



6

RECEIVED-DOCKETING DIV

2007 DEC 21 AM 10:01

FILE

PUCO

139 East Fourth Street, R. 25 At II  
P.O. Box 960  
Cincinnati, Ohio 45201-0960  
Tel: 513-419-1852  
Fax: 513-419-1846  
[Rocco.D'Ascenzo@duke-energy.com](mailto:Rocco.D'Ascenzo@duke-energy.com)

Rocco O. D'Ascenzo  
Counsel

December 20, 2007

Public Utilities Commission  
Docketing Division  
180 East Broad Street, 13th Floor  
Columbus, Ohio 43215-3793

Re: Case No 07-1248-EL-CSS

Dear Docketing:

Attached, please find an original and 10 copies of an Answer of Duke Energy Ohio, Inc. in the above referenced matter for filing. Please file the same and return two time-stamped copies. Thank you.

Sincerely,

Rocco D'Ascenzo, Counsel  
Duke Energy Ohio  
2500 Atrium II, 139 East Fourth Street  
P. O. Box 960  
Cincinnati, Ohio 45201-0960

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 AM Date Processed 12/21/07

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint	)	
Dwight Green	)	
11512 Pippin Road	)	Case No. 07-1248-EL-CSS
Cincinnati, OH 45231	)	
	)	
Complainant	)	
	)	
v.	)	
	)	
Duke Energy Ohio, Inc.	)	
	)	
Respondent	)	

---

**ANSWER OF DUKE ENERGY OHIO, INC**

---

**FIRST DEFENSE**

For its Answer to the Complaint of Dwight Green ("Complainant"), Duke Energy Ohio, Inc. ("DE- Ohio") states as follows:

1. In response to the allegations contained in the Complaint, DE-Ohio admits that Complainant was billed for estimated electric consumption for the period from May 31, 2007 through September 4, 2007. DE-Ohio denies the allegation that the estimations are improper or that the company's calculations are incorrect. DE-Ohio obtained an actual meter reading for the billing period from May 31, 2007 through June 29, 2007. The May 31, 2007 reading was estimated. The June 29, 2007 reading was an actual reading of the electric meter, however, the reading was uncharacteristically low, showing only 24 kWh. This reading was significantly out of line with prior usage on the meter. DE-Ohio obtained actual meter readings for the billing periods ending July 31, 2007 and August 29, 2007. Those readings showed zero consumption, indicating that the meter was

malfunctioning. Accordingly, on September 4, 2007 DE-Ohio installed a new meter on the premises. The Company obtained an actual reading on September 28, 2007. For the billing period of September 4, 2007 through September 29, 2007 Complainant's consumption was 1,146 kWh. This was similar to monthly consumption prior to the meter malfunction. Complainant was rebilled for the unmetered consumption for the period May 31, 2007 through September 4, 2007, when the previous meter was not functioning properly. DE-Ohio calculated Complainant's consumption using industry standard estimation methodology and DE-Ohio's Commission approved tariffs. The bill adjustment was calculated using Complainant's average per-day, per billing period, usage for the same months in the previous year. Pursuant to R.C. 4933.28 DE-Ohio is permitted to adjust Complainant's bill for amounts under charged due to meter inaccuracies. DE-Ohio is without sufficient information or belief to admit or deny the remainder of the allegations in the complaint.

### **AFFIRMATIVE DEFENSES**


2. 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.
3. DE-Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, DE-Ohio has provided reasonable and adequate service and has billed the Complainant according to all applicable provisions of Title 49 of the Ohio Revised Code and regulations promulgated thereunder, and in accordance with all of DE-Ohio's filed tariffs.

4. DE-Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company is acting in conformance with O.A.C. 4901:1-10-23 and R.C. 4933.28.
5. DE-Ohio asserts as an affirmative defense that Complainant has not stated any request for relief that can be granted by this Commission.
6. DE-Ohio asserts that to the extent Complainant is seeking monetary damages, such relief is beyond the scope of the jurisdiction of this Commission.
7. DE-Ohio asserts as an affirmative defense that Complainant has failed to join a necessary party.
8. 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.

### CONCLUSION

WHEREFORE, having fully answered, DE-Ohio respectfully moves this Commission to dismiss the Complaint of Dwight Green for failure to set forth reasonable grounds for the complaint and to deny Complainant's Request for Relief.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Paul A. Colbert', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

Paul A. Colbert (0058582)  
Associate General Counsel  
Rocco O. D'Ascenzo (0077651)  
Counsel  
Duke Energy Shared Services Inc.  
139 East Fourth Street  
Rm 2500 Atrium II  
P.O. Box 960  
Cincinnati, OH 45201-0960  
tel: (513) 419-1852  
fax: (513) 419-1846  
email: rocco.d'ascenzo@duke-energy.com

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Answer to the complaint of Dwight Green was served via regular US Mail postage prepaid, this 20<sup>th</sup> day of December 2007, upon the following:

Dwight Green  
11512 Pippin Road  
Cincinnati, OH 45231

  
Romeo O. D'Ascenzo (0077651)