

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Mark A. Whitt)	
300 W. Spring Street # 507)	
Columbus, Ohio 43215,)	
)	
Complainant,)	Case No. 15-697-EL-CSS
)	
v.)	
)	
Nationwide Energy Partners, LLC)	
230 West Street, Suite 150)	
Columbus, Ohio 43215,)	
)	
Respondent.)	

ANSWER

For its answer to the April 10, 2015 Complaint filed by Mark A. Whitt, Nationwide Energy Partners, LLC asserts the following answers and defenses.

FIRST DEFENSE

1. Nationwide Energy Partners, LLC (“NEP” or “the Respondent”) is without sufficient knowledge to enable it to either admit or deny the allegation that Complainant Mark A. Whitt owns a residential condominium in The Condominiums at North Bank Park, 300 W. Spring Street, Columbus, Ohio 43215. NEP admits that North Bank is located in the Arena District of Downtown Columbus.

2. NEP admits that it is a limited liability company organized under the laws of Delaware. NEP denies that it supplies or arranges for the supply of electric, water and sewer services to North Bank. NEP denies that it is an electric light company, a “water-works company”, a “sewage disposal company” and a “public utility”. Interpretations of R.C.

4905.03(C), (G) and (M) and R.C. 4905.02 are legal conclusions, not factual allegations, which are not appropriate for admission or denial by the Respondent.

3. NEP denies that it provides “retail electric service”. NEP denies that it is an “electric distribution utility,” an “electric light company,” an “electric services company,” an “electric utility” and/or “electric supplier”. Interpretations of R.C. 4928.01(A) and 4928.01(A)(27) are legal conclusions, not factual allegations, which are not appropriate for admission or denial by the Respondent.

4. NEP denies that the Public Utilities Commission of Ohio has personal jurisdiction or subject matter jurisdiction over this action by Complainant. Interpretation of R.C. 4905.04, 4905.05, 4905.06, 4905.26, 4928.06, 4928.08, 4928.09 and 4928.16 are legal conclusions, not factual allegations, which are not appropriate for admission or denial by the Respondent.

5. The Respondent incorporates by reference its statements made in paragraphs 1 through 4 of this Answer.

6. The Respondent is without sufficient knowledge to determine if the Complainant purchased Unit 507 at North Bank in November of 2014 and whether he was informed of anything at the closing. The Respondent denies that the Complainant was required to execute a service agreement with NEP. The Respondent denies that the Complainant has been an electric customer, a water customer or a sewer service customer of NEP from November, 2014 to the present.

7. The Respondent denies that NEP provides electric, water and sewer service to all units within North Bank as well as common areas of the building.

8. The Respondent is without knowledge to enable it to admit or deny if the Complainant is the sole occupant of Unit 507, and if he uses electricity, water or sewage disposal services for any particular purposes.

9. The Respondent admits that pursuant to its contract with the North Bank Condominium Owners Association, it issues bills to the Complainant on a monthly basis. Such bills contain charges for electric, water and sewer service. The Respondent admits that the bills attached to the Complaint with due dates of December 15, 2014 and April 3, 2015 are accurate copies with the account number partially redacted.

10. The Respondent admits that the electric charges billed by NEP as shown on Exhibit A separately lists generation, transmission and distribution components of electric service, but denies that it supplied those services. The Respondent also admits that the bill reflects the assessment of a customer charge.

11. With respect to electric generation service and in reference to Exhibit A, the Respondent denies that dividing the monthly kWh usage by the amount of the generation charge yields generation rates of \$0.1145 and \$0.1270, respectively for the applicable billing periods. The Respondent denies that these generation rates are nearly double the rates available to shopping customers in AEP Ohio's service territory, and denies that they are illustrative of the rates charged to the Complainant since moving into North Bank.

12. As shown on Exhibit A to the Complaint, the Respondent admits that charges billed on behalf of North Bank Condominium Owners Association by NEP separately list water, sewer and storm water charges. As shown as Exhibit A, the Respondent admits that NEP lists a common area water charge and a charge for a "clean river fund."

