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BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

Debora & Robert Clark
1337 Michael Way
Lansdale, PA 19446

Complainants

v.

Duke Energy Ohio, Inc.

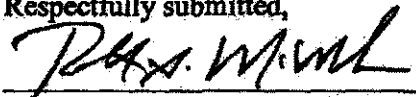
Respondent

Case No. 11-834-EL-CSS

MOTION OF RESPONDENT DUKE ENERGY OHIO, INC.
TO DISMISS COMPLAINT

Now comes Duke Energy Ohio, Inc. (the "Company" or "Duke Energy Ohio") and pursuant to Ohio Administrative Code §4901-1-12 and 4901-9-01-(C)(3), hereby moves to dismiss the Complaint with prejudice on the grounds that the Complaint fails to set forth reasonable grounds for complaint against Duke Energy Ohio. A memorandum of law in support of this motion is set forth below.

Respectfully submitted,



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Attorneys for Respondent
Duke Energy Ohio, Inc.

MEMORANDUM OF LAW

The Commission should dismiss this action because Complainant fails to set forth any grounds, let alone reasonable grounds, for a complaint against Duke Energy Ohio.

The complaint arises out of Duke Energy Ohio's Accelerated Riser Replacement Program and the specifications for and relating to the 2010 Gas Main Replacement, Relocation and Extension Projects, as approved the Commission. Duke Energy Ohio has been conducting these projects in accordance with its tariffs on file with the Commission and will continue those projects into 2012, as the Commission is well aware.

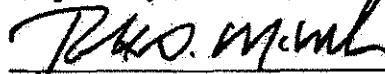
Complainants do not challenge Duke Energy Ohio's compliance with O.A.C. 4901:1-10-13 with respect to the safe and reliable provision of gas services at Complainants' property. Complainants also admit that Duke Energy Ohio provided written notice to Complainants before doing work on the gas riser situated on or adjacent to Complainants' property. Moreover, Complainants further admit that Duke Energy Ohio responded immediately to Complainants' request to reconnect or relight Complainants' gas service once Complainants contacted the Company.

Notably Complainants have not alleged that Duke Energy Ohio committed any act or failed to commit a required act in violation of any tariff or regulation applicable to

Duke Energy Ohio. Complainants complain only of the manner in which Duke Energy Ohio provided notice in advance to Complainants about the disconnection of gas services so that the Company could replace the gas riser in accordance with the project specifications. A "complaint" about the manner in which advance notice was admittedly provided by the public utility hardly constitutes reasonable grounds for complaint against Duke Energy Ohio. Accordingly, in the total absence of any such reasonable grounds, the Commission should dismiss the complaint under O.A.C. 4901-9-01-(C)(3).

WHEREFORE, Respondent Duke Energy Ohio, Inc. respectfully moves this Commission to dismiss the Complaint of Debora and Robert Clark with prejudice for failure to set forth reasonable grounds for the Complaint.

Respectfully submitted,



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Attorneys for Respondent

Duke Energy Ohio, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss was served via regular US Mail, postage prepaid, this 7th day of March, 2011, upon the following:

Debora & Robert Clark
1337 Michael Way
Lansdale, PA 19446



Robert A. McMahon