

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Jeffrey Lykins )  
Complainant, )  
v. )  
Duke Energy Ohio, Inc. )  
Respondent )

Case No. 15-298-GE-CSS

RECEIVED-DOCKETING DIV  
2015 JUN 16 PM 1:56  
PUCO

AFFIDAVIT OF DONALD A. LANE IN SUPPORT OF MOTION  
OF JEFFREY PITZER FOR PROTECTIVE ORDER,  
TO COMPEL AND FOR CONTINUANCE

Donald A. Lane, after having been duly sworn and cautioned, states as follows:

1. I am counsel to Jeffrey Pitzer, complainant in the above captioned matter. I submit this affidavit in support of Mr. Pitzer's motion to compel, motion for protective order and for continuance. I have personal knowledge of all the facts set forth herein.

2. Since 2011, my law firm, Droder & Miller Co., L.P.A. ("the Firm"), has worked with Gail Lykins concerning the death of her mother, Dorothy Easterling, and brother, Estill Easterling III ("the Easterlings"), who were found deceased in the home that they shared in suburban Cincinnati. Based upon records I have reviewed, the deaths were caused by hypothermia, after Respondent, Duke Energy Ohio, Inc. ("Duke"), disconnected utility service to the home. Ms. Lykins is married to Mr. Pitzer. The work the Firm has done includes administering the estates of the Easterlings and eventually bringing this action against Duke.

3. Ms. Lykins brought this action against Duke on February 6, 2015, after the Court of Common Pleas of Hamilton County, Ohio dismissed a wrongful death action that she

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JUN 16  
2015

originally brought in that forum against Duke. The Court held that the issue of whether Duke improperly disconnected utility service must first be decided by the Commission.

4. In March, 2015, I learned that Ms. Lykins was to undergo a bone marrow transplant to treat leukemia and would be unable to work with me for an extended period of time, as respects this matter.

5. On March 3, 2015, the Probate Court of Hamilton County, Ohio granted an application the Firm filed to have Mr. Lykins appointed the personal representative of the estate of Estill Easterling III. On March 20, 2015 the Court entered a similar order with respect to the estate of Dorothy Easterling. The estates of both individuals shall be referred to, below, as “the Estates.”

6. On April 16, 2015, I attended a settlement conference in this matter and explained to the Duke counsel and representatives present, as well as the attorney examiner covering the conference, that Mr. Pitzer has been substituted as fiduciary of the Estates and would be appearing at the settlement conference in the capacity of complainant. I specifically recall addressing the fact that we had made the substitution because of Ms. Lykins health concerns and transplant. Duke’s counsel and representatives did not object.

7. On May 4, 2015, the Firm served the discovery, attached as Exhibit A, to Duke.

8. On May 5, 2015, Attorney Robert McMahon, who represents Duke, sent an email message, a copy of which is attached as Exhibit B, stating that Duke did not intend to respond to the discovery because Mr. Pitzer served it. This is so despite the facts contained in Paragraphs 5 and 6, above. I thanked Attorney McMahon, as shown in Exhibit C, and filed the motion to amend that the Commission has docketed on May 11, 2015. To date, Duke has not responded to

Mr. Pitzer's discovery, nor has either Attorney McMahon, or anyone else representing Duke, responded to my May 5 email message.

9. On May 7, 2015, Duke served the discovery, attached as Exhibit D, on Ms. Lykins. Despite the fact that Mr. Pitzer was clearly the personal representative of both estates and the proper claimant, by that time, a fact which Duke knew, Mr. Pitzer did not raise a preemptory challenge to the discovery, as did Duke to Mr. Pitzer's discovery. Mr. Pitzer recognized that irrelevant procedural issues should not delay decision of the substantive issues brought by this claim.

10. I mistakenly believed that the relevant procedural rules allowed Mr. Pitzer 28 days to respond to the discovery.

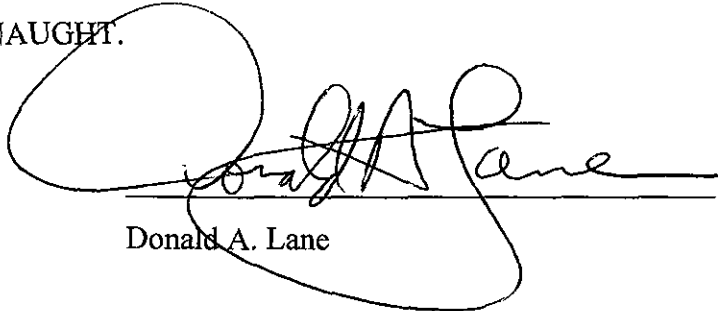
11. In order to respond to the discovery, I would need to confer with Ms. Lykins, who was still recovering from her March surgery and was spending a great deal of time in clinical treatment.

