

# Public Utilities Commission

09-1902 - GA - (53

Attn: Docketing 180 E. Broad St. Columbus, OH 43215

Public Utilities Commission of Ohio

### Formal Complain Form

Linda Smith Customer Name	4143 Fores + Ave Customer Address
Against	Cincinnati DH 45212 City State Zip  8726 - 0605 - 22 - 3 Account Number
Duke Energy  Jtility Company Name  Please describe your complaint. (Attach additional s	Customer Service Address (if different from above)  City State Zip
See attached Stade	
	Signature  513-979-4594  Customer Telephone Number

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Technician Date Processed DEC 0 4 2009

### Linda Smith Formal Complaint against Duke Energy -- Case ID: DANT102909XX

Linda Smith
David Anthony
4143 Forest Ave
Cincinnati OH 45212
Phone: 513.979.4594
David Anthony
4138 Forest Ave
Cincinnati OH 45212
Phone: 513.304.5941

Account Number: 8720 – 0605 – 22 – 3, Duke Energy Gas Charges

Service Address: 4143 Forest Ave, Cincinnati OH 45212

The customer of this account is Linda Smith. While David Anthony is not a party to the above account, Linda Smith authorizes him to speak and act on her behalf in regards to all matters of the complaint on the above account number. Please direct queries to David Anthony, contact information provided above.

Name of Public Utility: Duke Energy

### **Brief Statement Summarizing Facts that are Basis of Complaint:**

Prior to October 2009, Linda Smith paid the full utilities bill provided to her by Duke Energy and believed these covered all Electric and Gas used within the home.

Without prior communication of any kind, Duke Energy turned off the gas on 9/22/2009 to the above account, where Linda Smith lives at 4143 Forest Ave, zip 45212.

After a few days of living with only cold water and the mistaken belief that her water heater was not working, Linda noticed the gas stove was also not working and called Duke Energy to report the outage.

At that time, Linda learned her gas had been shut off purposefully by Duke Energy. At that time, they stated that they suspected tampering. Linda was able to get her gas turned back on one week after disconnection (9/29/2009) after multiple calls by her, her daughter and son-in-law (David Anthony, who continues to act on her behalf for this matter).

Some time between Oct 21<sup>st</sup> and Oct 24<sup>th</sup> 2009 Linda received a utility bill in excess of \$2,400 for Duke Energy Gas. Duke Energy asserts that this billing is for usage that was measured from January 2008 through the October billing date, but, for some reason had not been previously billed by them.

Through Dave Anthony's conversation with Tom Finley (Duke Energy, 317.838.6579) on various dates including 10/24/09 and 11/24/09 he understands that Tom Finley's position is that while the gas was initially turned off due to suspected tampering, there is no evidence of tampering and, Duke Energy now asserts that they were measuring, but, not billing for gas used and that the sole issue of the disputed billing is gas meter #965465 at 4143 Forest Ave, which Duke asserts they have measurements from meter reader home visits of usage on for the following dates: Dec 2007, Jan 2008, Feb 2008, June 2008, Oct 2008, Nov 2008, Dec 2008, May 2009, Oct 2009.

When asked what might cause Duke Energy to physically visit the home and capture measurements on gas usage at least 9 times over nearly 2 years without billing (as Duke is reporting), Tom Finley (contact at Duke Energy) was unable to offer any perspective on potential causes. This combined with the large billings for Jan/Feb '08 when we believed the gas was off and no gas appliances were connected to question the veracity of the data Duke is now reporting on in-home measured gas usage.

### Linda Smith's issues with the October 2009 billing by Duke Energy:

- It is inaccurate and significantly over-states any gas used.
- 2) If Duke had billed Linda in a timely manner she would have been able to immediately dispute the billing and ensure corrective actions were taken.
- 3) Linda lives on a fixed income and even if the billing was accurate and reasonable (she believes it is neither) she would be unable to pay the amount Duke first billed for in Oct 2009 for their estimates on usage from Dec 2007 forward.

### Discussion and Support for Linda's 3 Key Issues with the Oct 2009 billing by Duke

1) It is inaccurate and significantly over-states any gas used.

