

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of:	:	
	:	
Tiffany Brooks,	:	
	:	
Complainant,	:	
	:	
vs.	:	Case No. 13-2093-GE-CSS
	:	
Duke Energy Ohio, Inc.,	:	
	:	
Respondent.	:	

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PROCEEDINGS

before Mr. L. Douglas Jennings, Attorney Examiner, at
the Public Utilities Commission of Ohio, 180 East
Broad Street, Room 11-C, Columbus, Ohio, called at
10:30 a.m. on Thursday, August 28, 2014.

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- - -

1 APPEARANCES:

2 Eberly, McMahon, LLC
3 By Mr. Robert A. McMahon
4 2321 Kemper Lane, Suite 100
5 Cincinnati, Ohio 45206

6 On behalf of the Respondent.

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1 Thursday Morning Session,
2 August 28, 2014.

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4 THE ATTORNEY EXAMINER: The Public
5 Utilities Commission of Ohio has scheduled for this
6 date and time a hearing in the matter of the
7 complaint of Tiffany Brooks versus Duke Energy Ohio,
8 Incorporated.

9 My name is Doug Jennings. I'm an
10 attorney examiner, and I have been assigned to
11 preside over the hearing.

12 First, I would note for the record that
13 the complainants are not in attendance, and at this
14 point in the proceeding I would request that counsel
15 for Duke Energy enter an appearance of record,
16 please.

17 MR. McMAHON: Good morning. Robert
18 McMahon on behalf of Duke Energy Ohio, Inc.

19 THE ATTORNEY EXAMINER: Thank you.
20 Mr. McMahon, would you care to make an opening
21 statement?

22 MR. McMAHON: Yes, thank you.

23 In light of the Complainant's failure to
24 appear, procedurally I believe the Commission could
25 dismiss the complaint with prejudice on those grounds

1 alone; however, how we discussed off the record, I
2 would like the opportunity to put the company's case
3 in the record so that the Commission has substantive
4 grounds to address this matter and eventually, in my
5 opinion, to rule in the company's favor.

6 There are no grounds upon which the
7 complainants have a valid claim against the company.
8 The evidence that has been filed with the Commission
9 will show that, and we are prepared to proceed on the
10 merits.

11 THE ATTORNEY EXAMINER: Thank you. We
12 will allow the company to present its evidence.

13 MR. McMAHON: Thank you. At this time
14 the company calls Alicia Jones to the stand.

15 - - -

16 ALICIA JONES

17 being first duly sworn, as hereinafter certified,
18 deposes and says as follows:

19 DIRECT EXAMINATION

20 By Mr. McMahan:

21 Q. Can you identify yourself for the record,
22 please?

23 A. My name is Alicia Jones.

24 Q. Ms. Jones, I'm handing you what has been
25 marked as Duke Energy Ohio Exhibit A. This is a copy

1 of your direct testimony in this case, correct?

2 A. Correct.

3 Q. And you were involved in the preparation
4 of your testimony, correct?

5 A. Correct.

6 Q. You've reviewed it?

7 A. Correct.

8 Q. And when this testimony was filed with
9 the Commission on August 21, 2014, was it true and
10 accurate in all respects?

11 A. Yes.

12 Q. And as of today's date, August 28, does
13 your written testimony, Exhibit A, remain true and
14 accurate in all respects?

15 A. Yes.

16 Q. Okay.

17 MR. McMAHON: At this time we would
18 submit Duke Energy Ohio A for the record. I have
19 copies. It's already been filed, but I will present
20 one to the court reporter.

21 I do have a few supplemental questions,
22 some things that may not have been explained
23 perfectly in the written testimony, if I may.

24 THE ATTORNEY EXAMINER: Yes, you may
25 proceed.

1 Q. (By Mr. McMahon) Ms. Jones, towards the
2 end of your testimony, you have identified that the
3 account balance on Tiffany Brooks' account at the
4 property, which we have identified as the 5102
5 Ebersole property in Cincinnati, that her balance is
6 \$915.96.

7 A. That's correct.

8 Q. Could you explain, please, what her total
9 balance is and how you arrive at that figure?

10 A. Okay. Her total balance is a little over
11 \$1,500. It is the \$915 balance from the account in
12 her name at 5102 Ebersole. In addition, there's a
13 disputed amount of \$610 from 5102 Ebersole that was
14 accumulated while the account was in the name of
15 Bernice Bryant.

16 Q. Just to be clear so we have the exact
17 dollar figures, the numbers are \$915.96, and then
18 what you have called the disputed amount is \$610.29,
19 correct?

