPLAINT OF
BLUE ACRES LLC VS. THE EAST OHIO
GAS COMPANY D/B/A DOMINION
ENERGY OHIO.

CASE NO. 22-1089-GA-CSS

ENTRY

Entered in the Journal on January 4, 2024

{¶ 1} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice relating to any service furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory.

{¶ 2} The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO or Respondent) is a natural gas company and a public utility as defined in R.C. 4905.03 and R.C. 4905.02, respectively. As such, DEO is subject to the jurisdiction of this Commission.

{¶ 3} On September 8, 2022, Mario D. Blue (Complainant or Mr. Blue) filed a complaint against DEO. Assigned Case No. 22-855-GA-CSS, the complaint alleges that Respondent has discriminatorily violated Complainant's claimed right as a consumer to use credit to defer payment of an alleged debt, i.e., his bill for natural gas service. In bringing his complaint, Complainant demands that DEO must be made to grant his right to defer payment of the alleged debt and immediately restore his natural gas service.

{¶ 4} On September 28, 2022, DEO filed an answer to the complaint. Therein, Respondent acknowledges that Complainant is DEO's residential natural gas service customer, sets forth its own factual allegations, denies all allegations not specifically addressed, and sets forth several affirmative defenses. Additionally, DEO specifically denies that it disconnected Complainant's natural gas service in a manner prohibited by any applicable statute, rule, or tariff provision; DEO further denies that it is required to defer payment for natural gas services as alleged by Complainant.

{¶ 5} On November 15, 2022, the attorney examiner issued an Entry scheduling the matter for a settlement conference to occur at the Commission's offices on December 19, 2022. By Entry issued December 2, 2022, the attorney examiner converted the settlement conference from an in-person event to a telephone conference.

{¶ 6} Meanwhile, on November 18, 2022, Complainant filed a second complaint against DEO. In this complaint, assigned Case No. 22-1075-GA-CSS, Mr. Blue states that DEO is alleging that he failed to make payments on his accounts. In support of the complaint, Mr. Blue attaches an "Affidavit of Truth" and a print-out of a payment receipt showing payment made to DEO on one account via a credit card.

{¶ 7} On December 8, 2022, DEO filed an answer to the complaint filed in Case No. 22-1075-GA-CSS. Therein, DEO admits that Complainant is a residential natural gas service customer receiving service under the account numbers referenced in the complaint, one of which is the subject of Case No. 22-855-GA-CSS. DEO further admits that Complainant submitted the payments referenced in the second complaint. Respondent submits, however, that those payments were reversed, thus leaving the balances due on account plus applicable fees for returned payments. As with the first complaint, Respondent denies any remaining or unaddressed allegations and sets forth several affirmative defenses. Similarly, DEO specifically denies that DEO either disconnected Complainant's natural gas service or applied any credits or charges to Complainant's accounts in a manner prohibited by any applicable statute, rule, or tariff provision.

{¶ 8} On November 22, 2022—four days after filing the second complaint—Mr. Blue, as the purported agent of the named complainant, Blue Acres LLC (Blue Acres), filed an additional complaint against DEO. Docketed as Case No. 22-1089-GA-CSS, this complaint states that DEO is alleging that Blue Acres failed to make payments on two referenced account numbers. The complaint further claims that this is untrue, as all payments were made and documents proving the same were tendered to Respondent.

{¶ 9} On December 13, 2022, DEO filed an answer to the complaint filed in Case No. 22-1089-GA-CSS. Therein, DEO admits that it provides natural gas service to Blue Acres as the primary account holder for the two referenced accounts. DEO denies that Mr. Blue is listed on either account but submits, upon information and belief, that he is listed with the Secretary of State of Ohio as the statutory agent for Blue Acres. Further answering, Respondent admits that DEO received payments on the accounts via a credit card in the name of Mario Blue but states that DEO later received notice that the payments had been reversed, thus leaving the balances due on account plus applicable fees for returned payments. Additionally, DEO sets forth additional factual allegations regarding Respondent's interactions with Blue Acres' accounts, denies all remaining allegations, and sets forth several affirmative defenses.

