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ILLINOIS COMMERCE COMMISSION**

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**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

2009 MAR 23 A 10: 21 *jmj*

Jerry L. Robinson :
-vs- : **09-0138** CHIEF CLERK'S OFFICE
The Peoples Gas Light and Coke Company :
: :
Complaint as to billing/charges in :
Chicago, Illinois. :

RESPONDENT'S MOTION TO DISMISS

Now comes the Respondent, The Peoples Gas Light and Coke Company ("Peoples Gas" or "Respondent"), by and through its attorney, Mark L. Goldstein, and moves the Administrative Law Judge ("ALJ") and the Illinois Commerce Commission ("Commission") to dismiss, with prejudice, the complaint filed by Jerry L. Robinson ("Complainant") against the Respondent on March 9, 2009.

BACKGROUND

In his complaint, Complainant alleges that on December 12, 2008, Peoples Gas improperly shut off the gas service to his apartment at 5439 South Aberdeen 3rd Floor, Chicago, Illinois when the temperature was below 25degrees. Complainant alleges that he was without heat, hot water and cooking gas. Complainant alleges that Respondent promised to reimburse him for the inconvenience caused by shutting off his gas service, but has failed to do so. As a result, he stated the following: "I am requesting reimbursement of \$608.00 to cover time lost (from work), plus court costs, if applicable.

ARGUMENT

1. In his complaint, Complainant alleged that the Respondent violated Sections 8-202, 8-203 and 8-206 of the Illinois Public Utilities Act ("Act") (220 ILCS 5/8-202, 5/8-203, and 5/8-206). These sections of the Act refer to termination of service during winter months by a public utility.

2. While Complainant alleges these violations of the Act, he only seeks money damages of \$608.00, plus court costs, if applicable. There are no court costs because Complainant has not paid anything to file his complaint.

3. The Commission lacks statutory authority to award money damages to the Complainant. The Illinois Supreme Court and the First District Appellate Court has long recognized that the Commission cannot award money damages, as set forth in the following cases: Barry v. Commonwealth Edison Company, 374 Ill. 473, 29NE2d 1014 (1940); Ferndale Heights Utility Company v. Illinois Commerce Commission, 112 Ill. App. 3d 175, 445NE2d 334 (1st Dist. 1982); and, Moening v. Illinois Bell Telephone Company, 139 Ill. App. 3d 521, 487NE2d 980 (1st Dist. 1985).

4. In addition to the courts recognizing that the Commission cannot award money damages, the Commission itself has noted that it cannot award money damages in the following docket as well as others: *Recycling Services (RSI) v. The Peoples Gas Light and Coke Company*, 04-0614, Amendatory Order dated November 22, 2005.

5. Based upon the foregoing, the complaint filed by Jerry L. Robinson against The Peoples Gas Light and Coke Company on March 9, 2009 should be dismissed with prejudice.

CONCLUSION

Wherefore, the Respondent, The Peoples Gas Light and Coke Company, respectfully requests that the complaint filed by Jerry L. Robinson on March 9, 2009 be dismissed with prejudice.

Respectfully submitted,
The Peoples Gas Light and Coke Company

By: 
Mark L. Goldstein, Its Attorney

MARK L. GOLDSTEIN
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CERTIFICATE OF SERVICE

I certify that on March 19, 2009, I served the foregoing Respondent's Motion to Dismiss, by causing a copy to be placed in the U.S. Mail, first class postage affixed, addressed to each of the parties listed below:

Ms. Elizabeth A. Rolando
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Mr. Jerry L. Robinson
5439 S. Aberdeen Ave.
Chicago, IL 60609

Mr. Terrance Hilliard
Administrative Law Judge
Illinois Commerce Commisison
160 N. LaSalle St., Ste. C-800
Chicago, IL 60601


Mark L. Goldstein