13. The Respondent admits that none of the rates collected by NEP for any of the services it provides to North Bank Condominium Owners Association are disclosed in monthly bills rendered to the Complainant. The Respondent admits that NEP does not publish rate information on its website or by other means. NEP admits that its website is nationwideenergypartners.com.

14. The Respondent admits that none of the fees charged by NEP for any of the services it provides have been reviewed or approved by the Commission. The Respondent denies that NEP's rates are required to be reviewed or approved by the Commission. Interpretation of R.C. 4905.22, 4905.30, 4905.32 and 4909.18 are legal conclusions, not factual allegations, which are not appropriate for admission or denial by the Respondent.

15. NEP admits that it does not possess a certificate of public convenience and necessity to provide water service. NEP denies that it is required to possess a certificate of public convenience and necessity. Interpretation of R.C. 4933.25 is a legal conclusion, not a factual allegation, which is not appropriate for admission or denial by the Respondent.

16. The Respondent admits that NEP does not possess a certificate of public convenience and necessity to provide sewer service. The Respondent denies that it is required to possess a certificate of public convenience and necessity. Interpretation of R.C. 4933.25 is a legal conclusion, not a factual allegation, which is not appropriate for admission or denial by the Respondent.

17. The Respondent admits that NEP does not have a certified territory authorizing or requiring it to provide electric service. The Respondent denies that it is required to have a certified territory. Interpretation of R.C. 4933.83(A) is a legal conclusion, not a factual allegation, which is not appropriate for admission or denial by the Respondent.

18. The Respondent admits that it is not certified as a supplier of competitive retail electric service. The Respondent denies that it is a supplier of competitive retail electric service and denies that it is required to be certified as a supplier of competitive retail electric service. Interpretation of R.C. 4928.08(B) is a legal conclusion, not a factual allegation, and is not appropriate for admission or denial by the Respondent.

19. The Respondent admits that it is not “otherwise” listed on the rolls of the Commission as a public utility. The Respondent admits that it has not applied to the Commission for an exemption from regulation as a public utility. The Respondent denies that there are any applicable provisions of Title 49, Ohio Revised Code which apply to it.

20. The Respondent admits that similar service and billing arrangements between NEP and the Complainant also apply to other members of North Bank.

21. The Respondent is without information or knowledge to either admit or deny that rates and charges billed by NEP exceed the rates and charges of utility service providers and suppliers of competitive retail electric service that would otherwise serve North Bank. The Respondent denies that NEP is unlawfully providing services.

22. The Respondent denies that it knowingly provides public utility services or competitive retail electric services. Interpretation of R.C. 4928.01(A)(14) is a legal conclusion, not a factual allegation, which is not appropriate for admission or denial by the Respondent.

COUNT I

23. The Respondent incorporates by reference its statements made in Paragraphs 1 through 22 of this Answer.

24. The Respondent admits that NEP bills rendered on behalf of North Bank Condominium Owners Association include a line item for “distribution service” and

“transmission service”. The Respondent denies that it supplies utility metering service, utility billing and collection service, as well as utility ancillary services. NEP does supply North Bank Condominium Owners Association with commercial metering, billing and collection services. Interpretation of R.C. 4928.01(A)(21) and (B) is a legal conclusion, not a factual allegation, which is not appropriate for admission or denial by the Respondent.

25. The Respondent denies that it supplies or arranges for the supply of electricity to ultimate consumers in this state, from the point of generation to the point of consumption. The Respondent denies that it provides “retail electric service”. The Respondent denies that it is engaged in the business of an “electric light company”. The Respondent denies that it is engaged in the business of an “electric distribution utility” and “electric utility”. The Respondent denies that it is a “public utility”. Interpretation of R.C. 4928.01(A)(27), 4905.03(C), 4928.01(A)(6) and (11), and 4905.02(A) are legal conclusions, not factual allegations, and are not appropriate for admission or denial by the Respondent.

