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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

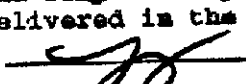
In the Matter of the Complaint of	)	
James L. Wellingshoff	)	Case No. 07-271-EL-CSS
30 E. Central Parkway #1202	)	
Cincinnati, OH 45202	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Duke Energy Ohio, Inc.,	)	
	)	
Respondent.	)	

ANSWER OF RESPONDENT DUKE ENERGY OHIO, INC.

For its answer to the complaint of Plaintiff James L. Wellingshoff (Complainant), Duke Energy Ohio, Inc., (DE-Ohio) states as follows:

FIRST DEFENSE

1. DE-Ohio admits that James L. Wellingshoff is a consumer of DE-Ohio whose residence is 30 E. Central Parkway #1202, Cincinnati OH 45202, also known as the American Building. DE-Ohio admits that Complainant was initially and incorrectly charged under Rate RS. Upon discovery of Complainant being charged under the incorrect Tariff, DE-Ohio corrected the error. DE-Ohio denies that it has engaged in any practices that are unfair or gouging. DE-Ohio is without sufficient knowledge to admit or deny the remainder of the allegations in paragraph one (1) of the Complaint.
2. DE-Ohio is without sufficient information to admit or deny any allegations pertaining to what Complainant believes. DE-Ohio denies that Complainant should be charged

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pursuant to Rate RS. Complainant is taking three phase electric service at the meter (3 ph) serving Complainant's account. DE-Ohio's Rate RS, by its terms excludes 3 ph service from its applicability. Rate RS was not designed to accommodate 3 ph electrical service. Accordingly, Complainant is not eligible for Rate RS service pursuant to the Commission approved terms of Rate RS. DE-Ohio denies the remainder of the allegations contained in paragraph two (2) of the Complaint.

### AFFIRMATIVE DEFENSES

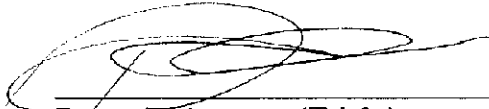
In addition to the foregoing specific answers to the allegations raised by Complainant, DE-Ohio raises the following defenses:

3. DE-Ohio asserts as an affirmative defense that pursuant to R. C. 4905.26 and O. A. C. 4901-9-01(B)(3), Complainant has failed to set forth reasonable grounds for complaint.
4. DE-Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, DE-Ohio has provided reasonable and adequate service under applicable tariffed rates to Complainant in accordance with all applicable provisions of Title 49 of the Ohio Revised Code and regulations promulgated thereunder, and in accordance with DE-Ohio's filed tariffs, and all applicable state and federal laws and industry standards.
5. DE-Ohio asserts as an affirmative defense that it does not have a Commission approved tariff for residential 3ph electric service. DE-Ohio charges rates for all consumers according to the appropriate tariff for the installed electrical service.
6. DE-Ohio asserts as an affirmative defense that it breached no legal duty owed to Complainant.

7. DE-Ohio asserts as an affirmative defense that to the extent that Respondent violated any applicable statute, regulation, industry standard, reliability guidelines or tariff provision, which is expressly denied, such violation was not the proximate cause of any injury alleged by Complainant.
8. DE-Ohio asserts that the Complainant is requesting this Commission award monetary damages or adjusts bills back to the time of the purchase of the condominium, that service has been rendered and billed according to the metered service and that such a remedy is outside the jurisdiction of this Commission.
9. DE-Ohio asserts as an affirmative defense that the Company did not perform the actual wiring of the building. DE-Ohio did what it could to prevent the installation of 3ph service to the residential units. In October 2003 DE-Ohio was contacted concerning service availability for the subject address. DE-Ohio representatives met with the building owners and their consulting agent on June 14, 2004. DE-Ohio was provided load calculations, and a one line wiring diagram from the electrician which showed 3ph 4W meters being installed for the residential condominium units. DE-Ohio advised against this course. DE-Ohio met with the electrician who referred them to the consultant on the project to advise against installation of 3ph wiring. DE-Ohio's last conversation with consultants was in March 2005. It was expressed to DE-Ohio by the building consultant that they understood the cost difference and were still pursuing the installation of 3 ph metering due to the size of the units.
10. DE-Ohio reserves the right to raise additional affirmative defenses or to withdraw any of the foregoing affirmative defenses as may become necessary during the investigation and discovery of this matter.

WHEREFORE, having fully answered, Duke Energy Ohio, Inc respectfully moves this Commission to dismiss the Complaint of James L. Wellingshoff, for failure to set forth reasonable grounds for complaint and to deny Complainant's Requests for Relief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rocco D'Ascenzo', is written over a horizontal line.


Rocco D'Ascenzo (Trial Attorney)  
Counsel

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Associate General Counsel  
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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer was sent via regular U.S. Mail, postage prepaid to the following party of record this 28th day of March 2007.

James L. Wellinghoff  
30 E. Central Parkway #1202  
Cincinnati, OH 45202

A handwritten signature in black ink, appearing to read 'Rocco O. D'Ascenzo', written over a horizontal line.

Rocco O. D'Ascenzo  
Counsel