

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RONALD KALINOKSI,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 22-229-GA-CSS
	)	
THE EAST OHIO GAS COMPANY D/B/A	)	
ENBRIDGE GAS OHIO,	)	
	)	
Respondent.	)	

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

Christopher T. Kennedy (0075228)  
WHITT STURTEVANT LLP  
The KeyBank Building, Suite 1590  
88 East Broad Street  
Columbus, Ohio 43215  
Telephone: (614) 224-3912  
kennedy@whitt-sturtevant.com

Andrew J. Campbell (0081485)  
ENBRIDGE GAS OHIO  
88 East Broad Street, Suite 1303  
Columbus, Ohio 43215  
Telephone: 614.601.1777  
andrew.j.campbell@dominionenergy.com

(Counsel willing to accept service by email)

ATTORNEYS FOR THE EAST OHIO  
COMPANY D/B/A ENBRIDGE GAS OHIO

Dated: April 5, 2024

## **I. INTRODUCTION**

The Complainant, Mr. Ronald Kalinoski, alleges that the basic service charge for monthly gas transportation service for The East Ohio Gas Company d/b/a Enbridge Gas Ohio<sup>1</sup> (EOG or the Company) is excessive. The basis for Mr. Kalinoski's complaint is his contention that since 2008 his monthly service charge has increased at a rate greater than general inflation.

The record shows that Mr. Kalinoski's bills were correctly charged under the applicable rate schedules approved by the Commission. Based on Commission precedent, Mr. Kalinoski's attempt to challenge the reasonableness of Commission-approved rates is not reasonable grounds for a complaint, and accordingly, must fail as a matter of law. However, even if Mr. Kalinoski's collateral attack on previously approved rates could properly be considered, he failed to present sufficient evidence to support his assertion that EOG's tariffed fixed charges are not just and reasonable. In contrast, EOG presented testimony and exhibits that demonstrated that the Company properly handled the billing on Mr. Kalinoski's account. Since Mr. Kalinoski has neither presented a viable legal claim nor otherwise sustained his burden of proof, his complaint should be dismissed with prejudice.

## **II. FACTUAL AND PROCEDURAL BACKGROUND**

### **A. Mr. Kalinoski's Gas Delivery Service and Complaint**

Mr. Kalinoski resides at 3175 List St. NW, Massillon, OH 44646 (the Premises), receives natural gas service from EOG, and is the primary account holder for the account ending in 3671 (the Account). (Compl. at 1; Answer at 1.) Mr. Kalinoski has been an EOG customer since 1995. (Tr. at 15.) His residence currently has three appliances that use natural gas: a hot water heater, a furnace, and a stove. (*Id.* at 24–25.) Mr. Kalinoski receives gas transportation distribution

---

<sup>1</sup> Formerly known as Dominion Energy Ohio.

service—also referred to as gas distribution service—from EOG and commodity sales service from a qualifying Energy Choice supplier. (DEO Ex. 1.0 (Direct Testimony of Angela Zeisig) at 3.) This means that Mr. Kalinoski’s monthly bills included EOG charges for gas distribution service and charges from a third-party supplier for gas supply costs. (*Id.*)

Mr. Kalinoski’s complaint is that EOG’s basic service charge, which is one of EOG’s monthly distribution charges, is “an excessive amount.” (Compl. at 1.) The primary basis for Mr. Kalinoski’s complaint is his claim that increases to the basic service charge between 2004 and the filing of his complaint exceed what he says was the rate of inflation during that period. (*Id.*) (As mentioned below, at hearing, Mr. Kalinoski also testified that EOG’s basic service charge is higher than the fixed charges on his electric and water bills.) Mr. Kalinoski’s complaint proceeds to recalculate what he claims the 2022 basic service charge “should be” “[b]ased on inflation. (*Id.*) In addition, Mr. Kalinoski claims that the Commission has not “protect[ed] customers by making sure utility companies do not overcharge [them].” (*Id.*)

Mr. Kalinoski does not dispute the accuracy of the billing of any charges to his account. (Tr. at 10.) Nor does his complaint ask for a refund of any billed amount. Instead, Mr. Kalinoski, for the first time at hearing, proposed two different “resolutions” to his complaint that would apply to all residential customers: (1) reset EOG’s basic service charge based on inflation data or (2) eliminate fixed charges and make all EOG distribution charges based on usage. (*Id.* at 9–10.) As he stated at hearing, “I’m not saying that I’m here because I think my fixed cost charge is too high. I’m here because I think everybody’s fixed cost charge is too high.” (*Id.* at 10.)

