

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of)	
STEPHANIE BARNETT-OBOMANU against)	Case No. U-15936
DTE ENERGY COMPANY.)	
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At the January 25, 2010 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Greg R. White, Commissioner

ORDER

On April 1, 2009, Stephanie Barnett-Obomanu (complainant) filed a complaint against DTE Energy Company alleging that she was improperly back-billed her for natural gas provided by Michigan Consolidated Gas Company (Mich Con) due to a meter that failed to register consumption at her residence.

The complainant alleges that Mich Con originally estimated charges for the entire period from 1998 to 2007 after discovering the faulty meter. Although it is difficult to ascertain from the record exactly how much the original back charge totaled, Administrative Law Judge Mark D. Eyster (ALJ) in his Proposal for Decision (PFD) approximated the claimed back-billed amount to be around \$14,000.

Mich Con did not dispute that complainant's meter was faulty. Further, there does not appear to be any evidence showing that the meter had been tampered with. The ALJ determined that the

evidence showed that complainant had not been billed for nor had paid for gas service during the nine years in dispute.

At some point following the original back-billing, Mich Con reduced the amount to \$6,000. A payment plan was agreed to by the complainant. Mich Con received one payment under the payment plan in the amount of \$353.00 in February 2008. Then, the complainant defaulted on the payment plan and her utility service was shut-off for non-payment. After the shut-off, Mich Con agreed to resolve the back-billing issue with complainant and reduced the back-billing to reflect usage from March 2006 to March 2007. The amount for this 12-month period totaled \$2,563.52.¹ After receiving the back-billing in the amount of \$2,563.53, complainant filed for a hearing.

Discussion

First, the Commission agrees with the ALJ that the theories under which complainant believed she has been wronged or what remedy is sought cannot be easily ascertained from the complaint. However, it is clear that complainant believes that the 12-month period of back-billing is incorrect and that she should only have been billed for 6 months of past usage.

At first blush, R 460.116(2) seems to support complainant's position. R 460.116(2) provides:

Meters recording usage inaccurately shall be repaired or replaced by the company. Any meter in service that remains broken as determined by a specific test of the meter or that does not correctly register customer usage for a period of 6 months or more shall be removed and customers will not be required to pay bills generated from these meter readings beyond the 6-month period from the date the meter malfunction occurred.

However, the ALJ observed that R 460.116(2) did not become effective until October 26, 2007.

Rather, he found that R 460.2125(2)(b), R 460. 2125(3), and R 460.2364 were in place at the time the meter error was discovered, and that they control the outcome of this proceeding.

¹The ALJ expressed concern at the unexplained method used to calculate this total but due to complainant's inability to challenge the amount, the ALJ accepted the amount.

R 460.2125(2)(b) provides as follows:

In cases that do not involve meter tampering or fraud, the utility may backbill the customer for the amount of the undercharge during the 12- month period immediately preceding discovery of the error, and the utility shall offer the customer reasonable payment arrangements for the amount of the backbill, taking into account the period of the undercharge.

R 460.2125(3) provides as follows:

Overcharges and undercharges due to gas meter errors and electric meter errors shall be reconciled in accordance with the provisions of R 460.2364 of the technical standards for gas service and the provisions of R 460.3403 of the regulations governing service supplied by electric utilities, respectively.

R 460.2364 provides as follows:

If the amount due the utility as the result of meter nonregistration or underregistration is equal to, or more than, amounts set forth in R 460.2363(2) as minimum refunds, the utility may bill the customer for the amount due, but the period covered by the billing shall not be more than 12 months unless otherwise ordered by the commission. The utility shall offer the customer reasonable payment arrangements for the amount of the billing, taking into account the period covered by the billing. A rebilling policy that is adopted by a utility based on minimum amounts that are more than those set forth in R 460.2363(2) shall be uniformly applied to all customers.

The Commission agrees with the ALJ that R 460.2125(2)(b), R 460. 2125(3), and R 460.2364, which were effective at the time the error was discovered, control and should have been applied by Mich Con initially. Thus, the Commission finds that the ALJ correctly applied the 12-month period for back billing for the faulty meter in the amount of \$2,563.52. The Commission further finds that complainant's one payment of \$353.00 towards back billed charges should be credited towards this total.

THEREFORE IT IS ORDERED that:

A. Michigan Consolidated Gas Company may properly back bill Stephanie Barnett-Obomanu the amount of \$2,563.52 minus the credit of \$353.00 for the one payment already received.

B. Michigan Consolidated Gas Company shall offer reasonable payment arrangements.

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

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Greg R. White, Commissioner

By its action of January 25, 2010.

Mary Jo Kunkle, Executive Secretary