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PUCO

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Rocco O. D'Ascenzo  
Counsel

**VIA OVERNIGHT MAIL**

March 29, 2007

Public Utilities Commission of Ohio  
Docketing Division  
13<sup>th</sup> Floor  
180 East Broad Street  
Columbus, OH 43215-3716

RE: In the Matter of the Complaint of:  
Bruce J. Aronow – PUCO Case No. 07-300-EL-CSS and  
Brian Beachkofski – PUCO Case No. 07-322-EL-CSS.

Dear Sir or Madam:

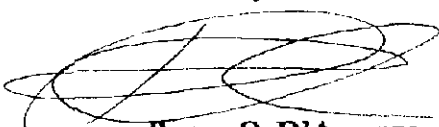
Enclosed please find an original and 12 copies of Duke Energy Ohio's Answer in each of the following cases:

1. PUCO Case No. 07-300-EL-CSS Bruce J. Aronow v. Duke Energy Ohio, Inc.;
2. PUCO Case No. 07-322-EL-CSS Brian Beachkofski v. Duke Energy Ohio, Inc.;

Please return two (2) file-stamped copies of each filing to me in the overnight mail envelope provided.

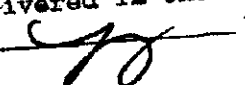
If you have any questions, please feel free to contact me at (513) 287-4326.

Sincerely,

  
Rocco O. D'Ascenzo.  
Counsel

ROD/sew  
Enclosures

cc: All parties of record (w/encl.)

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
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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. DE-Ohio is without sufficient knowledge to admit or deny the remainder of the allegations in paragraph two (2) of the Complaint.

3. DE-Ohio is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph three (3) of the Complaint.
4. DE-Ohio DE-Ohio is without sufficient knowledge or information to either admit or deny the allegations contained in paragraph four (4) of the Complaint.
5. In response to the allegations contained in paragraph five (5) of the Complaint, DE-Ohio admits that it does not have a 3 phase residential tariff and that the Company is charging according to its appropriate 3 phase tariffs. DE-Ohio denies the remainder of the allegations contained in paragraph five of the Complaint. DE-Ohio explained to the residents that it must legally charge its tariffed rates. Regardless of what the units may or may not require, they are wired for and do in fact receive 3 ph service. DE-Ohio's Residential Service (Rate RS) is inapplicable for 3 ph electric service. DE-Ohio charges rates for all consumers according to the appropriate tariff for the installed electrical service.

6. DE-Ohio admits that the residents are being charged pursuant to either Rate DM or DS and that DE-Ohio's Rate RS was not designed to accommodate 3 phase residential service. DE-Ohio admits that Complainant's February 2007 bill was \$389.13. DE-Ohio denies the remainder of the allegations contained in paragraph six (6) of the Complaint.
7. DE-Ohio denies Complainant's allegation that Complainants should be charged pursuant to Rate RS and that the Consumers are entitled to any refund. At all times relevant, DE-Ohio has charged the Complainant according to the appropriate tariffed rate. Rate RS was not designed to accommodate 3 phase electrical service and expressly excludes 3 ph service from its applicability. DE-Ohio is without sufficient information to admit or deny the remainder of the allegations in paragraph seven (7) of the Complaint.

#### AFFIRMATIVE DEFENSES

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

8. 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.
9. 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.

10. 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.
11. DE-Ohio asserts as an affirmative defense that it breached no legal duty owed to Complainant.
12. 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.
13. 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.
14. 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. 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 Bruce J. Aronow, for failure to set forth reasonable grounds for complaint and to deny Complainant's Requests for Relief.

Respectfully submitted,



Rocco D'Ascenzo (Trial Attorney)

Counsel

Paul A. Colbert

Associate General Counsel

Duke Energy Ohio, Inc.

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Cincinnati, OH 45201-0960

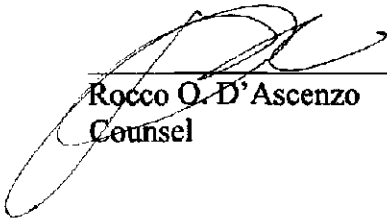
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Fax: (513) 287-3810

# **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 29th day of March 2007.

Bruce J. Aronow  
30 E. Central Parkway #1203  
Cincinnati, OH 45202



Rocco O. D'Ascenzo  
Counsel