26. The Respondent admits that the Complainant has accurately quoted the second sentence of R.C. 4905.22. Interpretation of the applicability of R.C. 4905.22 is a legal question, not a factual allegation, and is not appropriate for admission or denial by the Respondent.

27. The Respondent admits that the Complainant has accurately quoted the first sentence of R.C. 4909.18. Interpretation of the applicability of R.C. 4909.18 is a legal question, not a factual allegation, and is not appropriate for admission or denial by the Respondent.

28. The Respondent denies that it provides non-competitive retail electric service. The Respondent denies that it charges rates for non-competitive retail electric service. The Respondent admits that the rates it charges have not been submitted to, or approved by, the Commission. The Respondent denies that its rates are required to be submitted to or approved

by the Commission. Interpretation of R.C. 4909.18 is a legal conclusion, not a factual allegation, and is not appropriate for admission or denial by the Respondent.

29. The Respondent denies supplying or arranging for the supply of non-competitive components of retail electric service. The Respondent denies that it is engaged in a knowing, continuing violation of Ohio law. The Respondent admits that its rates are neither approved by nor regulated by the Commission. The Respondent denies that its rates are required to be approved and regulated by the Commission. Interpretation of R.C. 4905.22 and R.C. 4909.18 are legal conclusions, not factual allegations, and are not appropriate for admission or denial by the Respondent.

COUNT II

30. The Respondent incorporates by reference its statements made in Paragraphs 1 through 29 of this Answer.

31. The Respondent admits that its bills include a line item for “generation service”. The Respondent denies the statement made by the Complainant that generation service is a competitive component of retail electric service. Interpretation of R.C. 4928.03 is a legal conclusion, not a factual allegation, and is not appropriate for admission or denial by the Respondent.

32. The interpretation of R.C. 4928.08(B) is a legal conclusion, not a factual one, and is not appropriate for admission or denial by the Respondent.

33. In the last eight years, the Respondent admits that it has neither applied for, nor has the Commission approved, an application or certification for NEP to supply a competitive component of competitive retail electric service.

34. The Respondent denies supplying or arranging for the supply of competitive retail electric service. The Respondent denies being engaged in a knowing, continuing violation of Ohio law. The Respondent admits that it does not currently possess a certificate authorizing it to provide for competitive retail electric service in Ohio. Interpretation of R.C. 4928.08(B) is a legal conclusion, not a factual allegation, and is not appropriate for either admission or denial by the Respondent.

COUNT III

35. The Respondent incorporates by reference its statements made in Paragraphs 1 through 34 of this Answer.

36. The Respondent admits that Ohio Power Company dba AEP Ohio is an “electric supplier”. The Respondent admits that Ohio Power Company dba AEP Ohio has the exclusive right and obligation to furnish “electric service” to all “electric load centers” within its “certified territory”. Interpretation of R.C. 4933.81(A) is a legal conclusion, not a factual allegation, and is not appropriate for either admission or denial by the Respondent.

37. The Respondent admits that North Bank is an electric load center located within the geographic boundaries of Ohio Power Company dba AEP Ohio’s certified territory.

38. The Respondent denies supplying or arranging for the supply of retail electric service to North Bank. The Respondent denies that it is an “electric supplier”.

39. The Respondent denies that it is an “electric supplier”. The Respondent denies that it is providing “electric service” to an “electric load center” within the “certified territory” of Ohio Power Company dba AEP Ohio. The Respondent denies that it is engaged in a knowing, continuing violation of Ohio law. Interpretation of R.C. 4933.83(A) is a legal conclusion, not a factual allegation, and is not appropriate for either admission or denial by the Respondent.

COUNT IV

40. The Respondent incorporates by reference its statements made in Paragraphs 1 through 39 of this Answer.

41. The Respondent admits that its bills submitted on behalf of North Bank Condominium Owners Association include a line item for water service. The Respondent denies that it is engaged in the business of supplying water through pipes or tubing, or in similar manner, to consumers within this state. The Respondent denies that it is a waterworks company. The Respondent denies that it is a public utility. Interpretation of R.C. 4905.03(G) and R.C. 4905.02(A) is a legal conclusion, not a factual allegation, and is not appropriately the subject of admissions or denials by the Respondent.

