**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Donald Rinald :

:

v. : C-2012-2292780

:

Columbia Gas of Pennsylvania, Inc. :

**ORDER GRANTING THE MOTION OF DIRECT ENERGY SERVICES, LLC., TO CANCEL THE PREHEARING CONFERENCE AND GRANT AN EXTENSION OF TIME IN WHICH TO FILE RESPONSIVE PLEADINGS TO THE COMPLAINT**

On March 5, 2012, Donald Rinald (Complainant) filed a formal Complaint against Columbia alleging that the utility bill that he received dated February 14, 2012 contained the correct "therm pricing" but the structure of the bill mathematically and legally does not match the advertising. He seeks a complete detailing of the sources for all charges itemized on the bill.

On March 30, 2012, Columbia filed its Answer which denies that there are incorrect charges on Complainant's bill and avers instead that the Complainant has misinterpreted the calculations.

On June 7, 2012, an Initial Telephonic Prehearing Conference Notice was issued which sets the date for Wednesday, August 15, 2012, and assigned the matter to me. On June 8, 2012, I issued a standard prehearing order.

On June 26, 2012, Complainant submitted his proposed exhibits along with a cover letter which indicates that he is seeking information, assistance and corrections rather than penalties.

On July 12, 2012, Respondent filed a Motion to Join Indispensable Party, seeking to join Complainant's natural gas supplier, Direct Energy Services, LLC (Direct Energy).

On July 15, 2012, Complainant sent a letter to me, asking that no action be taken which might delay or cancel the planned procedures for August 15, 2012.

By Order issued July 27, 2012, the Motion to Join an Indispensable Party was granted and Direct Energy was served with the pleadings. As part of the discussion section, the Order stated:

The next step is to require service of the Complaint on Direct Energy and allow the new party twenty days to file a responsive pleading. This is inconsistent with the scheduled prehearing conference, which falls within this twenty-day period. Complainant has asked that this not be delayed. Therefore, I will not cancel the prehearing conference unless and until Direct Energy asks for a continuance. My preference would be for Direct Energy to participate in the prehearing conference, which will not be for the taking of evidence but for the scheduling and discussion of the development of issues in this case.

Order Granting Joinder.

On August 7, 2012, Direct Energy filed a Motion for Extension of Time to File Responsive Documents to the formal Complaint and for Continuance of Scheduled Prehearing Conference, citing the following:

5. Direct Energy's investigation into the allegations of the formal Complaint is on-going. Direct Energy is endeavoring to identify any billing errors related to the commodity, and intends to expeditiously take action to correct any billing errors related to the commodity.

6. Rather than expending resources to prepare formal documents to advance the formal litigation of the formal Complaint, Direct Energy would much prefer to dedicate time and resources to identifying the cause of Mr. Rinald's concerns and attempting to resolve the issues raised in the Formal Complaint. *See* 52 Pa. Code § 5.231.

Motion at p. 3.

The Motion notes that Columbia has no objection to this request but that Complainant wishes to proceed.

Direct Energy also asks that the prehearing conference be continued as:

. . . the time available before the scheduled Prehearing Conference is not sufficient for Direct Energy to (a) conduct a reasonable investigation of the allegations in the Formal Complaint; (b) determine if the possibility of a settlement exists with Mr. Rinald; (c) prepare and file an responsive document to the Formal Complaint; and (e) be fully prepared for a useful discussion of all problems involved in the proceeding, both procedural and substantive. *See* 52 Pa. Code §§ 5.222, 5.223.

Motion at ¶ 11.

I note first that the point of the prehearing conference was to bring the parties together in order to determine the basis of the issues and to determine whether the matter could be resolved without an evidentiary hearing. At first blush, it appears that it would be quite helpful to have the appropriate employees from each company present to explain the make-up of Complainant's bills.

In addition, the scheduling of a prehearing conference in no way requires the filing of any responsive pleading until the time allowed by regulation for such filing has run, even though it falls after the prehearing conference. A discussion with Direct Energy's counsel regarding this procedure resulted in counsel telling me that he had already spoken with Complainant and was hopeful that the matter would be resolved amicably, but that he would not have additional information to share with Complainant by the prehearing conference. Therefore, prehearing conference would not serve the purpose for which it was intended, and what was needed was additional time. It would, however, serve to incur litigation costs and court reporter fees without the expectation of a useful result.

It is my preference to not delay this proceeding, especially when the Complainant's express desire is to have it proceed in a timely manner. However, neither does it make sense to proceed with it under the present circumstances. Therefore, the prehearing conference scheduled for August 15, 2012, is canceled. Having Direct Energy's counsel's assurance that the cancellation will actually contribute to the possibility of an amicable resolution, and that the investigation the company must engage in will proceed apace, I will grant the Motion. The matter will be rescheduled after the filing of Direct Energy's responsive pleading, if necessary. *No further delays will be permitted without the express agreement of the Complainant.*

THEREFORE,

IT IS ORDERED:

1. That the Motion for Continuance for extension of time to file responsive pleadings to the formal Complaint filed by Donald F. Rinald at docket no. C-2010-2292780 is granted.

2. That the deadline for Direct Energy Services, LLC, may file responsive pleadings to the formal Complaint filed by Donald F. Rinald at docket no. C-2010-2292780 is extended to Monday, September 17, 2012.

3. That the responsive pleading filed by Direct Energy Services, LLC, , if necessary, must indicate at least three prospective dates that Direct Energy Services, LLC, Columbia Gas of Pennsylvania, Inc., and Donald F. Rinald, all agree are acceptable dates for an evidentiary hearing.

4. That the prehearing conference scheduled for Wednesday, August 15, 2012, is canceled.

Dated: August 9, 2012 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Susan D. Colwell

Administrative Law Judge

**C-2012-2292780 Donald F. Rinald v. Columbia Gas of Pennsylvania**

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