

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Self-Complaint of)
Akron Thermal, Limited Partnership.) Case No. 04-1298-HT-SLF

FINDING AND ORDER

The Commission finds:

- (1) Akron Thermal, Limited Partnership (Akron Thermal) is a steam and hot water company as defined in Section 4905.03(A)(9), Revised Code, and is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On August 16, 2004, Akron Thermal filed a "self-complaint" pursuant to Section 4905.26, Revised Code. That complaint avers that Akron Thermal's ability to continue rendering steam and hot water service to its customers is being unjustly and unreasonably compromised by the insufficiency and inadequacy of its rates and charges, relative to Akron Thermal's costs for providing service. Akron Thermal alleges that its average system-wide cost for generating and providing steam and hot water service is \$12.98 per Mlb (thousand pound), while its system-wide customer rate for steam and hot water service is only \$8.41 per Mlb, resulting in a cost under-recovery of \$4.57 per Mlb of service provided. Much of this cost under-recovery, according to Akron Thermal, is due to an increase in Akron Thermal's actual fuel costs. In its filing, Akron Thermal states that its actual fuel costs for calendar year 2003 (\$5.27 per Mlb) exceed the assumed fuel costs (\$1.77 per Mlb) embedded in its Commission-approved tariff rates by \$3.50. Overall, Akron Thermal maintains that, in 2003, it suffered a net income loss of \$3,466,000. However, for purposes of this self-complaint, Akron Thermal requests relief only with regard to its fuel cost under-recovery. Specifically, Akron Thermal seeks a temporary fuel cost surcharge rider ("surcharge" or "rider") of \$3.50 per Mlb on a unit of sale basis. Akron Thermal avers that it is pursuing recovery of its actual fuel costs through negotiations with its contract customers as well. Akron Thermal maintains that the self-complaint mechanism will still adequately protect the interests of affected consumers, while allowing Akron Thermal to begin recovering some of its costs and mitigating the increase that customers would experience. Akron Thermal commits to filing a full rate case application within 90 days following the Commission's determination of the self-complaint.

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- (3) In its self-complaint pleading, Akron Thermal presents cost and revenue information that, if true, would tend to demonstrate that its current rate structure is inadequate. That same information, if true, demonstrates that Akron Thermal is in need of immediate temporary rate relief now and during the pendency of a full rate case under Section 4909.18, Revised Code.
- (4) On September 8, 2004, the Commission issued an entry allowing Akron Thermal's filing to proceed as a self-complaint case. That entry also directed that any interested person, firm, corporation, or entity desiring an oral hearing in this matter should file a request with the Commission stating the reasons for the request, along with a motion to intervene in the aforementioned case, on or before October 15, 2004. Moreover, Akron Thermal was directed to cause to be published, in a newspaper of general circulation in the county(s) affected by this self-complaint case for three consecutive weeks beginning the week of September 20, 2004, the legal notice specified in the entry.
- (5) On October 12, 2004, Canal Park Condominium Owner's Association, Inc. (Association) timely filed a request for hearing and its motion to intervene in the instant proceedings. The request for hearing stated Association's reasons for requesting a hearing in this matter. However, on October 15, 2004, Association filed its notice of withdrawal of both its request for hearing and motion to intervene. Further, on October 15, 2004, Ohio Edison Company (OE) filed its notice to intervene in these proceedings. However, OE did not request a hearing in this matter. No other motions to intervene or requests for an oral hearing were filed in this case. By an entry issued October 22, 2004, an attorney examiner denied OE's motion to intervene. Therefore, there are no requests for an oral hearing of Akron Thermal's self-complaint case, and there are no intervenors.
- (6) On October 20, 2004, Akron Thermal filed its proof of publication of the legal notice specified in the September 8, 2004, entry. We find that the notices published by Akron Thermal are in substantial compliance with the requirements of Section 4905.26, Revised Code, and the Commission's September 8, 2004, entry.
- (7) Because no request for an oral hearing was filed by October 15, 2004, and there are no intervenors in the proceedings, the Commission will proceed to determine this matter on the basis of the information and exhibits contained in the self-complaint. As indicated in the company's self-complaint, Akron Thermal contends that it is significantly under-recovering its costs of