#### **B. Mr. Kalinoski’s Bills and EOG’s Residential Basic Service Charge**

As an Energy Choice customer, Mr. Kalinoski’s service is provided under the Energy Choice Transportation Service – Residential (ECTS-R) rate schedule. (DEO Ex. 1.0 at 3.) EOG’s residential bills currently list four separate line items for EOG distribution service: a basic

service charge, usage-based charges, a tax savings credit, and a gross receipts tax. (*Id.*) The basic service charge—the charge at issue in this proceeding—is a fixed charge that is the same for all residential customers receiving service under the ECTS-R schedule. (*Id.*) It is made up of several different components. (*Id.*) There is the service charge that was set in EOG’s last base rate case and identified in the ECTS tariff. (*Id.*) In addition, there are four other fixed rider charges that are included in the basic service charge on EOG’s bills and identified in EOG’s tariffs approved by and filed with the Commission. (*Id.* at 4.) These four rider charges are the Automated Meter Reading (AMR) Cost Recovery Charge, the Capital Expenditure Program (CEP) Rider charge, the Infrastructure Development Rider (IDR) charge, and the Pipeline Infrastructure Replacement (PIR) Cost Recovery Charge. (*Id.*) There are also several other rider charges assessed on a volumetric basis, which are also considered distribution charges, and which are included in the line item for usage-based charges on the monthly residential bill. (*Id.*)

The four fixed rider charges—the AMR, CEP, IDR, and PIR—are updated annually and account for the increases to the basic service charge since EOG’s last base rate case. (*Id.* at 4–5.) These annual adjustments are approved by the Commission, subject to Commission Staff review, and publicly filed in docketed proceedings and the Company’s tariffs at the Commission. (*Id.*) In addition, other parties, including the Office of the Ohio Consumers’ Counsel (OCC) who is the statutory representative for residential customers, have an opportunity to intervene in these rate proceedings and file comments. (*Id.* at 5.) The Company also gives notice to customers when adjustments to its fixed rider charges have been reflected in their bills. (*Id.*)

In responding to Mr. Kalinoski’s complaint, the Company reviewed Mr. Kalinoski’s available account history as documented in EOG’s customer information systems, as well as his billing statements from October 2020 to September 2023. (*Id.* at 1–2.) The Company’s review

indicated that both Mr. Kalinoski's bills and EOG's billing system properly reflected the annual adjustments to the basic service charge. (*Id.* at 5–6.) The Company's review also did not identify any errors in the amounts billed to Mr. Kalinoski's account. (*Id.* at 6.)

### **C. Procedural History of Proceeding**

On March 18, 2022, Mr. Kalinoski's formal complaint was filed, to which EOG filed its answer within the required time. Entry (Sept. 14, 2023). The parties attended a settlement conference shortly thereafter on May 11, 2022, which did not result in any resolution of the complaint. *Id.* In addition, Mr. Kalinoski sent two letters to the Commission, which were filed in the proceeding on April 12, 2022, and June 21, 2022. The April 12, 2022 correspondence stated that EOG's answer was insufficient and incorrect in several respects. The June 12, 2022 correspondence requested that the Commission's mediator identify all rate increases approved for EOG between 2004 and 2022 and the reason for each rate increase.

