

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

Tiffany Brooks)	
5102 Ebersole Ave.)	
Cincinnati, OH 45227)	
)	
Complainant,)	Case No. 13-2093-GE-CSS
)	
v.)	
)	
Duke Energy Ohio, Inc.)	
)	
Respondent.)	

ANSWER OF DUKE ENERGY OHIO, INC.

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

1. Duke Energy Ohio denies that it placed another person's electric bill on Complainant's account.
2. Duke Energy Ohio admits that, as a result of its investigation and interviews of landlords and other persons with knowledge, the Company concluded that Complainant had committed fraud by placing her utility account at 5102 Ebersole Avenue, Cincinnati, Ohio (the "Property"), in the name of Bernice Bryant, the grandmother of her roommate and friend Kemyah Bryant, without the knowledge or consent of Bernice Bryant. Duke Energy Ohio further confirmed that Complainant and her roommate Kemyah Bryant lived at the Property from July 2012 through January 2013 when the disputed gas and electric charges were incurred and that Bernice Bryant has never lived at the Property.

3. Duke Energy Ohio denies that the Company told Complainant that she had stolen a person's identity but admits that its investigation supports that conclusion.
4. Duke Energy admits that it disconnected the services at the Property on or about July 11, 2013, when Complainant failed to contact the Company after the Company delivered a 3-day notice on July 8, 2013, relating to the fraudulent activity which had occurred on the utility account at the Property. Further answering, Duke Energy states that all of its actions complied with its tariffs on file with the Commission and other applicable rules and regulations.
5. Duke Energy admits that it required Complainant to pay the fraudulently obtained gas and electric services and that Complainant made a payment of \$605.00 to the Company on July 12, 2013.
6. Duke Energy admits that Bernice Bryant contacted the Company and claimed responsibility for the disputed gas and electric charges at the Property but that the Company independently verified with the landlord at the Property that Bernice Bryant never lived at the Property and that both Complainant and Kemyah Brooks had lived at the Property since July 23, 2012.
7. Duke Energy Ohio denies all allegations of the Complaint not expressly admitted herein.

AFFIRMATIVE DEFENSES

8. The Complaint fails to state a claim against Duke Energy Ohio upon which relief may be granted.
9. The Complaint does not assert any allegations of fact that would give rise to a cognizable claim against Duke Energy Ohio, nor does the Complaint allege that Duke Energy Ohio did or failed to do something in violation of applicable Ohio law.

10. Duke Energy Ohio asserts as an affirmative defense that pursuant to R.C. 4905.26 and O.A.C. 4901-9-01-(C)(3), Complainant has failed to set forth reasonable grounds for complaint.
11. Duke Energy Ohio asserts as an affirmative defense that Complainant's claims are barred by her unclean hands and fraudulent conduct. Based on Duke Energy Ohio's investigation, Complainant has lived at two separate addresses (2315 Iroll Avenue, Cincinnati, OH and 5102 Ebersole, Cincinnati, OH) where Complainant unlawfully used the name and identity of Bernice Bryant to obtain utility services, just as Complainant did at the Property. Duke Energy Ohio further discovered that Bernice Bryant has never lived at the Property and that Complainant was not eligible for service in her name at the Property when she started living there based on her prior account history and unpaid bills.
12. 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.
13. 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.
14. 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. 4901:1-13-4 with respect to reading Complainant's meters.

15. 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. 4901:1-10-05 with respect to the meters installed at Complainant's property.
16. Duke Energy Ohio asserts as an affirmative defense that Complainant has not stated any request for relief, including relief which may be granted by this Commission.
17. Duke Energy Ohio asserts that to the extent Complainant is seeking monetary damages, such relief is beyond the scope of the jurisdiction of this Commission.
18. 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, Duke Energy Ohio, Inc. respectfully moves this Commission to dismiss the Complaint of Tiffany Brooks 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: bcmahon@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 Answer to the complaint of Tiffany Brooks was served via regular US Mail, postage prepaid, on this 31st day of October, 2013, upon the following:

Tiffany Brooks
5102 Ebersole Ave.
Cincinnati, OH 45227

/s/ Robert A. McMahon

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/31/2013 8:52:32 AM

in

Case No(s). 13-2093-GE-CSS

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