{¶ 10} On February 1, 2023, DEO filed a single motion to consolidate Case Nos. 22-855-GA-CSS, 22-1075-GA-CSS, and 22-1089-GA-CSS in each referenced docket. DEO submits that the Commission should consolidate the three matters because each involves the same complainant, Mario Blue, individually, or as agent for Blue Acres, each involves the same respondent, DEO, and each involves a dispute over whether Mr. Blue submitted proper methods of payment. DEO maintains that the Commission has consolidated complaint cases involving the same or similar parties and issues where there is sufficient commonality of issues to justify the consolidation. *See Wellman v. Ameritech Ohio, et al.*, Case No. 99-768-TP-CSS, et al., Entry (Feb. 8, 2001). Due to the common parties and themes in the three above-captioned cases, DEO argues that consolidation will promote productive

use of the Commission's resources and allow the parties to discuss the related matters simultaneously.

{¶ 11} On February 8, 2023, Mr. Blue filed a separate objection to the motion to consolidate in each of the above-captioned cases. Although filed separately, each document sets forth the same objections to consolidation. Specifically, Mr. Blue avows that he is entitled to due process, that consolidating the complaints will violate that due process, that he is entitled to have each complaint heard separately, and that he is not Blue Acres.

{¶ 12} On February 15, 2023, DEO filed a single reply in support of its motion in each docket. DEO submits that consolidation will not result in a violation of due process and that, as explained in the original motion, the Commission has consolidated complaint cases over similar objections. DEO additionally states that despite Mr. Blue not being one-in-the-same as Blue Acres, Mr. Blue is undisputedly Blue Acres' statutory agent, submitted payment via his credit card on behalf of Blue Acres, and has lodged similar complaints against DEO under the subject cases. As such, DEO submits that consolidation remains proper.

{¶ 13} Upon review, the attorney examiner finds that there is sufficient commonality of both parties and issues in Case Nos. 22-855-GA-CSS and 22-1075-GA-CSS to warrant consolidation and doing so will not violate any due process requirements. To the contrary, consolidating Case No. 22-855-GA-CSS and Case No. 22-1075-GA-CSS will prevent replication of effort and provide the parties with a more streamlined platform to present their cases. On the other hand, consolidating these cases with the Blue Acres complaint in Case No. 22-1089-GA-CSS could hinder Mr. Blue's ability to pursue his individual complaints, as an individual may prosecute his own claims pro se but may not do so on behalf of a corporate entity such as Blue Acres. Instead, should Blue Acres' complaint proceed to a hearing on the merits, Blue Acres must be represented by an attorney-at-law authorized to practice before the courts of this state. Ohio Adm.Code 4901-1-08(A).

{¶ 14} Accordingly, the attorney examiner finds that Case Nos. 22-855-GA-CSS and 22-1075-GA-CSS should be consolidated. However, Case No. 22-1089-GA-CSS should continue to proceed as a separate matter. Entries establishing the next procedural steps for these cases will be issued under the appropriate case numbers.

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That DEO's motion to consolidate be granted, in part, and denied, in part, as described in Paragraphs 13 and 14. It is, further,

{¶ 17} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Patricia A. Schabo

By: Patricia A. Schabo
Attorney Examiner

GNS/dr

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

1/4/2024 11:39:50 AM

in

Case No(s). 22-0855-GA-CSS, 22-1075-GA-CSS, 22-1089-GA-CSS

Summary: Attorney Examiner Entry granting, in part, and denying, in part, DEO's motion to consolidate, as described in Paragraphs 13 and 14 electronically filed by Debbie S. Ryan on behalf of Patricia A. Schabo, Attorney Examiner, Public Utilities Commission of Ohio.