

FAX

FILE

Aug 21, 2013 3:03PM

No. 7248 P. 1

10

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13-1803-GA-CSS

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CONFIDENTIAL FACSIMILE

To: Attention: IAD
Company: Public Utilities Commission of Ohio.

Date: August 21, 2013

Fax No: (614) 752-8351

cc:

No. Pages (Including this page): 8

Time: 3:08 PM

From: Brian R. Redden, Esq.

Client: JJS3 Foundation

Matter: Formal Complaint

PUCO

2013 AUG 21 PM 3:52

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August 21, 2013

VIA U.S. Mail and
Facsimile (614) 752-8351

Attention: IAD
Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, Ohio 43215-3793

Re: Formal Complaint of JJS3 Foundation d/b/a Neusole Glassworks

Dear Sir/Madam:

My Associate, Andrea Laden, has informed me that your office has been unable to locate any record of our August 14, 2013 filing related to our client, JJS3 Foundation d/b/a Neusole Glassworks. As evidence of such filing, please find enclosed a copy of our fax confirmation.

Gale in your office was kind enough to provide a case number today. Please incorporate the enclosed Formal Complaint against Duke Energy into your records for Case No. ALAD082113G0.

We respectfully request that your office acknowledge our original filing date of August 14, 2013.

Please contact me should you have any questions or concerns.

Sincerely,

BUECHNER HAFER MEYERS
& KOENIG CO., LPA


Brian R. Redden

ACL:kc
Enclosure
194854

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To: IAD Date: 8/14/13
Company: Public Utilities Commission of Ohio
Fax No: 614-752-8351

cc:

No. Pages (including this page

7

Time: 6:00

From: Andrea Laden, Esq.

Client: JJSB

Matter: PUCO Complaint

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ON ORDER.
MAY 20, 1964.
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AUGUST 14, 2013

VIA U.S. Mail and
Facsimile (614) 752-8951
Attention: AD
Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, Ohio 43215-3789

Re: Formal Complaint of JJ83 Foundation dba Neusele Classworks

Dear Sir/Madam:

Attached for filing is the Formal Complaint of JWS Foundation dba Newsola Glasworks to be lodged against Duke Energy Ohio, Inc.

Please contact me at your earliest convenience with any questions regarding the attached Formal Complaint.

Sincerely,

**BUECHNER HAFER MEYERS
& KOENIG CO., LPA**

Bristol R. Padden

ACL:
Enclosure

PC19.34

BUECHNER HAFFER MEYERS & KOENIG Co., LPA
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August 14, 2013

VIA U.S. Mail and

Facsimile (614) 752-8351

Attention: IAD

Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, Ohio 43215-3793

Re: Formal Complaint of JJS3 Foundation dba Neusole Glassworks

Dear Sir/Madam:

Attached for filing is the Formal Complaint of JJS3 Foundation dba Neusole Glassworks to be lodged against Duke Energy Ohio, Inc.

Please contact me at your earliest convenience with any questions regarding the attached Formal Complaint.

Sincerely,

BUECHNER HAFFER MEYERS
& KOENIG CO., LPA


Brian R. Redden

ACL:
Enclosure

194634

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

JJS3 Foundation)
 dba Neusole Glassworks,)
)
 Complainant,)
)
 v.)
)
 Duke Energy Ohio, Inc.,)
)
 Respondent.)

Case No. _____

FORMAL COMPLAINT

Complainant JJS3 Foundation formerly known as The John J. Schiff III Foundation d/b/a Neusole Glassworks ("the Foundation") states as follows for its Formal Complaint against Respondent Duke Energy Ohio, Inc. ("Duke Energy"):

1. Duke Energy Ohio, Inc. is a corporation organized and existing under the laws of the State of Ohio that provides public energy services such as electricity and natural gas to Ohio residents, including but not limited to, residents of Hamilton County, Ohio.
2. The accounts disputed are identified as follows:

John J. Schiff III Foundation dba Neusole Glassworks
 937 Windsor Ave.
 Cincinnati, Ohio 45206
 Duke Energy Account Number 2210-0596-21-4
 ("Windsor Account")

John J. Schiff III Foundation dba Neusole Glassworks
 656 McMillan Street
 Cincinnati, Ohio 45206-1959
 Duke Energy Account Number 5900-2050-03-4
 (McMillan Account")

COUNT I
IMPROPER BILLING ON WINDSOR ACCOUNT

3. Since at least 2010, the Foundation has regularly disputed the alleged meter reading or estimated meter reading for its property located at 937 Windsor Ave, Cincinnati, OH 45206 and associated with Duke Energy Account Number 2210-0596-21-4 (the "Windsor Account").
4. Between December 2009 and February 2012, the Foundation only opened the gas line for the premises located at 937 Windsor for a total of 10 months and 20 days on an as-needed, intermittent basis.
5. The only machinery using natural gas during the period described in Paragraph 4 was a heating system boiler, which was turned on when temperatures in the Cincinnati area dipped below freezing in order to prevent damage to the water pipes in the building.
6. The heating system boiler was inspected by the Foundation's insurance agency representative and the Foundation's boiler contractor on multiple occasions between 2009 and 2012 and the boiler was found to be operating properly and not drawing excessive natural gas through the system. However, both noted that when heating system boiler was running, they noted that gas meter did not appear to be operating properly.
7. During the time period between December 2009 and February 2012, despite limited, intermittent use of natural gas at 937 Windsor, Duke Energy claims that those premises utilized 44,213 CCF of natural gas and has billed the Windsor Account for that amount of consumption.
8. By comparison, the Foundation's fully operational Neusole Glassworks location at 656 McMillan Street in Cincinnati, Ohio, which is serviced by a 3-inch diameter natural gas line supplying three hot glass manufacturing ovens, utilized 56,038 CCF of natural gas during the very same time period despite being regularly operated 50 weeks per year.
9. It is unreasonable and against simple deductive reasoning for Duke Energy to continue to contend that 10 months and 20 days of intermittent gas line use is comparable to nearly 80% of the amount of use in an active hot gas facility drawing on a 3 inch diameter supply pipe that operates 49 to 50 weeks of every year.
10. The meter in question was defective, approximately 50 to 60 years old, contained no oil in the oil-based measuring gauge, and was replaced in February of 2012 after numerous complaints by the Foundation. This defective nature of the was confirmed by two Duke employees who were involved in the installation of the new meter at the Windsor location.