On September 14, 2023, the Commission ordered the parties to file a report outlining the status of the case and any settlement negotiations and indicating whether either party opposed to an evidentiary hearing being held on October 24, 2023. *Id.* Separate reports were filed indicating that neither party objected to the proposed hearing date. EOG also confirmed that it had not engaged in further settlement discussions with Mr. Kalinoski related to his complaint and that the last communication received from Mr. Kalinoski had been his June 2022 correspondence addressed to the Commission's mediator. (Kennedy Correspondence (Oct. 4, 2023).)

The evidentiary hearing was initially scheduled for October 24, 2023. Entry (Oct. 6, 2023), before being rescheduled twice at the Complainant's request for January 30, 2024, and February 13, 2024. Entry (Nov. 14, 2023); Entry (Jan. 26, 2024); Entry (Jan. 31, 2024). At the hearing, EOG presented the direct testimony of Angela Zeisig (DEO Ex. 1.0) and submitted several cross-examination exhibits (DEO Exs. 2.0 – 5.0). (Tr. at 3.) Mr. Kalinoski appeared,

testified on his own behalf, but submitted no exhibits. (*Id.* at 3-4.) The administrative law judge permitted the filing of post-hearing briefs with a deadline of April 5, 2024. (*Id.* at 50.) After the hearing, Mr. Kalinoski submitted a PowerPoint presentation, which although docketed had been ruled inadmissible at the hearing by the administrative law judge. (Tr. at 4; Kalinoski Reply (Mar. 28, 2024).)

### **III. STANDARD OF PROOF**

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 EOG 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 EOG 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. Kalinoski does not allege that he was overcharged or incorrectly billed for service by EOG. Rather, the core allegation of his complaint is that EOG's basic service charge is too high. However, all components of EOG's basic service charge—both the amounts and the rate design—were previously approved by the Commission and reflected in EOG's tariffs.

Mr. Kalinoski has not carried his burden of proof in this case. His arguments lack merit, as neither the allegations in his complaint nor the evidence offered at hearing demonstrate that EOG acted unreasonably or unlawfully in billing Mr. Kalinoski's account consistent with the Company's approved tariffs. The complaint, accordingly, should be dismissed with prejudice.

**A. The Complainant’s allegations related to charges previously approved by the Commission fail to establish reasonable grounds, as required by R.C. 4905.26.**

Under the “filed-rate doctrine,” a utility must charge the rates that are in accordance with the tariffs approved by, and on file with, the Commission. *In re Complaint of Pilkington North America, Inc.*, 145 Ohio St.3d 125, 131 (2015); *see also Hull v. Columbia Gas of Ohio*, 110 Ohio St.3d 96, 100 (2006); *Kazmaier Supermarket, Inc. v. Toledo Edison Co.*, 61 Ohio St.3d 147, 150 (1991) Accordingly, the rates approved by and filed with the Commission are considered the only rates that a utility may lawfully charge. *In re Complaint of Pilkington North America, Inc.*, 145 Ohio St.3d at 131 (electric utility charged industrial customer lawful rate under filed-rate doctrine).

The Commission previously and consistently has held that complaints alleging that Commission-approved rates should not be charged do not set forth reasonable grounds under R.C. 4905.26. *See, e.g., DeFrench v. The Cleveland Elec. Illuminating Co.*, Case No. 21-950-EL-CSS, Entry (July 12, 2023) ¶ 10 (dismissing complaint disputing opt-out charge for not using smart meter technology); *Pavicic v. The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 11-2700-GA-CSS, Entry (July 15, 2011) ¶ 5 (dismissing complaint disputing East Ohio’s basic service charge); *Seketa v. The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 06-549-GA-CSS, Entry (Aug. 9, 2006) ¶ 4 (dismissing complaint arguing Commission should reverse decision to collect PIPP arrearages from non-PIPP customers); *Avery Dennison Co. v. The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 00-89-GA-CSS, Entry (Dec. 14, 2000) ¶ 6 (dismissing complaint arguing charges exceeded cost of service).<sup>2</sup>

---

<sup>2</sup> The Commission also regularly finds complaints insufficient when the utility has acted in accordance with its approved tariffs. *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

In this case, Mr. Kalinoski disputes the reasonableness of EOG charges that were previously approved by the Commission. Mr. Kalinoski's complaint does not explicitly ask for a refund of previously billed amounts; however, his testimony at hearing made clear that he is asking the Commission to modify EOG's distribution charges for all residential customers by either reducing the basic service charge or making all distribution charges volumetric. As the Commission decisions cited above make clear, such a complaint does not set forth reasonable grounds under R.C. 4905.26.

