

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE COMPLAINT) CAUSE NO. 43719
 OF DENNIS FOREMAN AGAINST) PREHEARING CONFERENCE ORDER
 CITIZENS' GAS AND COKE UTILITY) APPROVED: SEP 03 2009

[Handwritten signatures and initials]
 SPA
 JLG
[Large handwritten signature]

BY THE COMMISSION:

Jeffrey L. Golc, Commissioner
Lorraine Hitz-Bradley, Administrative Law Judge

On June 26, 2009, the Indiana Utility Regulatory Commission ("Commission") received written notice from Dennis Foreman ("Complainant") appealing the June 8, 2009 decision of the Commission's Consumer Affairs Division regarding a complaint against Citizens' Gas and Coke Utility ("Citizens" or "Respondent"). Decisions made by the Consumer Affairs Division with respect to complaints are subject to review by the Commission pursuant to Ind. Code § 8-1-2-34.5 and 170 I.A.C. § 1-1.1-5. This Cause was initiated for the purpose of conducting such review.

Pursuant to notice and as provided in 170 I.A.C. § 1-1.1-15, a Prehearing Conference was held in this Cause on August 25, 2009, at 9:30 a.m. EST in the Indiana Utility Regulatory Commission Conference Center, Suite 220, Judicial Courtroom 224 of the National City Center, Indianapolis, Indiana. Proof of publication of the notice of the Prehearing Conference has been incorporated into the record and placed in the official files of the Commission. The Complainant, Respondent, and the Indiana Office of Utility Consumer Counselor ("Public" or "OUCC") appeared and participated at the Prehearing Conference.

Upon the opening of the record in this proceeding, the Presiding Officers set forth the procedure to be followed in this matter. Complainant was advised of the process of filing a *Motion to Supplement* the record and that the Presiding Officers would review such a *Motion* to determine whether or not the proffered material should be made part of the record. Complainant was advised of the existence of the Commission's procedural rules under 170 I.A.C. 1-1.1 governing practice before the Commission, and was informed of filing documents with the Commission by mail, in person, and electronically. Complainant was provided with a document in this proceeding showing the manner in which captions are styled for Commission proceedings, and advised to use that caption for all filings.

All parties engaged in an informal discussion regarding procedural and scheduling matters in this Cause. The established procedural schedule was then read into the record. The Presiding Officers also requested that Complainant provide answers to the following concurrent with his filing pursuant to paragraph 2 below. Specifically, the Complainant was asked whether or not he had a tenant residing in the house in question between May through November 2008, and whether the same tenant resided at the property the entire time. In addition, Complainant was asked to provide information regarding the identity of the tenant. Mr. Foreman responded that he did not previously provide Citizens' with the identity of the tenant because Citizens' had not provided similar information when requested by Mr. Foreman in the past.

The Commission now enters the following Findings and Order which shall become a part of the record in this proceeding:

1. **Standard of Review**. Insofar as the complaint filed in this Cause is an appeal of an issue that was considered and decided by the Consumer Affairs Division pursuant to I.C. § 8-1-2-34.5 and 170 I.A.C. § 1-1.1-5, a record of information upon which that decision was based already exists (the "Record"). Most of the Record consists of information supplied by the Complainant and Respondent and considered by the Consumer Affairs Division in reaching its decision. Therefore, consistent with the Commission's authority as set forth in I.C. § 8-1-2-34.5 and 170 I.A.C. § 1-1.1-5, the record to be considered in this proceeding shall be based on: (1) a review of the Record, and (2) consideration of argument by the parties based on the existing Record. The parties will be given an opportunity to examine the Record to determine whether they believe the Record is sufficient for the review to be conducted in this Cause, or if the Record shall be supplemented with: (1) information that was submitted when this matter was before the Consumer Affairs Division but is missing from the Record that now exists with the Commission, or (2) additional evidence that is not part of the Record. If any party, including the OUCC, believes that the Record shall be supplemented, then that party shall file a motion in this Cause requesting leave to supplement the Record. Any such motion shall fully explain the need and justification for supplementing the record and shall be filed in a timely manner to allow for responses and replies thereto as provided in the Commission's procedural rules.

