

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

Obadiah I. Demus)	
670 Gholson Ave., #209)	
Cincinnati, OH 45229)	
)	
Complainant,)	Case No. 13-660-EL-CSS
)	
v.)	
)	
Duke Energy Ohio, Inc.)	
)	
Respondent.)	

ANSWER OF RESPONDENT DUKE ENERGY OHIO, INC.

For its Answer to the Complaint of Obadiah I. Demus (Complainant), Duke Energy Ohio, Inc. (Duke Energy Ohio or Company) states as follows:

1. Duke Energy Ohio admits that the Company transferred \$169.73 of unpaid bills for electric services to a current electric account in Complainant's name in accordance with the Company's tariffs on file with the Commission and other applicable rules and regulations. Duke Energy Ohio denies that Mildred Reese established gas and electric service in Complainant's name at 833 Rockdale 1st Floor, Cincinnati, OH 45229 (the "Premises"). Duke Energy Ohio lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations of the first unnumbered paragraph of the Complaint and, therefore, denies all such allegations.
2. Upon information and belief, Duke Energy Ohio admits that Complainant submitted an incomplete police report to the Cincinnati Police Department, in which Complainant failed to identify the person who allegedly stole his identity and set up a gas and electric account in Complainant's name with the Company. Duke Energy Ohio further admits

that the Company did not waive the right to hold Complainant legally and financially responsible for the unpaid gas and electric charges in question because Complainant failed to comply with the company's policy and procedure relating to identity theft claims and otherwise failed to take legal action with the intent to prosecute the individual who allegedly stole Complainant's identity and set up a gas and electric account in Complainant's name. Further answering, Duke Energy Ohio states that it has recordings of two telephone calls in which Complainant acknowledged that he established gas and electric service in his name at the Premises on behalf of his friend Mildred Reese. Duke Energy Ohio otherwise denies the remaining allegations of the second unnumbered paragraph of the Complaint.

3. Duke Energy Ohio denies that it has threatened to disconnect utilities services for which Complainant is not legally and financially responsible. Duke Energy Ohio otherwise denies the remaining allegations of the third unnumbered paragraph of the Complaint.
4. Duke Energy Ohio has recordings of two telephone calls in which Complainant acknowledged that he established gas and electric service in his name at the Premises on behalf of his friend Mildred Reese. Duke Energy Ohio denies that the Company refuses to produce copies of those telephone calls and will make them available to Complainant and his counsel during these proceedings. Duke Energy Ohio otherwise denies the remaining allegations of the fourth unnumbered paragraph of the Complaint.
5. Duke Energy Ohio denies all allegations of the fifth unnumbered paragraph of the Complaint.
6. Duke Energy Ohio denies all allegations of the Complaint not expressly admitted herein.

AFFIRMATIVE DEFENSES

7. The Complaint fails to state a claim against Duke Energy Ohio upon which relief may be granted.
8. Duke Energy 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.
9. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, Duke Energy 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 Duke Energy Ohio's filed tariffs.
10. Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company acted in conformance with O.A.C. 4901:1-10 with respect to the safe and reliable provision of electric services at Complainant's property.
11. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company acted in conformance with O.A.C. 4901:1-10-22-23 and R.C. 4933.28 with respect to the Company's billings to Complainant.
12. Duke Energy Ohio asserts as an affirmative defense that Complainant requested, received and enjoyed the benefit of the gas and electricity services provided by the Company and, therefore, should pay Duke Energy Ohio for such services regardless of any technical or alleged issues or problems associated with the meters and billings.

13. Duke Energy Ohio asserts as an affirmative defense that Complainant asked for gas and electric services to be set up in his name and subsequently acknowledged his legal and final responsibility for the gas and electric services at the Premises.
14. Duke Energy Ohio asserts as an affirmative defense that Complainant have not stated any damages or request for relief, including relief which may be granted by this Commission.
15. Duke Energy Ohio asserts as an affirmative defense that the Company has already credited Complainant's account for all payments made by Complainant and other credits to which Complainant is entitled under Duke Energy Ohio's tariffs on file with the Commission.
16. Duke Energy 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, Respondent Duke Energy Ohio, Inc. prays that the Commission dismiss the Complaint of Obadiah I. Demus for failure to set forth reasonable grounds for the Complaint and to deny Complainant's Request for Relief, if any.

Respectfully submitted,

/s/ Robert A. McMahon
Robert A. McMahon (0064319)
Counsel of Record
Eberly McMahon LLC
2321 Kemper Lane, Suite 100
Cincinnati, OH 45206
tel: (513) 533-3441
fax: (513) 533-3554
email: bmcmahon@emh-law.com

Elizabeth H. Watts
Assistant General Counsel
Duke Energy Business Services Inc.
155 East Broad Street, 21st Floor
Columbus, OH 43215
tel: (614) 222-1331
fax: (614) 221-7556
email: elizabeth.watts@duke-energy.com

Attorneys for Duke Energy Ohio, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served via regular US Mail, postage prepaid, this 29th day of March, 2013, upon the following:

Albert T. Brown, Esq.
2350 Kroger Building
1014 Vine Street
Cincinnati, OH 45202-1156

/s/ Robert A. McMahon

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/29/2013 8:47:49 AM

in

Case No(s). 13-0660-EL-CSS

Summary: Answer Answer of Respondent Duke Energy Ohio, Inc. electronically filed by Mr. Robert A. McMahon on behalf of Duke Energy Ohio, Inc.