12. Despite the foregoing, Mr. Pitzer, through the Firm, served responses to Duke's request for admissions on June 3, 2015. The responses are attached as Exhibit E.

13. On June 9, 2015, Attorney McMahon sent me the letter, attached as Exhibit F, concerning Mr. Pitzer's responses to Duke's interrogatories and document requests, despite the fact that Duke has failed to respond to Mr. Pitzer's discovery.

14. One June 10, 2015, Attorney McMahon sent me the letter, attached as Exhibit G, concerning Mr. Pitzer's responses to Duke's admission requests, despite the fact that Duke has failed to respond to Mr. Pitzer's discovery.

FURTHER AFFIANT SAYETH NAUGHT.



Donald A. Lane

Sworn to before me and subscribed in my presence this 12<sup>th</sup> day of June, 2015.



Notary Public



Christopher J. Wise, Attorney At Law  
NOTARY PUBLIC - STATE OF OHIO  
My commission has no expiration date  
Sec. 147.03 R.C.

**CERTIFICATE OF SERVICE**

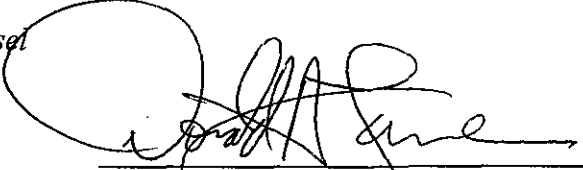
I hereby certify that a copy of the foregoing has been served upon the following by electronic mail on this 12<sup>th</sup> day of June, 2015:

Robert A. McMahon  
Eberly McMahon Copetas LLC  
2321 Kemper Lane, Suite 100  
Cincinnati, Ohio 45206  
[bmcMahon@emclawyers.com](mailto:bmcMahon@emclawyers.com)  
*Attorney for Duke Energy Ohio, Inc.*

Amy B. Spiller  
Elizabeth H. Watts  
139 East Fourth Street  
Cincinnati, Ohio 45202  
[Amy.spiller@duke-energy.com](mailto:Amy.spiller@duke-energy.com)  
*Attorneys for Duke Energy Ohio, Inc.*

Bruce J. Weston (per 4901-1-05(E))  
Terry L. Etter (per 4901-1-05(E))  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
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*Outside Counsel for the Office of  
the Ohio Consumers' Counsel*

Kimberly W. Bojko (per 4901-1-05(E))  
Carpenter Lipps & Leland LLP  
280 Plaza, Suite 1300  
280 N. High Street  
Columbus, Ohio 43215  
[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)  
*Office of the Ohio Consumers' Counsel*

  
\_\_\_\_\_  
Donald A. Lane (0038974)  
*Attorney for Complainant, Jeffrey Pitzer*

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Gail Lykins,	)	
	)	
Complainant,	)	
	)	Case No. 15-298-GE-CSS
v.	)	
	)	
	)	
Duke Energy Ohio, Inc.,	)	
	)	
Respondent.	)	

**PLAINTIFF, JEFFREY PITZER’S, FIRST SET OF INTERROGATORIES, REQUESTS  
FOR ADMISSION AND REQUESTS FOR PRODUCTION OF DOCUMENTS  
PROPOUNDED TO DEFENDANT, DUKE ENERGY OHIO, INC.**

Plaintiff, Jeffrey Pitzer (“Plaintiff”), propounds the following interrogatories and requests for production of documents to Defendant, Duke Energy Ohio, Inc., and respectfully requests that full responses to the same be made within 30 days of the date of service.

**INSTRUCTIONS FOR ANSWERING**

1. Please produce all information which is in your possession or control or within the possession and control of your attorneys, investigators, agents, employees or other representatives of you or your attorney or insurance company.
2. Where an interrogatory calls for an answer in more than one part, each part should be separated in the answer so that the answer is clearly understandable.
3. You are reminded that all answers must be made separately and fully and that an incomplete or evasive answer is a failure to answer.
5. You are under a continuing duty to seasonably supplement your responses with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, the identity of any person expected to be called as a fact or expert witness at hearing of this matter and the subject matter on which he or she is expected to testify and to correct any response which you know or later learn is incorrect.