Duke's Tom Finley shared that the amount measured, but not billed (prior to Oct 2009) for Jan and Feb '08 was \$123.30 and \$465.52; however, no-one was living in the residence and while electric was in use for the remodeling, we had requested both gas and water be cut from the house as all gas and water pipes were in process of being replaced as part of the whole house remodel.

### \$ Duke billing in Oct

	4	
Date	2009 statement	Duke reported information from Tom Finley on 11/24/2009
		12/26/2007 METER READER READ LEVEL AT 7840 CUBIC FEET
1/23/2008	\$123.30	1/23/2008 METER READER READ LEVEL AT 7934
2/24/2008	\$465.52	2/21/2008 METER READER READ LEVEL WAS 8301 CUBIC FEET

Given there was no operating furnace, water heater or stove in use at that time and no other appliances were fueled by gas, we continue to believe all gas was off to the house during this period. Further, the lead contractor on the remodel, Stephen Roach (see attached statement), used a diesel powered Torpedo space heater in the basement within a few feet of open gas lines on most days throughout the January and February billing period, had gas been going through those lines it would have likely caused quite an explosion.

While this portion of the billing is the most egregious and obvious sign of an error on Duke's part, the dispute is not limited to the Jan/Feb '08 portion. We believed that the gas had been shut off in December 2007 and was turned back on by Duke Energy not prior to March (possibly April) 2008. Further, no one had taken residency within the house until early October 2008 and none of the remodeling efforts from April through October would have made a draw on the gas lines.

### Attachments:

- A. Statement from Stephen Roach in support of the above.
- B. Copy of work permit from Dec 2007 on the whole house remodel.
- C. Copy of completion "Pass" of the above work dated Oct 24, 2008
- D. Receipts for HVAC and water heater installations from the remodel.
- E. Our 4143 Forest Ave Investment tracking document developed for tax planning purposes, includes dates and months supporting the >\$100,000 in renovations ongoing to help support why no one was living there for so long and the dates for payment or installation on all gas appliances.
- 2) If Duke had billed Linda in a timely manner she would have been able to immediately dispute the billing and ensure corrective actions were taken. Duke's late billing of Linda in Oct 2009 for gas they claim to have measured in Jan 2008, resulted in 22 months where Linda was unable to take corrective action in either measurement, or usage due to Duke's error. Such a long time delay also limits information able to presented on actual usage as no one expected a need to save documentation for this purpose.

Had Duke Energy billed Linda at the time for the \$123.30 they are now reporting as January 2008 billable, she would have immediately called Duke Energy and sorted out how/why she was being billed for gas that had been requested to be turned off in December 2007.

Further supporting that with the assertion that no one was living there and no gas appliances were in use would have certainly resulted in corrective actions and ZERO gas usage for the remodel.

3) Linda lives on a fixed income and even if the billing was accurate and reasonable (she believes it is neither) she would be unable to pay the amount Duke first billed for in Oct 2009 for their estimates on usage from Dec 2007 forward.
As the result of an injury from a car accident in 2004, Linda Smith has been unable to work and lives on a small fixed income from her social security/disability payment. Additionally, she supports her adult son who has Downs Syndrome and lives with her in 4143 Forest Ave.

### Brief Statement on what is requested of the Commission in regards to the complaint.

1) Linda requests that the Commission reprimand Duke Energy for turning off her gas without prior notice or cause.

Further, it is requested that the Commission determine whether or not this action was taken in accordance with Duke Energy policies and procedures, or not. If it is found that the actions are consistent with Duke Energy's policies and procedures in this area, it is requested that the Commission demand a plan and timeline for change that would prevent Duke Energy from turning off someone's gas without prior communication when that individual has paid all submitted bills in a timely manner. The only backing ever offered by Duke for this issue were statements after the gas had been turned off by a few individuals, including Tom Finley, stating that the account was flagged for potential tampering. However, as of 11/24/09 Tom Finley states there is no support for an allegation of tampering and that all of the disputed bills come down to a single meter which Tom states was physically measured by a meter reader on no less than 9 dates between Dec 2007 and Oct 2009; however, was never billed until Oct 2009. Duke's policies and procedures allowing gas to be turned off without consumer communication in situations like this need corrected, or an individual who did not follow policies needs to be reprimanded.