rendering service, in large part because of increases in fuel costs. Akron Thermal recognizes that it needs to file a full cost-of-service rate case pursuant to Chapter 4909, Revised Code, in order to give it the opportunity to recover all of its cost-of-service and to give the Commission an opportunity to fully review Akron Thermal's finances. Complaint at paragraph 18. Akron Thermal also states that it needs to begin recovering at least its increased fuel costs immediately rather than being required to delay recovery until a full cost-of-service rate case can be decided. Section 4905.26, Revised Code, provides in pertinent part, that "upon complaint of a public utility as to any matter affecting its own product or service, if it appears that reasonable grounds for complaint are stated, the commission shall fix a time for hearing and shall notify complainants and the public utility thereof..." The Commission has in prior cases approved, under limited circumstances, the use of the self-complaint process to amend rate schedules as an extraordinary alternative to the application to increase rates mechanism. See, *In the Matter of the Self Complaint of Paramount Natural Gas Company Concerning Its Existing Tariff Provisions Regarding Charges for Installing a Positive Shut Off Drip*, Case No. 98-1590-GA-SLF (January 14, 1999, Finding and Order).

- (8) Based upon the unique circumstances presented in this case, the Commission finds that, in view of the temporary nature of the proposed rider and through its review of Akron Thermal's filing, the self-complaint process will adequately protect the consumers' interest. Upon review of the record in this case, the Commission finds that it is appropriate for the company to be able to implement a temporary fuel surcharge during the pendency of the full cost-of-service rate case pursuant to Chapter 4909, Revised Code, that is also directed to be filed by this Finding and Order. Further, the surcharge shall be collected by Akron Thermal subject to refund, with full accounting of the surcharge amounts collected to be reviewed as part of that rate case.
- (9) A temporary fuel surcharge rider in the amount of \$3.50 per Mlb (thousand pounds of steam or hot water) is authorized for inclusion in the tariff of Akron Thermal for all tariff class customers. Akron Thermal shall modify its tariff sheets to reflect this temporary surcharge, and that it is collected subject to refund pending the determination of a base rate case to be filed in accordance with this Finding and Order.

- (10) Akron Thermal shall file a complete application to increase rates pursuant to Section 4909.18, Revised Code, by no later than 90 days after the date of this Finding and Order. If a complete application to increase rates has not been filed by that time, the surcharge ordered herein will be terminated by the Commission.

It is, therefore,

ORDERED, That Akron Thermal's proposed temporary fuel cost surcharge rider of \$3.50 per Mlb to its tariff customers is approved, subject to refund pending the determination of a base rate case to be filed in accordance with this Finding and Order. It is, further,

ORDERED, That Akron Thermal shall file a complete application to increase rates pursuant to Section 4909.18, Revised Code, by no later than 90 days after the date of this Finding and Order. Further, the surcharge authorized by this Finding and Order shall be reviewed as part of that rate case. It is, further,

ORDERED, That Akron Thermal is authorized to file four printed copies of its amended tariff sheets reflecting the temporary fuel cost surcharge authorized herein and that it is collected subject to refund. One copy shall be filed in this case docket, one copy shall be filed in the company's "TRF" docket, Case No. 89-6013-HT-TRF, and the remaining copies shall be designated for distribution to the Commission staff. Akron Thermal shall also update its tariffs previously filed electronically with the Commission's Docketing Division. It is, further,

ORDERED, That Akron Thermal shall notify affected customers of the substance of the temporary fuel cost surcharge rider authorized herein within 30 days of the effective date. It is, further,

ORDERED, That the effective date of the temporary fuel cost surcharge rider authorized herein shall be a date not earlier than both the date of this Finding and Order and the date upon which the copies of the amended tariff sheets are filed with this Commission. The temporary fuel cost surcharge rider shall be effective for bills rendered on or after the effective date. It is, further,

ORDERED, That nothing in this Finding and Order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule or regulation of Akron Thermal. It is, further,

ORDERED, That a copy of this entry shall be served upon Akron Thermal, its counsel and any interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



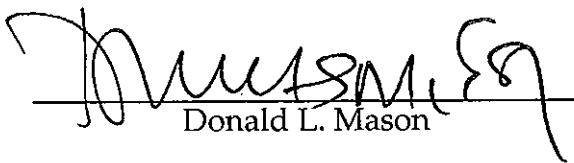
Alan R. Schriber, Chairman



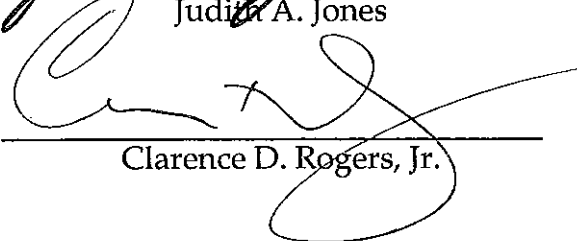
Ronda Hartman Bergus



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Clarence D. Rogers, Jr.

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Renee J. Jenkins
Secretary