BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of )

Jeffrey Pitzer )

)

Complainant, ) Case No. 15-298-GE-CSS

)

v. ) )

Duke Energy Ohio, Inc. )

)

Respondent. )

**AFFIDAVIT OF ROBERT A. MCMAHON IN SUPPORT OF**

**DUKE ENERGY OHIO, INC.’S MOTION TO COMPEL**

STATE OF OHIO )

) SS

COUNTY OF HAMILTON )

Robert A. McMahon, being first duly sworn and under oath, deposes and states as follows:

1. I am one of the attorneys of record in this case for Respondent Duke Energy Ohio, Inc. (“Duke Energy Ohio”). I have personal knowledge of all facts set forth in this affidavit.
2. On September 30, 2015, Duke Energy Ohio served Requests for Admission, Interrogatories, and Requests for Production of Documents on the Office of the Ohio Consumers’ Counsel (the “OCC”).
3. On October 20, 2015, the OCC served its responses and objections to Duke Energy Ohio’s discovery requests. A true and accurate copy of that document is attached hereto as Exhibit A.
4. On October 22, 2015, I sent a letter to the OCC’s attorney to address the OCC’s deficient discovery responses and objections. A true and accurate copy of that letter is attached hereto as Exhibit B. In that letter, I requested a written reply from OCC by the end of the business day on Monday, October 26, 2015.
5. On October 26, 2015, the OCC’s attorney sent a letter to me and indicated, among other things, that the OCC would be able to respond substantively to my letter by the end of the week. A true and accurate copy of that letter is attached hereto as Exhibit C.
6. On October 29, 2015, in an effort to resolve any discovery disputes, I sent the letter attached hereto as Exhibit D to the OCC’s attorney and indicated that Duke Energy Ohio expected the OCC’s substantive response by October 30.
7. The OCC did not provide a substantive response to my letters or any supplemental or modified discovery responses by the agreed deadline of October 30.
8. At 5:18 pm on November 2, 2015, the OCC emailed supplemental responses to certain of Duke Energy Ohio’s discovery requests. True and accurate copies of counsel’s email and the OCC supplemental discovery responses are attached as Exhibit E. Between counsel’s email and the OCC’s still deficient supplemental responses, it is clear that further discussions between the parties will not prompt the OCC’s compliance with and complete response to Duke Energy Ohio’s reasonable discovery requests.

FURTHER AFFIANT SAYETH NAUGHT.

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Robert A. McMahon

Sworn to and subscribed to before me

this \_\_\_\_\_\_ day of November, 2015:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

My commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_