2) Linda requests that the Commission determine that she should not be held responsible for any Duke reported measured usage of gas prior to that used and billed in Oct 2009, the first month Duke provided a bill.

Duke reports they physically measured usage in December '07 and January '08 and can use those measurements to support the Oct 2009 billed amount of \$123.30 for January '08 gas usage. If this had been billed in a timely manner corrective action could have been taken.

It is the belief of Linda Smith, Dave Anthony and Steve Roach that this corrective action would have dealt with mis-measurement as no gas lines were connected/in-use in this period due to the remodeling and a December 2007 request that all gas be shut off at the street to 4143 Forest Ave.

However, while compelling and true, we do not need the Commission to base their decision on this finding based solely on purported Duke mis-measurement when gas was off and lines were open. Even if we set aside this issue, it is a simple fact that if Duke had billed \$123.30 (January '08) and somehow this represented actual gas flow – we would have repeated our Dec 07 request for all gas to be shut off, and used that earlier request to get them to waive any unintentional delivery based on our request 1 month earlier.

Net, the basis of the request to waive all usage for months prior to Oct 2009, their first billing month, is first and foremost that had Duke billed in a timely manner, Linda would have been able to address at the time and adjust accordingly. Linda should not be held responsible for usage on many months where she would have taken corrective actions had she any indication of the expense.

We appreciate the engagement of the Ohio Public Utilities Commission in understanding this matter and ensuring a just outcome for the issue at hand.

Sincerely,

Linda Smith\_

1/25/09

DAWN M. McCARTHY Notary Public, State of Onio My Commission Expires Nov. 13, 2010 Dam M.M

DAWN M. McCARTHY Notary Public, State of Ohio My Commission Expires Nov. 13, 2010 Stephen Roach 10 Joseph Lane Coldspring KY 41076 Cell: 859.380.8066

Re: Statement in support of Linda Smith Formal Complaint against Duke Energy

■ Case ID: DANT102909XX

To Whom It May Concern:

I, Stephen Roach, have worked on remodeling 4143 Forest Ave since November 2007 and am continuing to do remodeling on that property.

To provide a gauge on scale of the renovations, I can attest that the owners have invested over \$100,000 in labor and materials on the renovation of 4143 Forest Ave. The majority of this work I have personally completed; additionally I have participated in the selection and management of other contractors for work that I have not completed.

To be clear, the depth of my participation in the renovation of 4143 Forest Ave is to the degree to which I can honestly say that not a single month has went by over the past 2 years where I have not been working in some capacity on the property for multiple days. Further, during the initial months in dispute, January and February 2008, I can attest to the facts that there was not an operating furnace, water heater or gas stove within the residence. In fact, there were no operating gas appliances at all. During this time, both water and gas were shut off to the house as I reworked piping for both and also began to install ductwork for the HVAC system that was put in place around April 2008. I remember the timing very well as winter is quite cold without heat, and I was using a diesel burning space heater in the basement each and every of the 40+ days that I worked within 4143 Forest Ave during those two months. I can assure you that I would not have used a diesel burning space heater within a few yards of the open gas lines that I was working with had the gas been on.

While a great deal of time passed, prior to Duke's October 2009 billing for gas they report to have been used between January 2008 and now, I have certain recollection of the above facts through both my memory and billings issued during this time. Additionally, while I cannot recall the exact dates being over a year ago, I can also attest that an employee of Duke Energy was responsible for turning the gas off in December '07 and also for turning it back on at some point in the spring of 2008.

I have previously shared this information directly with Tom Finley from Duke Energy (by phone on or about 10/24/2009) and want to ensure they are considered within any evaluation by the Ohio Public Utilities Commission on this issue as well.

I can be available for further discussion if that would be of help in resolving this issue.