EOG's base rate service charge reflected in the ECTS-R tariff and charged to all residential customers was approved in the Company's last base rate case. *The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 07-829-GA-AIR, Opin. & Order (Oct. 15, 2008) at 28, 31. In that decision, the Commission found just and reasonable both the amount and the fixed rate design for the charge. *Id.* at 21–27. That decision was then affirmed by the Supreme Court of Ohio. *Ohio Consumers' Counsel v. Pub. Util. Commission of Ohio*, 125 Ohio St.3d 57 (2010). The Commission has also approved the four fixed charge riders that are reflected in the basic service charge on EOG's bills. *See* Case Nos. 06-1453-GA-UNC (AMR); 08-169-GA-ALT (PIR); 17-2514-GA-ATA (IDR); and 19-468-GA-ALT (CEP). All four riders are adjusted annually—adjustments that the Commission also approves. *See, e.g.*, Case Nos. 21-1094-GA-RDR (AMR); 21-1095-GA-RDR (PIR); 22-519-GA-IDR (IDR); and 23-619-GA-RDR (CEP).

The direct testimony of Angela Zeisig demonstrates that the components of the basic service add up to the amounts reflected on Mr. Kalinoski's bill. (DEO Ex. 1.0 at 4.) Using his September 2023 bill as an example, Ms. Zeisig listed the amounts of the individual charges (the

---

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).



base rate service charge and the AMR, PIR, CEP, and IDR rider charges) and showed how those amounts added up to Mr. Kalinoski's basic service charge. (*Id.*) Ms. Zeisig also explained the public process for updating the rider charges annually, including the Staff's review of the annual adjustments. (*Id.* at 4–5.) In addition, Ms. Zeisig also explained that the annual rider adjustments are publicly filed with the Commission and identified on EOG's customer bills. (*Id.* at 5.) Ms. Zeisig also testified that her review of Mr. Kalinoski's account did not identify any errors with the billing of the basic service charge—a fact that Mr. Kalinoski concedes.<sup>3</sup> (*Id.* at 6; Tr. at 10.)

In the *Pavicic* decision, the Commission was faced with essentially the same allegations and the same facts. Like Mr. Kalinoski, Mr. Pavicic had been billed EOG's tariffed rates and did not claim that he had been billed the wrong rate. Case No. 11-2700-GA-CSS, Entry (July 15, 2011) ¶ 5. And like Mr. Kalinoski, Mr. Pavicic contended that he should not be billed a basic service charge that he considered excessive. *Id.* The complaints in the *Seketa* and *Avery Dennison Company* cases also presented similar allegations and fact patterns. There was no allegation that EOG charged Mr. Seketa something other than the approved rate; rather, Mr. Seketa just considered the PIPP rider rate to be excessive. Case No. 06-549-GA-CSS, Entry (Aug. 9, 2006) ¶ 4. In *Avery Dennison Company*, there was no evidence that the complainant was paying more than other customers in the class; rather, the complainant simply claimed that EOG's rates exceeded the cost to serve. Case No. 00-89-GA-CSS, Entry (Dec. 14, 2000) ¶ 6.

---

<sup>3</sup> A complainant's failure to rebut the accuracy of a utility's billing records has proven to be fatal to complaints alleging overcharging. *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); *Abrattis 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).

In all three cases, the Commission found that the allegations and facts did not support a claim. In this case, the Commission should arrive at the same result: it should find that EOG properly billed Mr. Kalinoski its lawfully approved rates, and his complaint should be dismissed with prejudice.