42. The interpretation of R.C. 4933.25 is a legal conclusion, not a factual allegation, and is not appropriate for admission or denial by the Respondent.

43. The Respondent denies that it is supplying or arranging for the supply of water service. The Respondent denies that it is engaged in a knowing, continuing violation of Ohio law. The Respondent admits that it does not possess a certificate of public convenience and necessity to provide water service. Interpretation of R.C. 4933.25 is a legal conclusion, not a factual allegation, and is not appropriate for admission or denial by the Respondent.

44. The Respondent denies that it supplies or arranges for the supply of water service. The Respondent denies being engaged in a knowing, continuing violation of Ohio law. The Respondent admits that its rates are neither approved by nor regulated by this Commission. Interpretation of R.C. 4905.22 and R.C. 4909.18 are legal conclusions, not factual allegations, and are not appropriate for admission or denial by the Respondent.

COUNT V

45. The Respondent incorporates by reference its statements made in Paragraphs 1 through 44 of this Answer.

46. The Respondent admits that its bills submitted on behalf of North Bank Condominium Owners Association include line items for storm, sewer and sanitary services. The Respondent denies that it is engaged in the business of sewage disposal services through pipes or tubing and/or treatment works or in a similar manner. The Respondent denies that it is a “sewage disposal company”. The Respondent denies that it is a public utility. Interpretations of R.C. 4905.03(M) and R.C. 4905.02 are legal conclusions, not factual allegations, and are not appropriate for admission or denial by the Respondent.

47. Interpretation of R.C. 4933.25 is a legal conclusion, not a factual allegation, and is not the appropriate subject of admissions or denials by the Respondent.

48. The Respondent denies supplying or arranging for the supply of sewage disposal service. The Respondent denies being engaged in a knowing, continuing violation of Ohio law. The Respondent admits that it does not possess a certificate of public convenience and necessary. Interpretation of R.C. 4933.25 is a legal conclusion, not a factual allegation, and is not the appropriate subject of admissions or denials by the Respondent.

49. The Respondent denies supplying or arranging for the supply of sewage disposal service. The Respondent denies being engaged in a knowing, continuing violation of Ohio law. Interpretation of R.C. 4905.22 and 4909.18 is a legal conclusion, not a factual allegation, and is not the appropriate subject of admissions or denials by the Respondent. The Respondent admits that its rates are neither approved nor regulated by this Commission.

SECOND DEFENSE

50. The Commission does not have subject matter jurisdiction over the Complaint.

THIRD DEFENSE

51. The Commission does not have personal jurisdiction over NEP.

FOURTH DEFENSE

52. The Complainant lacks standing to bring the Complaint.

FIFTH DEFENSE

53. The Complaint fails to set forth reasonable grounds for complaint as required by Section 4905.26, Revised Code.

SIXTH DEFENSE

54. The Respondent acts in its capacity as agent for North Bank Condominium Owners Association. The Respondent holds agency status and/or power of attorney for purposes of working with competitive retail electric service companies, waterworks companies, sewage disposal companies, electric light companies, and public utilities. The Respondent does not act independently of its principal.

SEVENTH DEFENSE

55. In the case of electric service, Respondent has provided agency services for North Bank, in conjunction with a certified competitive retail electric service provider or the public utility holding a certificate.

56. In case of water and sewer service, Respondent has provided agency services for North Bank while the City of Columbus provided the water and sewer service in accordance with City Ordinances.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served upon the Complainant. In accordance with the affirmative request for e-service noted in the Complaint, the courtesy copy of the Answer is being sent via electronic mail at whitt@whitt-sturtevant.com this 30th day of April, 2015.



M. Howard Petricoff

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Summary: Answer Answer electronically filed by M HOWARD PETRICOFF on behalf of
Nationwide Energy Partners, LLC