## DEFINITIONS

1. The words "**Defendant**", "**you**" and/or "**your**," and the possessives thereof, shall be construed to mean Defendant, Duke Energy Ohio, Inc., including any and all employees, agents, and/or representatives of Duke Energy Ohio, Inc. When Plaintiff seeks information in Defendant's control, these terms include all information which is in your possession or control or within the possession and control of your attorneys, investigators, agents, employees or other representatives of you or your attorney or insurance company.
2. The word "**Decedents**," and the possessives thereof, shall mean both Dorothy and Estill Easterling, collectively and/or individually.
3. The word "**Plaintiff**," and the possessives thereof, shall mean Jeffrey Pitzer, the personal representative of Decedents.
4. The term "the **Residence**" shall mean Decedents' home, located at 11312 Orchard Street, Cincinnati, Hamilton County, Ohio.
5. The term "the **Account**," shall mean Decedents' utility account with Defendant pertaining to the Residence, and identified as Duke Energy Account Number 0120-0420-205.
6. The term "the **Ohio Rules**," shall mean and refer to the sections of the Ohio Revised Code and/or the Ohio Administrative Code pertaining to the rules and regulations governing public utilities, including, but not limited to, the portions governing the proper and legal disconnect of utility customers, contained under § 4933.01 *et seq.* and § 4901:1-18 *et seq.*, respectively.
7. The term "the **Winter Heating Season**," shall mean and refer to the time period from November first through April fifteenth, during which you are required to adhere to heightened restrictions and notice requirements when disconnecting the service of residential customers.
8. The term "**the Complaint**" shall mean and refer to the Complaint filed by Plaintiff before the Public Utilities Commission of Ohio ("the PUCO") on February 6, 2015.

## **INTERROGATORIES**

### **Interrogatory No. 1**

State the names, addresses and telephone numbers of each person or entity answering these Interrogatories.

**ANSWER:**

### **Interrogatory No. 2**

State the names, addresses and telephone numbers of each and every person or entity, known by you or your attorney, who possess any information or knowledge that is relevant to the subject matter of the Complaint.

**ANSWER:**

### **Interrogatory No. 3**

State the names, addresses and telephone numbers of each and every person whom you will or may call as a non-expert witness at hearing of this matter. With respect to each person listed, briefly state the subject matter of his/her testimony.

**ANSWER:**



**Interrogatory No. 4**

State the names, addresses, telephone numbers (business and home), and place of employment of each and every person known by you or your attorneys, whom you will or may call as an expert witness at hearing of this matter.

**ANSWER:**

**Interrogatory No. 5**

With respect to each expert listed in the response to Interrogatory No. 4, state each and every subject matter upon which each expert witness shall testify.

**ANSWER:**

**Interrogatory No. 6**

For each expert witness, state each and every opinion, finding and/or conclusion rendered by the expert related to each subject matter stated in the response to Interrogatory No. 5.

**ANSWER:**

**Interrogatory No. 7**

State each and every communication – written, oral or electronic - you have had with Plaintiff, Decedents and/or Decedents' daughter and sister, Gail Lykins. For each communication, state the date, place and subject matter of each communication. If an electronic communication was made, but it has been deleted or destroyed in any way, identify the electronic device from which the communication was made.

**ANSWER:**

**Interrogatory No. 8**

Identify any and all contracts or other agreements you have ever entered into with Decedents or any family members for any reason with respect to the Account at the Residence. For each alleged contract or agreement, state the date or approximate date of the agreement, any terms and conditions, the consideration for such agreement, the individual(s) present at the time the agreement was made, and the form of the agreement – whether it was in writing or oral.

**ANSWER:**

**Interrogatory No. 9**

Identify any and all persons having either direct or indirect knowledge of the disconnection of utility services at the Residence, which occurred on or about November 4, 2011.

**ANSWER:**

(A) Specifically identify any and all employees and/or agents who ordered the disconnection of service at the Residence.

**ANSWER:**

(B) Specifically identify any and all employees and/or agents who physically and/or remotely performed the disconnection of service at the Residence.

**ANSWER:**

**Interrogatory No. 10**

Identify any and all payments made on the Account by Decedents, Plaintiff, or any person acting on their behalf, between August 1, 2011 and December 1, 2011.

**ANSWER:**

**Interrogatory No. 11**

Identify any and all persons who were aware of any payments made on the Account identified in your answer to Interrogatory No. 10.

**ANSWER:**

**Interrogatory No. 12**

Describe your internal procedure and protocol when disconnecting the utility services of a residential customer, including but not limited to, your disconnection protocol during the Winter Heating Season. This response should include any and all such procedures in place on January 1, 2011, to the present. In your response, Please provide a detailed listing of such procedures and each change made to them from January 1, 2011 to the present.

**ANSWER:**

**Interrogatory No. 13**

Identify any and all records, transcripts, notes, entries, and/or any other form of documentation that you transcribe, copy, save, and/or document during your routine course of business relating to your internal procedure and protocol for the disconnection of utility services of a residential customer, as identified in your response to Interrogatory No. 12.