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

In complaint proceedings, the complainant bears the burden of proof and must support his claims with evidence. Failure to do so is fatal. *See 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”); *see also, 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). As shown above, Mr. Kalinoski’s complaint concerning previously approved charges, on its face, does not set forth reasonable grounds. However, even if the complaint were viable, it was not supported with evidence demonstrating that EOG’s basic service charge is excessive.

Taken together, Mr. Kalinoski’s complaint and testimony make two basic contentions. First, his complaint alleges that EOG’s basic service charge has gone up higher than the rate of inflation since 2004. Second, he testified at hearing that EOG’s fixed charges were higher than the fixed charges that he is billed for electric and water service, and he referenced a PowerPoint that contained screenshot excerpts of his gas, electric and water bills, as well as several graphs that he had prepared.<sup>4</sup> The evidence in the record does not prove either contention. But even if Mr. Kalinoski had supported these assertions, neither would have established his claim that

---

<sup>4</sup> As stated above, the administrative law judge ruled this PowerPoint presentation inadmissible. (Tr. at 4.)

EOG's basic service charge is excessive. Comparing EOG's cost of service to either the rate of inflation or the cost of service for electric and water utilities is not an apples-to-apples comparison. Moreover, these comparisons collaterally attack the rigorous review of EOG's costs and application of complex ratemaking principles that occurs in the various rate proceedings in which EOG's fixed charges have been approved.

Mr. Kalinoski's complaint restates what he believes EOG's basic service charge should be based on what he says has been the rate of inflation, using a few simple calculations. (Compl. at 1.) No expert testimony, however, was submitted either confirming the accuracy of his data and calculations or explaining why the rate of inflation is a proper point of comparison. Mr. Kalinoski did not undertake any review of EOG's costs and revenues, and even if he had attempted to do that, he would not be qualified to opine on their reasonableness. Although Mr. Kalinoski is clearly a thoughtful and intelligent individual, he does not have a degree in economics and does not consider himself an expert in economics. (*Id.* at 25.) He has not been employed by a utility in any capacity. (*Id.* at 17.) He did not testify to any experience in utility ratemaking or price-setting in general. He admitted that "by court rules [he] probably [is] not an expert." (*Id.* at 12.) He could not testify on EOG's revenue requirement or rate design issues. Nor could he testify on the prudence of the costs incurred by EOG. Indeed, his insistence on general inflation as a sufficient means of judging a public-utility rate demonstrates a lack of familiarity with the underlying issues. Simply put, Mr. Kalinoski does not have the educational background, technical training, or work experience necessary to judge whether EOG's rates are just and reasonable—the type of evidence required in rate proceedings that establish the tariffed rates EOG included in Mr. Kalinoski's bills.

As noted above, Mr. Kalinoski offered a PowerPoint presentation, at hearing that was deemed inadmissible. (Tr. at 4.) The presentation purported to compare increases in EOG's fixed basic service charge to the rate of inflation and the fixed charges on his electric and water bills. But he never submitted admissible evidence establishing the rate of inflation or the fixed charges on his electric and water bills, and he admitted that he did not compare EOG's fixed charges with the fixed charges of other gas utilities in Ohio. (Tr. at 26–27.) The reality is that a simple comparison of rate amounts across utilities bears no resemblance to the kind of rate review required under both constitutional mandates and Ohio law. But to the extent one wished to engage in a superficial comparison of rate amounts, EOG submitted evidence demonstrating that the Commission publishes monthly surveys of electric and gas rates, which contain detailed breakdowns of the components of each utility's bill and show that gas bills in Ohio currently are lower than electric bills on average, and that EOG's gas bills are lower than other gas utilities' bills in Ohio on average. (*See generally* Tr. at 18–35; DEO Exs. 2.0–4.0.) EOG also demonstrated that the bills of Ohio Edison, Mr. Kalinoski's electric utility, contain significant charges for distribution service, apart from the charge Mr. Kalinoski referenced. (DEO Ex. 5.0.) In short, even a complete rate comparison across different utilities is simply too superficial to be probative, and Mr. Kalinoski's comparison was incomplete.