11. The Foundation has been grossly overbilled and has repeatedly attempted to work with Duke in good faith to resolve this matter for a period of over eighteen months, including making some partial payments on the account.
12. Despite being provided with substantial information by the Foundation regarding the malfunctions of the old gas meter, Duke Energy has failed and refused to adjust the Windsor account and, indeed, transferred the balance of the Windsor account to the McMillan account.

COUNT II
WRONGFUL BALANCE TRANSFER FROM WINDSOR
ACCOUNT TO MCMILLAN ACCOUNT

13. The Foundation objects to Duke's wrongful transfer of the disputed charges on the Windsor Account in the amount of \$27,238.03 to the account for its primary facility at 656 McMillan, Cincinnati, Ohio 45206 (the "McMillan Account").
14. The McMillan Account has been regularly paid and satisfied throughout every month of its operation until the wrongful transfer of the Windsor Account billings to the McMillan Account on or about February 28, 2013.
15. The alleged obligations accrued under the Windsor Account bear no relationship to the McMillan Account.
16. After transferring the alleged indebtedness to the McMillan Account, Duke Energy commenced a series of threats on the part of Duke Energy to disconnect power to the McMillan Account.
17. The Foundation has explained to Duke Energy on multiple occasions that glasswork operations at the McMillan Account require a substantial and steady supply of power to maintain the high temperatures required in a series of kilns. The foundation has further explained to Duke energy on multiple occasions that a disconnection of power to the premises at McMillan will result in damage to both equipment at Neusole having a value of in excess of \$90,000 and may damage any product inside of that equipment that could have a value of upwards of \$50,000.
18. Duke Energy's persistent threats to shut off natural gas service to the Windsor Account location and the actual shut off of service to that location on Wednesday, July 24, 2013 in the face of repeated attempts at resolution are unfounded, unreasonable, and have caused and will continue to cause

significant and severe economic damages to the operations of Neusole Glassworks should they continue.

COUNT III
WRONGFUL DISCONNECT OF AND FRAUDULENT MISREPRESENTATION
REGARDING MCMILLAN ACCOUNT

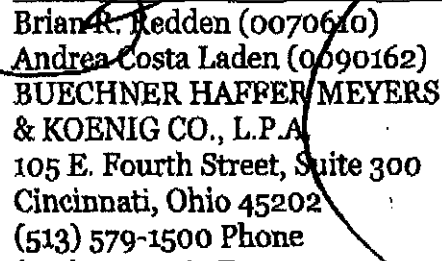
19. On or about July 24, 2013, Duke Energy, by and through its subcontractor Hizachre-Wheatley Co., wrongfully disconnected service to the Foundation's McMillan location despite the Foundation's continued good faith efforts to resolve the incorrect billing and wrongful transfer issues described above.
20. Duke Energy refused to reconnect the McMillan Account premises unless the Foundation agreed to a twelve month payment plan for the full alleged balance associated with the former Windsor Account.
21. The Foundation agreed to make a 10% payment of the disputed balance in order to restore service and Duke Energy's Business Services Team agreed that a 10% payment without entry into a full payment plan on the disputed amount due on the Windsor Account would be sufficient to reconnect. As a result, the Foundation made a 10% payment to cause restoration of the McMillan Account.
22. On or about August 2, 2013, the Foundation received correspondence from Duke Energy claiming to confirm the Foundation's entry into an extended payment plan for the full disputed amount. At no time did the Foundation or any representative of the Foundation agree to enter into an extended payment plan for the full disputed amount of the Windsor Account and Duke Energy's statement claiming the same is false and a product of fraudulent statements on behalf of members of Duke Energy's Business Services Team.
23. As a direct and proximate result of the wrongful disconnect of the McMillan Account on July 24, 2013, the Foundation has suffered damages in an amount in excess of \$1,000 and has expended attorney's fees and other expenses associated with this action and remedying the fraudulent misrepresentation regarding the Foundation's entry into the alleged extended payment agreement to which it did not agree.

WHEREFORE, Complainant JJS3 Foundation dba Neusole Glassworks respectfully demands that the Public Utilities Commission of Ohio enter judgment as follows:

- i. Injunctive relief prohibiting Duke Energy from cutting power to the Complainant's premises during the pendency of this administrative process;

- ii. Judgment on Counts One through Three of Complainant's Formal Complaint against Respondent Duke Energy in Complainant's favor in an amount in excess of \$27,238.03;
- iii. An award of Complainant's reasonable attorney fees in the pursuit of this matter;
- v. An award of the costs of this administrative action; and
- vi. Such other and further relief to which Complainant may be entitled at law or in equity.

Respectfully submitted,



Brian R. Redden (0070610)
Andrea Costa Laden (0090162)
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