



FILE

5  
Anita M. Schafer  
Senior Paralegal

**DUKE ENERGY CORPORATION**  
139 East Fourth Street  
P. O. Box 960  
Cincinnati, OH 45202

513.287.3842

513-287-3810 fax

anita.schafer@duke-energy.com

VIA OVERNIGHT MAIL DELIVERY

April 18, 2007

Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

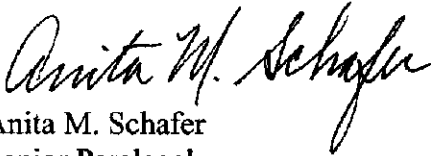
Re: Case No. 07-356-EL-CSS

Dear Docketing Division:

Enclose please find an original and twelve copies each of the Motion to Dismiss and the Answer of Duke Energy Ohio, Inc. Please date-stamp the two extra copies and return in the envelope provided.

Should you have any questions, please contact me at (513) 287-3842.

Very truly yours,

  
Anita M. Schafer  
Senior Paralegal

Enclosures

RECEIVED-DOCKETING DIV  
2007 APR 19 AM 9:24  
PUCO

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.  
Technician Anu Date Processed 4/19/07

**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of  
Walter Reinhaus  
28 West McMicken Ave.  
Cincinnati, OH 45202

Plaintiff,

v.

Duke Energy Ohio, Inc.  
139 East Fourth Street  
Cincinnati, OH 45202

Respondent.

Case No. 07-356-EL-CSS

PUCO

2007 APR 19 AM 9:24

RECEIVED-DOCKETING DIV

---

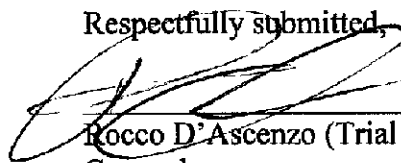
**MOTION TO DISMISS OF RESPONDENT DUKE ENERGY OHIO, INC.  
OR IN THE ALTERNATIVE ORDER COMPLAINANT TO AMEND HIS  
COMPLAINT**

---

Now comes Respondent, Duke Energy Ohio, Inc. (DE-Ohio), and hereby respectfully requests this Commission dismiss the above styled Complaint of Walter Reinhaus as Mr. Reinhaus has failed to state reasonable grounds for the complaint.

For the foregoing reason, as well as those stated in the accompanying Memorandum in Support, DE-Ohio respectfully requests this Commission dismiss the above styled complaint with prejudice.

Respectfully submitted,

  
\_\_\_\_\_  
Rocco D'Ascenzo (Trial Attorney)  
Counsel  
Paul A. Colbert  
Associate General Counsel  
Duke Energy Ohio, Inc.  
139 East Fourth Street, Rm 25 AT II  
Cincinnati, OH 45201-0960

## MEMORANDUM IN SUPPORT

### I. Facts

This case involves a customer complaint filed by Walter Reinhaus on March 30, 2007 against DE-Ohio.<sup>1</sup> Mr. Reinhaus filed the present action, referencing a denied claim with DE-Ohio.

DE-Ohio is an electric light company as defined by R.C. §4905.03(A)(4), and an electric distribution utility as defined by R.C. § 4928.01(A)(1), and therefore is subject to the jurisdiction of this Commission.

### II. Law and Argument

Revised Code §4905.26 provides in pertinent part:

Upon complaint in writing against any public utility by any person... that any rate, fare, charge,... demanded, or exacted, is in any respect unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law,...if it appears that reasonable grounds for complaint are stated, the commission shall fix a time for hearing and shall notify complainants and the public utility thereof. Such notice shall be served not less than fifteen days before hearing and shall state the matters complained of. The commission may adjourn such hearing from time to time.<sup>2</sup>

DE-Ohio respectfully submits that Mr. Reinhaus has failed to state reasonable grounds for complaint as required by §4905.26, and the case at bar should be dismissed. Mr. Reinhaus's complaint is fundamentally flawed in that it does not contain a clear explanation of the facts which constitute the basis for the complaint and the relief sought as is required by OAC 4901-9-01. Mr. Reinhaus's complaint fails to raise any particular allegation regarding DE-

---

<sup>1</sup> See Complaint.

<sup>2</sup> Ohio Rev. Code Ann. §4905.26 (Baldwin 2004).

Ohio or service it has provided or failed to provide. Mr. Reinhaus's complaint merely alleges that the Company sent him an inapplicable rule used to support the Company's denial of a claim related to a power surge. The relief sought by the Complainant is that the Commission deliberate to review the rules. Such relief is ambiguous and vague.

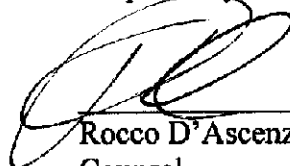
Given the vague nature of the allegations in the Complaint, it is difficult for DE-Ohio to prepare a meaningful answer. Accordingly, the Commission should dismiss Mr. Reinhaus's Complaint. In the alternative, DE-Ohio requests this Commission order Mr. Reinhaus to amend his Complaint to clearly state and explain the facts that constitute the basis of the Complaint as well as a statement of relief sought.

Complainant has made no allegation that DE-Ohio has failed to act in conformance with all applicable statutes, rules, approved tariffs, and Commission requests. DE-Ohio respectfully requests this Commission dismiss the above styled action.

### **III. Conclusion**

For the foregoing reasons, DE-Ohio respectfully requests this Commission dismiss the above styled complaint with prejudice and in its entirety.

Respectfully submitted,



Rocco D'Ascenzo (Trial Attorney)  
Counsel

Paul A. Colbert  
Associate General Counsel  
Duke Energy Ohio, Inc.  
139 East Fourth Street, Rm 25 AT II  
Cincinnati, OH 45201-0960  
(513) 287-4326  
Fax: (513) 287-3810

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion to Dismiss was sent via regular U.S. Mail, postage prepaid to the following party of record this 18<sup>th</sup> day of April 2007.

Walter Reinhaus  
28 West McMicken Ave.  
Cincinnati, OH 45202



Rocco O. D'Ascenzo