When the complainant does not support his claims with evidence and sustain his burden of proof, the claims 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). Mr. Kalinoski's failure to submit probative evidence that EOG's basic service charge is excessive is fatal to his case.

**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. Kalinoski did not use his opportunity at hearing to present evidence that sustained his burden of proof. He did, however, propose relief and raise other issues not identified in his complaint.

Raising new claims at hearing is 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 EOG 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, 1998) (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.”).

These authorities show that many of Mr. Kalinoski’s claims were improperly presented. For example, his suggested resolutions that EOG’s fixed charges should be reduced for all customers or converted to usage-based charges were never mentioned in his complaint. In addition, his complaint did not allege that EOG’s rates were excessive based on what he is billed for electric or water service. EOG has already shown that these claims are invalid and unsupported by evidence. And given these claims were not fairly presented prior to hearing, it would also be improper for the Commission to consider them.

Lastly, his complaint made no mention of any issue with EOG’s customer service. This, however, became virtually the sole focus of his cross-examination of EOG’s witness. (Tr. at 41–47.) Mr. Kalinoski complained that no one from EOG returned a call he had made after his complaint was formally filed. EOG’s witness apologized to the extent any call had gone unreturned, but the Company’s policy for logging voicemails and returning customer calls simply was not placed at issue in this complaint proceeding. Even if the issue were proper for consideration, Mr. Kalinoski has not demonstrated that any failure to return a call is an actionable claim. Indeed, Mr. Kalinoski subsequently participated in a May 11, 2022 settlement conference with EOG representatives where he had opportunity to voice any and all of his concerns. And although Mr. Kalinoski attempted to tie these allegations to his complaint about EOG’s basic service charge (Tr. at 47), he did not establish that any failure to return his voicemail showed that EOG’s charges are not just and reasonable. On the contrary, EOG’s

witness made clear that the Company has policies in place and a very tenured staff that is trained annually on how to check voicemails and deliver messages. (*Id.* at 45–46.)

In sum, Mr. Kalinoski did not provide any documentation in support of these additional assertions and requests for relief, and as discussed above, these allegations generally appear to relate to his claims previously discussed and rebutted. But even if these allegations were supported, none of these allegations were included in Mr. Kalinoski's complaints and thus could not be fairly considered in this case.

## V. CONCLUSION

The evidence shows that Complainant failed to demonstrate that any EOG 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 with prejudice.

Dated: April 5, 2024

Respectfully submitted,

/s/ Christopher T. Kennedy  
Christopher T. Kennedy (0075228)  
WHITT STURTEVANT LLP  
The KeyBank Building, Suite 1590  
88 East Broad Street  
Columbus, Ohio 43215  
Telephone: (614) 224-3912  
kennedy@whitt-sturtevant.com

Andrew J. Campbell (0081485)  
ENBRIDGE GAS OHIO  
88 East Broad Street, Suite 1303  
Columbus, Ohio 43215  
Telephone: (614) 601-1777  
andrew.j.campbell@dominionenergy.com

(All counsel willing to accept service by email)

ATTORNEYS FOR THE EAST OHIO GAS  
COMPANY D/B/A ENBRIDGE GAS OHIO

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Post-Hearing Brief was served by U.S. mail this 5th day of April, 2024, to the following:

Ronald Kalinoski  
3175 List St. NW  
Massillon, OH 44646

/s/ Christopher T. Kennedy  
One of the Attorneys for The East Ohio Gas  
Company d/b/a Enbridge Gas Ohio



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

**4/5/2024 11:06:47 AM**

**in**

**Case No(s). 22-0229-GA-CSS**

Summary: Brief Post-Hearing Brief electronically filed by Mr. Christopher T.  
Kennedy on behalf of The East Ohio Gas Company d/b/a Enbridge Gas Ohio.