20 A. Correct.

21 Q. So the combination of those two, which,
22 if my math is accurate, \$1,526.25, is the total
23 amount actually owed by Tiffany Brooks?

24 A. Correct.

25 Q. Okay. And you referenced the \$610.29

1 with the term "disputed." Do you agree with that
2 characterization?

3 A. No, I do not.

4 Q. Could you explain why?

5 A. The reason I don't agree with that
6 characterization is because the service was used
7 fraudulently, so the service was used by Tiffany
8 Brooks and Kemyah Bryant. So they are disputing the
9 charges; the company isn't.

10 Q. Okay. Why is the \$610.29 not reflected
11 in the account records for Tiffany Brooks that are
12 attached to your written testimony?

13 A. Because the Commission looked at the \$610
14 as disputed amounts, so we moved them from her
15 balance for the purpose of that.

16 Q. Okay. But the bottom line is that
17 Tiffany Brooks owes the entire amount of \$1,526.25
18 for services provided at the 5102 Ebersole property,
19 correct?

20 A. Correct.

21 MR. McMAHON: Okay, thank you.

22 Your Honor, at this time, this is not
23 necessarily part of Ms. Jones' testimony, but one
24 other document I'd like to introduce into evidence.
25 I'll provide the court reporter with the copy of Duke

1 Energy Exhibit B, Respondent's Request for
2 Admissions, Interrogatories, and Request for
3 Production of Documents to the Complainant. These
4 were served on the Complainant on February 28, 2014.

5 And, for the record, the Complainant
6 failed to respond to these discovery requests, which,
7 as you can see, included requests for admissions.
8 Even though I believe Ms. Jones' direct testimony
9 already submitted to the Commission, as well as her
10 supplemental answers to questions here today, provide
11 more than adequate ground to rule in the company's
12 favor, Exhibit B provides additional grounds because
13 by failing to respond to these discovery requests,
14 Tiffany Brooks, the Complainant, has admitted all of
15 the requests for admissions as a matter of law under
16 the Commission's rules and regulations for discovery
17 in formal complainant proceedings.

18 And as you will see as you go through,
19 each of these requests for admissions, we have broken
20 down our case in pretty specific detail, and as a
21 result of her failure to respond, Tiffany Brooks has,
22 in fact, admitted, as a matter of law, a number of
23 facts with respect to her fraudulent activity at the
24 Ebersole address; her failure to respond to the
25 three-day notice that the company timely delivered;

1 the facts underlying the company's decision to hold
2 her responsible for her fraudulent activity; and the
3 overwhelming evidence in the company's possession
4 that documents of fraudulent activity at this
5 property and the reason that the company disconnected
6 her services and held her financially responsible for
7 the usage at that address. So we believe that is
8 additional evidence to support the company's case.

9 One other thing I will note for the
10 record, just to hopefully ward off any issues about
11 notice by the complainant about today's hearing, in
12 addition to the notice that went out with the
13 Commission's July 10 entry that set today's date for
14 hearing, I personally sent a letter to Tiffany Brooks
15 on July 15, 2014, at 5102 Ebersole Avenue, which is
16 the address she has on file with the Commission.

17 In that letter I specifically referenced
18 this case being set for hearing on August 28, and
19 while I offered to talk about the matter in advance,
20 I've never heard back from Ms. Brooks and my letter
21 was not returned, so under the rules and by law, not
22 only did the Commission give her notice of the
23 hearing, I also separately gave her written notice on
24 July 15 about today's hearing, and Ms. Brooks failed
25 to appear.

1 Other than that evidence, I've already
2 asked to introduce Exhibits A and B, Duke Energy
3 would rest.

4 THE ATTORNEY EXAMINER: Duke Energy
5 Exhibits A and B will be admitted into the record.

6 (EXHIBITS ADMITTED INTO EVIDENCE.)

7 THE ATTORNEY EXAMINER: If there is
8 nothing further, I will conclude the hearing.

9 MR. McMAHON: Thank you.

10 THE ATTORNEY EXAMINER: Thank you.

11 (The hearing concluded at 10:40 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, August 28, 2014, and carefully compared with my original stenographic notes.

Rosemary Foster Anderson,
Professional Reporter and
Notary Public in and for
the State of Ohio.

My commission expires April 5, 2019.

(RFA-76464)

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in

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

Summary: Transcript in the matter of Tiffany Brooks vs Duke Energy Ohio, Inc. hearing held on 08/28/14 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.