

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of)
J. C. HALLAMON against) Case No. U-14125
CONSUMERS ENERGY COMPANY.)
_____)

At the February 24, meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

OPINION AND ORDER

On April 30, 2004, J. C. Hallamon filed a complaint against Consumers Energy Company (Consumers) alleging that Consumers wrongfully billed him as a result of a faulty gas meter. The complaint was subsequently amended on June 7, 2004. Consumers filed its answer on June 29, 2004, denying the allegations contained in the complaint.

A hearing was held before Administrative Law Judge Daniel E. Nickerson, Jr. (ALJ), on December 9, 2004. At the conclusion of the hearing, the ALJ issued an oral Proposal for Decision (PFD) dismissing the complaint. Exceptions were to be filed on or before January 10, 2005. No party filed exceptions.

Evidence presented at the hearing showed that Mr. Hallamon contacted Consumers on June 6, 2003, to report what he believed to be a faulty meter. He scheduled an appointment for Consumers to replace the meter on June 18, 2003, from 8:00-10:00 a.m. Mr. Hallamon testified

that he was adamant about being present when the meter was removed because he wanted to record the serial number of the meter to verify the identity of the meter, which would be tested for accuracy at a later date. Mr. Hallamon also testified that he requested that a representative of the Commission Staff (Staff) be present at the Consumers testing facility when his meter was tested.

Mr. Hallamon testified that he called Consumers on the morning of June 18, 2003, at 7:50 a.m. to reschedule the appointment to replace the meter. Due to the late notice, Consumers was unable to reschedule the appointment. Consumers indicated that its service employee had already left for his service routes by 7:50 a.m., and indeed, was scheduled to replace Mr. Hallamon's meter between 8:00 a.m. and 10:00 a.m. The service employee's work-order log indicated that Mr. Hallamon's meter was exchanged at 9:50 a.m., and that Mr. Hallamon was given a notice to contact Consumers to have service restored because he was not present when the meter was exchanged.

Exhibit R-2 indicates discussions between Mr. Hallamon and Consumers' customer assistance representative, Susan McLeod, on June 25, 2003. During that conversation, Mr. Hallamon indicated that he did not know when he would be available to observe the meter testing at Consumers' testing facility. He agreed, however, that he would call Mrs. McLeod by July 15, 2003, and schedule the test within 30 days. Consumers tested the meter on July 21, 2003, despite the absence of Mr. Hallamon and the Staff. This test resulted in an accuracy rating of 100.54%.

Mr. Hallamon testified that he repeatedly requested Consumers to coordinate another meter test with him and the Staff in attendance. Consumers and Mr. Hallamon agreed that the meter test should occur on September 30, 2003 at 11:00 a.m. Consumers notified the Staff that the meter was set for testing on that date.

On September 25, 2003, Mr. Hallamon contacted Consumers and requested that the meter test be rescheduled. The meter test was rescheduled for October 29, 2003. Consumers notified the Staff that the meter test was rescheduled for October 29, 2003, at 12:00 p.m. On that date, Mr. William Celio, then Director of the Commission's Energy Operations Division was present. Mr. Hallamon was absent from the meter test. The second test resulted in an accuracy rating of 100.35%.

Rule 52 of the Commission's Technical Standards for Gas Service, R 460.2352, governs the acceptable meter accuracy required for gas meters. Rule 52 provides that for a meter to be within acceptable accuracy parameters, the meter must register an accuracy rating between 98.0% and 102.0%—or a deviation of two test points. R 460.2352(3)(b). Pursuant to the standards set forth in Rule 52, Mr. Hallamon's gas meter passed both tests.

The ALJ found the initial meter test to be conducted in error, since Consumers had agreed that they would not test the meter on a date other than agreed upon with Mr. Hallamon. Nevertheless, the ALJ allowed the results of both tests to be entered into the record. The ALJ also found that this error was harmless for two reasons: (1) the ALJ found that a meter's accuracy rating is not affected during the testing process; and (2) the scheduled meter test was performed and resulted in an accuracy rating of 100.35%, within the acceptable accuracy rating approved in Rule 52.

While the ALJ was concerned that the two tests did not produce the same exact results, the ALJ found the explanation of the variance by Consumers' senior technical analyst in charge of the meter testing facility, Gene Hurd, to be credible and ultimately determined the deviation to be insignificant.

The Commission also notes that Consumers' Exhibit R-1, Mr. Hallamon's statement of billings and payments for the period of May 22, 2003 to October 20, 2004, demonstrates that

Mr. Hallamon was billed for service through a budget plan. At the time Mr. Hallamon complained of a change in his gas bill, the annual budget year for Mr. Hallamon's service had expired. Upon expiration of a budget year, it is necessary to net the projected costs factored into the budget and the actual costs of service. Exhibit R-1 indicates that this is exactly what occurred in Mr. Hallamon's case and provides a likely explanation for his increased gas bill. In addition, Consumers argued that changes in consumption as well as an intervening rate increase may also have been factors contributing to the increase. In any event, the Commission concludes that the ALJ correctly determined that the increase in Mr. Hallamon's gas bills was not the result of a faulty meter or any other cause attributable to Consumers.

Therefore, the Commission finds that Mr. Hallamon's complaint should be dismissed with prejudice.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.
- b. The complaint should be dismissed with prejudice.

THEREFORE, IT IS ORDERED that the complaint of J. C. Hallamon against Consumers Energy Company is dismissed with prejudice.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chair

(S E A L)

/s/ Robert B. Nelson
Commissioner

/s/ Laura Chappelle
Commissioner

By its action of February 24, 2005.

/s/ Mary Jo Kunkle
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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By its action of February 24, 2005.

Its Executive Secretary