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April 3, 2007

The Public Utility Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

Re: In the Matter of the Complaint: James Byerly, Jr.; Benjamin F. Wissel; Shirley J. Newman;
Daniel J. Ledford; and Patricia B. Ingram v. Duke Energy Ohio, Inc. Case Nos. 07-196-EL-CSS;
07-197-EL-CSS; 07-198-EL-CSS; 07-263-EL-CSS; and 07-265-EL-CSS

Ladies and Gentlemen:

Please be advised that I represent Central Parkway Properties (hereinafter referred to as "Central").

Central owns 13 of the units located at 30 East Central Parkway, Cincinnati, Ohio 45202. Central has been made aware of a complaint filed by several of the residents (case numbers reference above) at 30 East Central Parkway regarding the charges levied by Duke Energy for electric service at that location. As owners of 13 units Central would ask to be included in the process dealing with the residents' complaints, and we assert a complaint of our own for unfair electric rates being charged to our 13 units.

Simply stated, Duke Energy, formerly Cinergy, agreed with Central prior to the construction of the units that the method used by Central to deliver electric service was the most economical and efficient method possible. At no time before occupancy of the building did Duke or Cinergy advise Central that the electric rate charged to purchasers of the units would be anything other than "residential".

Attached is a memo from John Perazzo, President of Central, detailing the history of the discussions between Duke, Cinergy and Central.

Very truly yours,


Charles J. Luken

CJL/ras
Enclosure

cc: Rocco D'Ascenzo

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Technician DB Date Processed 4-5-07

FROM: Central Park Properties
30 East Central Parkway
Cincinnati, Ohio 45202

TO: Public Utilities Commission of Ohio
Docketing Division
180 E. Broad St.
Columbus, Ohio 43215-3793

March 15, 2007

The American Building Condominiums is the condo conversion of an 18-story limestone art deco building in downtown Cincinnati. Central Park Properties, LLC is the developer. Turner Construction is the general contractor.

At first, the American Building residential electrical customers were being charged residential rates and then others were charged commercial rates. Now Duke is charging all of the residents commercial rates while stating that it wants to charge residential rates; but for the PUCO. The residents are enraged. Duke claims that it supports American Building resident appeals to the PUCO to charge residential rates.

Duke claims that "it must" charge commercial rates because it installed three-phase meters in the building. Duke's rationalization for not charging the residential rate is that the developers were "warned".

We have conducted an investigation into this matter with our development team and with Duke representatives. We can find no basis to Duke's "warning" claim after speaking with all of those involved in the development. We spoke independently with the Architect, the Electrical Contractor/Engineer, Turner Construction, and RJM Consulting Owner's Construction Representative. Their responses were very similar. Each of these individuals was surprised to hear that this issue existed at all, believed it was simply a clerical error at the utility, and believed it would be quickly remedied. Since, the understanding each had was that as the units became residential; the rate would become residential. Our investigation reveals the following:

1. In preconstruction meetings, Duke, then Cinergy, rejected our plan to put meters on every floor. Duke specified that all of the meters be located in one room in the basement and not on the individual floors, nor every-other floor. We changed the plan and took the space to be used for another purpose to build a meter room. The revised plans were approved by Cinergy.
2. In preconstruction meetings, Cinergy specified that the American Building must be three-phase due to "grid requirements" in downtown Cincinnati.
3. In preconstruction meetings, Cinergy was told that the Developer was going to install all-new utility services throughout the building, including natural gas lines to allow for gas stoves in each unit; and, possibly gas heat in each unit.
4. In preconstruction meetings, Cinergy was asked whether gas or electric heating would be a better deal for the residents. Cinergy recommended electric; claiming, electric heat would save these folks energy and money.

