

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

ENTRY

The attorney examiner 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. That complaint avers that the rates, charges, and schedules of Akron Thermal for providing steam and hot water service are unjustly and unreasonably inadequate. Akron Thermal serves many of its customers under its Commission approved tariff, and other customers under contracts.
(3) On October 15, 2004, Ohio Edison Company (OE) filed a motion to intervene in this self-complaint case. OE states that its, "...real and substantial interest in this proceeding is to assure that Akron Thermal's management and finances are sufficient to allow Ohio Edison to recover amounts owed to it for electric service." Motion to Intervene of Ohio Edison Company at 2.
(4) In determining whether to grant or deny a motion for intervention, the Commission is constrained by the requirements of Section 4903.221, Revised Code, and Rule 4901-1-11, O.A.C. The former includes as criteria: the nature and extent of the prospective intervenor's interest, and the legal position advanced by the prospective intervenor and its probable relation to the merits of the case. The instant case is a request by Akron Thermal for a temporary fuel cost surcharge rider. OE does not claim to be a customer of Akron Thermal, and does not identify an interest in the merits of the case other than aid it in recovering money amounts in the future. In that regard, OE's Commission approved tariff already provides adequate protection.

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- (5) To meet the requirements of Section 4903.221(B), Revised Code, discussed above, the prospective intervenor must be able to demonstrate that its present and immediate interests are affected by the proceeding. Here, as described above, OE's interests are in the future recovery of money amounts. Again, those interests are adequately protected by its Commission approved tariff. Further, even though OE does not request an oral hearing in this self-complaint, an intervention may result in a delay in the determination by the Commission of the merits of Akron Thermal's request for a temporary fuel surcharge rider. Therefore, the matter of granting or denying a motion to intervene cannot be taken lightly. It would be inappropriate to allow an intervention for an entity that does not demonstrate a present and immediate interest in the proceeding or have a legal position that directly addresses the merits of the case. Here, OE can show neither.
- (6) For the above reasons, the attorney examiner finds that OE's motion to intervene in the instant proceeding is not well taken and should be denied.

It is, therefore,

ORDERED, That the motion of OE to intervene in this case is denied. It is, further,

ORDERED, That a copy of this entry be served upon all parties and interested persons of record.

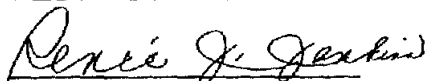
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
By: John L. Shailer  
Attorney Examiner

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Entered in the Journal

OCT 25 2004



Renee J. Jenkins  
Secretary