2. **Complainant's Prefiling Date**. Whether consisting only of relevant parts of the Record or also of additional information pursuant to a ruling on a motion to supplement the Record, the Complainant shall prefile with the Commission his prepared testimony and exhibits constituting his case-in-chief on or before September 18, 2009. Copies of same shall be served upon all parties of record. Complainant shall also answer the inquiries posed by the Presiding Officers at the prehearing conference, as referenced above.

3. **Respondent's Prefiling Date**. Whether consisting only of relevant parts of the Record or also of additional information pursuant to a ruling on a motion to supplement the Record, the Respondent shall prefile with the Commission its prepared testimony and exhibits constituting its case-in-chief on or before October 9, 2009. Copies of same shall be served upon all parties of record.

4. **Public's and Intervenors' Prefiling Date**. The Public and any Intervenors shall prefile with the Commission any prepared testimony and exhibits constituting their respective cases-in-chief on or before October 21, 2009. Copies of same shall be served upon all parties of record.

5. **Complainant's Rebuttal Prefiling Date**. If, pursuant to a ruling on a motion, the Respondent prefiles testimony or exhibits that supplement the Record, or if the Public or any Intervenor prefiles direct testimony or exhibits, the Complainant shall prefile with the Commission any prepared testimony and exhibits rebutting the testimony and exhibits that are outside the Record on or before October 28, 2009. Copies of same shall be served upon all parties of record.

6. **Evidentiary Hearing**. In the event this Cause is not settled, each party shall offer into the record of evidence its prefiled testimony and exhibits at an evidentiary hearing to commence on November 6, 2009, at 9:30 a.m. EST, in the Indiana Utility Regulatory Commission Conference Center,

Suite 220, Judicial Courtroom 224 of the National City Center, 101 W. Washington St., Indianapolis, Indiana.

7. **Number of Copies/Corrections.** The Complainant and the Respondent shall prefile with the Commission two copies of those parts of the Record constituting all or part of their respective cases-in-chief. With respect to any other testimony and exhibits, the parties shall file with the Commission an original and five (5) copies of all prefiled testimony and exhibits. Any corrections to prefiled testimony shall be made in writing as soon as possible after discovery of the need to make such corrections. Although the Commission's rules require that original copies be one-sided, it is the Commission's preference that duplicate copies use both sides of the paper.

Parties may also elect to file documents with the Commission using the Commission's Electronic Filing System in lieu of filing paper documents. Pursuant to the terms and conditions of the Electronic Filing System, documents filed electronically are deemed filed the date they are submitted, subject to verification and acceptance by the Commission, and will receive an electronic file stamp. For filings greater than thirty (30) pages in length, a party shall file with the Commission an original and (1) paper copy within two (2) business days of the electronic filing. When supplying such copies, the party must provide a copy of the email reflecting the electronic filing was accepted by the Commission.

8. **Intervenors.** Any party permitted to become an Intervenor in this Cause shall be bound by the record as it stands at the time its Petition to Intervene is granted, pursuant to 170 I.A.C. § 1-1.1-11.

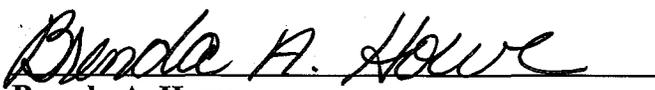
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The determinations set forth in this Prehearing Conference Order are made a part of the record in this Cause and shall be binding on all present and future parties of record during the proceedings of this Cause.
2. This Order shall be effective on and after the date of its approval.

HARDY, ATTERHOLT, GOLC, LANDIS, AND ZIEGNER CONCUR:

APPROVED: SEP 03 2009

I hereby certify that the above is a true and correct copy of the Order as approved.


Brenda A. Howe
Secretary to the Commission