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SHEILA THOMAS,)
individually and on behalf)
of all others similarly situated,)
)
Complainant,)
)
v.)
)
PEOPLES GAS LIGHT AND COKE)
COMPANY,)
)
Respondent.)

Docket No. 10-0369

**COMPLAINANT SHEILA THOMAS' MOTION
FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

Sheila Thomas, by and through her attorneys, moves the Commission for leave to file her Second Amended Complaint. In support of her motion, Plaintiff states as follows:

1. On August 10, 2009, Thomas filed a class action lawsuit in the Circuit Court of Cook County against Peoples Gas complaining that it violated the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILL. COMP. STAT. 505/2, and inflicted emotional distress by attempting to collect an amount discharged in bankruptcy in contravention of the bankruptcy court order. Thomas' complaint sought actual and punitive damages on behalf of herself and the putative class members. Thomas also sought actual and punitive damages for Peoples Gas' intentional infliction of emotional distress.

2. Peoples Gas then moved to dismiss arguing that the ICC had jurisdiction over Thomas' claims because they concerned rates under 220 ILL. COMP. STAT. 5/9-252 and that the Illinois Administrative Code contains regulations concerning a utility company's determination of a person's eligibility for utility service.

3. In response to Peoples Gas' Motion, Thomas asserted that the ICC did not have jurisdiction over her claims because, pursuant to 220 ILL. COMP. STAT. 5/9-252, the ICC *only* has jurisdiction over claims seeking reparations for unjust or excessively discriminatory rates. As Thomas is not seeking reparations and is not seeking relief for an excessively or unjustly discriminatory rate, but instead, seeks civil damages for Peoples Gas' post-bankruptcy conduct that caused her to suffer actual damages and emotional distress, the ICC does not have jurisdiction over her claims.

4. However, on April 16, 2010, the Circuit Court of Cook County dismissed Plaintiff's claims for lack of subject matter jurisdiction. That Court also denied Plaintiff's Motion to Reconsider its dismissal on August 25, 2010.

5. On September 24, 2010, Ms. Thomas appealed the Circuit Court's dismissal in the First District Illinois Appellate Court. This appeal is currently pending.

6. As the Appellate Court will now be analyzing jurisdiction on the basis of Thomas' Complaint filed in the Circuit Court of Cook County, Plaintiff seeks leave to amend her ICC complaint to be, for all intents and purposes, identical to the state court complaint.¹ Such an amendment will prevent any ambiguity as the ICC and the Appellate Court will be making their jurisdictional findings based upon identical complaints.

7. This motion seeking leave to file an amended complaint is not brought to unnecessarily delay this litigation, and Thomas is prepared to file the complaint as soon as leave is granted to file it. A copy of the proposed amendment is attached as Exhibit A.

WHEREFORE, Plaintiff respectfully requests that the Commission grant her motion for leave to file her Second Amended Complaint.

¹ The only differences between the state court complaint and the proposed ICC amended complaint are the caption and the designation of the parties, *i.e.* plaintiff or complainant and defendant or respondent.

Respectfully submitted,

By: 
One of Thomas' Attorneys

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