Sincerely, Stephen Roach

11/25/09

DAWN M. McCARTHY Notary Public, State of Ohio My Commission Expires Nov. 13, 2010

\*Prmt Typ/No: B /07-0865 Permit Information Parcel ID 65100310345 Address Type P \*Address: 04143 FORES Application Date 12/21/2007 \*Description of work Tear out plaster walls new bath/kitchen fixtures Units added or subrecase. \*Inspection Status 01 Comments:Pr # 10475 Construction \*\*\* Address Home Owner wCity/Sta/Zip Home Owner Arc/Eng Name Address \*City/Sta/Zip Norwood \*Cont, ID G Cont, Name Home Own Construction type: 103 Two-family City/Sta/Zip Units added or subtracted (+/-)
Ownership 1 1-Private 2-Public
Owner Name Anthony David R And Any
Address 4138 Forest Ave Home Owner 009999 Home Owner Issued/Rejected/Term 01/04/ Date Last Insp/Finaled /// OH 45212-OH 45212-(513) 780-7990 (E13) 01/04/2008 Pees: plan exam permit Paid W/App 156.00 Call Balance Due 0.664 Receipt No. 010725 Call Balance Paid 12/21/2000 City Est penalty
certificate
state fee
Total Fees Deposit Res/Com/Other 0.000 7,800 156.90

> POR RESIDENTIAL & COMMERCIAL REPAIRS APPLICATION PERMIT REPAIR

> > CITY OF NORWOOD

APPLICATION / PERMIT

BUILDING DEPARTMENT WAS MONTGOMENT KIND, NORWOOD ONTO 45212 (513) 458-4510 FAX (513) 458-4511

HOOK PAGE PARCEL PONE (OCCUPANCY

D Address #: 4143 ALL INFORMATION MUST BE TYPED OF PRINTED IN INK. ALL INFORMATION MUST BE COMPLETE Street Nume: FOLEST Ave

Norwood, Ohio (circle and) 45212 45208 45209 45229

Suite / Floor / Apartment #: Name of Business:

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(3) TYPE OF OCCUPANCY:

20 1,2, & 3 Family Residential (CABO)

(2) IN COMPLETE DETAIL; List, Number and Describe Proposed Repair(s).

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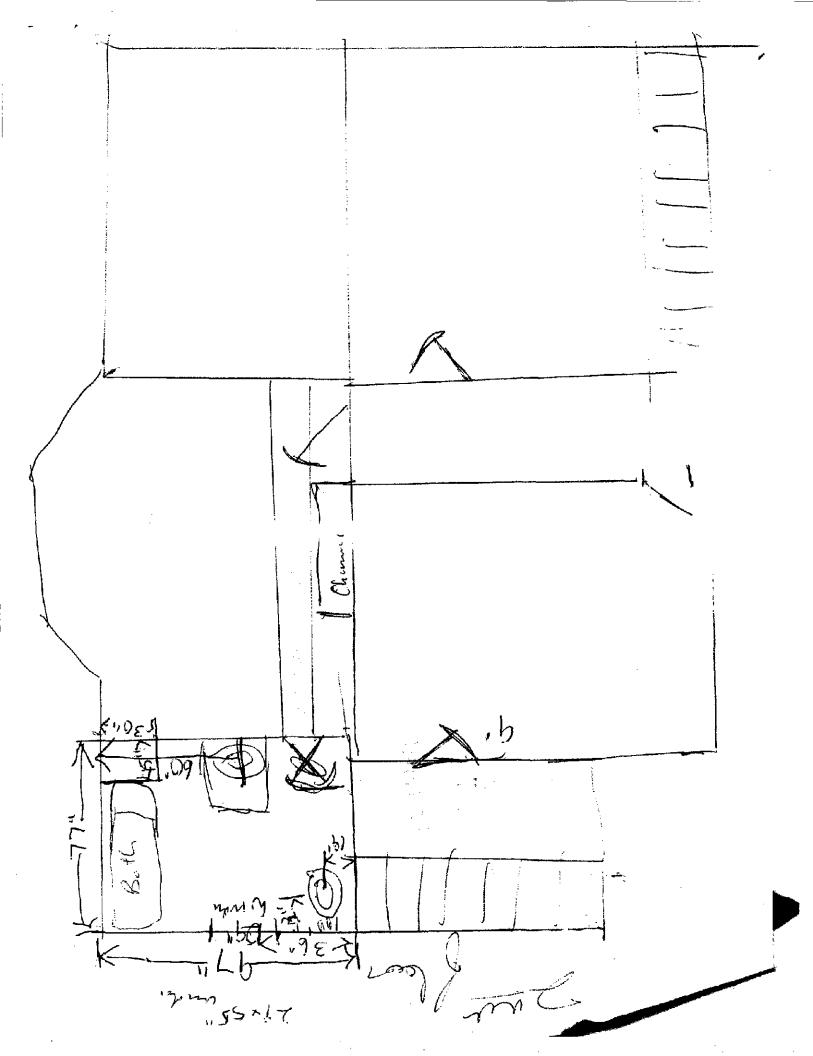
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APPLICATION Approved Denied by Plans Required Yes No Clarkin