5. In preconstruction meetings, there were no issues that warranted a Cinergy "warning"; as, Central Park Properties was going to follow all of Cinergy's specifications and recommendations.
6. We designed the gas and electric services "Cinergy's way." We installed the gas and electric services as they required. Cinergy, IBI, and the City of Cincinnati approved the plan and the installation. They were all aware that this totally rewired building was for residential use.
7. In a meeting of the condo residents on January 29, 2007, Duke sent two engineers to explain their rates. They were Mr. Von Huffaker and Mr. Marc Arnold who were the same Cinergy engineers, along with others, who had met with Developer representatives in preconstruction meetings. Marc Arnold claimed:
 - a. That "multiple warnings had been issued to the developer" via Bob May of RJM Consulting regarding the commercial rates (Bob was not at this meeting). RJM Consulting is the Developer's construction representative.
 - b. That Duke supports the residents' fairness argument that Duke is willing to charge residential rates.
8. At the January 29, 2007 meeting, Duke Representatives also made the accusation that the three-phase installation was a cost cutting measure instituted by the developer. To date, I still do not understand their comments, since:
 - a. First, Cinergy knew that gas lines were going to be installed regardless of the gas vs. electric heat consideration.
 - b. Second, the Developer followed each and every Cinergy specification and recommendation.
 - c. Third, numbers were never generated to compare the two alternatives; since, only one alternative was given to us.
9. In fact, Cinergy instituted the change and we have every reason to believe it cost more overall, not less.
10. Since that time, I understand:
 - a. Regarding Duke's Marc Arnold claim that he warned Bob May of RJM Consulting "multiple times" and not just once. Bob May denies any such warnings. Bob May states he never attended a meeting with Duke by-himself. None of the others recall any such "warning".
 - b. That Duke's Marc Arnold claims he has notes of a March 2005 meeting with Bob May and others in which he "warned Bob May and others." I am puzzled by Marc Arnold's claim; since, by March 2005 essentially all of the utilities had been installed and new condo owners had moved-in.
 - c. Even if there was such a warning, the project followed Cinergy's preconstruction recommendations and specifications; and, was too late.
11. We met with Von Huffaker, Marc Arnold and two other Duke Engineers on February 8, 2007 in the American building meter room. At that meeting:
 - a. Our electrical contractor/engineer reminded them that the building must be wired as it is; due to the long runs out of the Cinergy required one-

location meter room combined with high loads on the upper floors. (See point # 1.)

- b. None of the Duke engineers offered an "it should have been done this other way" solution.

12. We have since found that in other similar projects in Downtown Cincinnati:

- a. Cinergy allowed meters to be located on the individual floors, or every-other floor.
- b. Individual condo units do not have to be three-phase; and, Cinergy did not have to specify three-phase metering.

Those involved are willing to sign affidavits in support of the above 12 points.

At the end of the day, our investigation says that Cinergy approved what was being done and how it was done.

Cinergy started out charging these folks the RS rate, then some units one way and others another, and then Duke changed them to various commercial rates. This past week, Duke switched out four of the meters. The Towne Properties building manager, Mr. Jeff Blanton observing the technician asked him why; the technician refused to answer.

Other thoughts:

- Nothing in the condos takes advantage of three-phase service.
- During the last two months, we have had one PUCO rep tell us Duke could charge the RS rate if they desired.
- Immediately prior to the Byerly informal PUCO complaint a Duke rep recently told us the RS rate should have been charged all-along.
- At the January 29, 2007 meeting with Von Huffaker and Mark Arnold, they said that they had to check with their office to find out how the rates had to be charged. (That is, on January 29, 2007 they did not know for sure; but, supposedly in 2004, 2005 they were so sure they issued a "warning".)

Additionally, the condo owners have heard a multitude of other conflicting pro and con responses as well. The point being, given the multitude of conflicting answers while there is this pointed focus; how can credibility be given to the Duke claim that we received this crystal clear direction and/or "warnings" when it was part of the day by day?

- During the 2007 meetings with Duke Representatives told the condo owners that Duke is willing and wants to charge the RS rate if PUCO does not object.
- We believe Duke's willingness is due, at least in part, to the fact that Duke knows Cinergy let this project fall between the cracks. Right or wrong; we as the developer did what we understood we were being directed to do by Cinergy.

The bottom line: Residential Customers should be charged residential rates for the very same kilowatt-hour. Duke says they want to do the right thing and charge the RS rate.

Please consider the above.