Clarification Memor II

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Total Permit Fee	\$ 156.60
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To Applicant: This card is your record of inspection. DO NOT LOSE. This card MUST REMAIN on job site during construction. 458-4510 DEPARTMENT OF THE BUILDING COMMISSIONER 10-24-08 Date of Inspection\_ Inspection Type? Norwood, Ohio Comments Result \_\_\_ Time: ÅÄ. Deb Type Insp. Inspector Date Requested. Apt./Suite # Message\_ Address Taken by\_ Permit #\_ Phone\_\_ Time Date 8



Invoice

Cincinnati, Ohio 45238

Phone: 513-922-3988

337 Glen Oaks Drive

Fax: 513-385-2871

Email: larkinplbg@zoomtown.com

Invoice #: 2008-051 Invoice Date: 4/31/2008

Job

FOREST AVE.
NORWOOD OHIO

Bill To: DAVID ANTHONY 4138 FOREST AVE. CINCINNATI, OHIO 45212

REWORK PLUMBING TO TWO BATHROOMS INSTALL OWNER'S WATER HEATER

TOTAL INVOICE

\$3,220.00

CK 11364



Attention:

Steve Roach

Fax Number:

Account:

050450

Customer: Address:

Steve Roach

Date:

03/10/08

Job Number:

PMD60749

Engineer:

(No Contact)

Project:

Noorwood

Project Location:

### Invoice # 1245;

Description								
Provide labor and material to install one new 5 ton Tempstar 13 SEER air conditioner with a 92%,100,000btu gas furnace	new	\$7.875						
Connect to existing control wiring, power wiring and ductwork.  Provide new 5ton cooling coil, line set and programbale thermostat		CK# 10						
Owner to pay all permit fees.		OK # 106						
Payment as follows \$5,200 down remainder upon completion.		x1120 # 103						
Provide labor and material to install new 1 1/2ton split with 5kw electric heat,  Contractor to install all necessary ductwork \$2.794.00 82.000.00 down remainder upon completion.  All line voltage and breakers by owner.	_	# 10=						

### **QUOTATION NOTES:**

Make check Payable to: John Berns 33238 Madison Pike Fort Wright, Kentucky 41017

Very truly yours,

### John Berns

This quote is subject to attached terms and conditions

Page 1 of 1

## Invoice

Stephen Roach 10 Joseph Ln. Coldspring, KY 41076

DATE	INVOICE #
3/31/2008	7544

BILL TO	LOCATION
David & Amy Anthony	
4138 Forest Ave	
Norwood, Oh 45212	

DUE DATE	
4/30/2008	

ITEM	DESCRIPTION	AMOUNT
Install	install and reroute new duct work to kitchen, 2nd floor (old kitchen), 1st floor bath, and 2nd floor bath	720.00
material	ductwork and tape, fire caulk, registers for above 4 runs	650.02
	Total	1,370.02

CK# 1856

# 4143 FOREST AVENUE HOME IMPROVEMENTS

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