**ANSWER:**

**Interrogatory No. 14**

Identify any and all records, transcripts, notes, entries, and/or any other form of documentation that you have in your possession relating to the disconnection of utility services at the Residence on or about November 4, 2011.

**ANSWER:**

**Interrogatory No. 15**

Identify any and all letters, communications, notices, and/or other forms of communication by which you notified Decedents of your intent to disconnect the utility services at the Residence. Your response should include the identity of any written communications delivered to the Decedents, and the manner of delivery, and the identity of any persons whom you allege visited the Residence in connection with such disconnection and the date of such visit. If you allege that any specific written communications once existed but are no longer available, indicate the circumstances under which such communication was destroyed or is not accessible.

**ANSWER:**

**Interrogatory No. 16**

Specifically identify any and all letters, communications, notices, and/or other forms of communication by which you notified Decedents of their rights during the Winter Heating Season, including but not limited to (a) extended payment plans; (b) medical certification programs; and (c) sources of federal, state, and local government aid for payment of utility bills and/or home weatherization. Your response should include the identity of any written communications delivered to the Decedents, and the manner of delivery, and the identity of any persons whom you allege visited the Residence in connection with such disconnection and the date of such visit. If you allege that any specific written communications once existed but are no longer available, indicate the circumstances under which such communication was destroyed or is not accessible.

**ANSWER:**

**Interrogatory No. 17**

Identify any and all letters, notices, and/or other forms of communication by which you notified the Hamilton County Department of Job and Family Services of your intent to disconnect the utility services at the Residence. Your response should include the identity of any written communications delivered to the Decedents, and the manner of delivery, and the identity of any persons whom you allege visited the Residence in connection with such disconnection and the date of such visit. If you allege that any specific written communications once existed but are no longer available, indicate the circumstances under which such communication was destroyed or is not accessible.

**ANSWER:**

**Interrogatory No. 18**

Identify any and all complaints and/or lawsuits that have been charged or filed against you which allege your liability for the Wrongful Death of a customer(s) whose service you disconnected, including the disposition of each complaint and/or lawsuit.

**ANSWER:**

**Interrogatory No. 19**

Identify each and every instance of a disconnection of utility services at any residence that you serve in the State of Ohio from January 1, 2011 to the present. In connection with your response, identify any and all notices that you provided to each utility customer, concerning such

disconnection, both before and after the disconnection, and the method by which such notification was provided. You are not excused from responding to this Interrogatory based on the confidentiality of customer information. You are invited to identify the involved customer accounts by assigning them a confidential identifier that you select for purposes of fully responding to this Interrogatory. Your response should include all relevant dates.

**ANSWER:**

**Interrogatory No. 20**

Please refer to Interrogatory 12. Please identify any and all customer accounts in Ohio for which you have not disconnected utility services, despite such customer's violation of the rules you have set forth in Interrogatory 12, for the period of time from January 1, 2011 to the present. You are not excused from responding to this Interrogatory based on the confidentiality of customer information. You are invited to identify the involved customer accounts by assigning them a confidential identifier that you select for purposes of fully responding to this Interrogatory. Your response should include an explanation, if any, as to why you did not choose to disconnect utility services for such customers, despite the fact that the accounts were, by your definition, delinquent.

**ANSWER:**

**Interrogatory No. 21**

Identify any and all documents that you believe pertain, relate, or refer to the allegations in Plaintiff's Complaint.

**ANSWER:**

**Interrogatory No. 22**

Identify any and all documents that you relied upon when answering these Interrogatories.

**ANSWER:**

**Interrogatory No. 23**

Identify any and all insurance policies that you maintain which may provide coverage for the claims asserted against you in this matter. Your answer should include the name of the insurer(s), the effective dates of the policy or policies and the amount or type of coverage involved.

**ANSWER:**



## **REQUESTS FOR PRODUCTION OF DOCUMENTS**

### **Document Request No. 1**

Produce each and every document you intend to refer to, rely on, or admit as an exhibit at hearing of this matter.

**ANSWER:**

### **Document Request No. 2**

Produce each and every document reviewed or relied upon by your expert witnesses identified in your Answer to Interrogatory No. 4.

**ANSWER:**

### **Document Request No. 3**

Produce each and every report or other document prepared by your expert witnesses relating to any analysis, opinions or conclusions identified in your Answers to Interrogatory Nos. 4, 5 and 6.

**ANSWER:**

**Document Request No. 4**

Produce each and every document constituting correspondence among you and Plaintiff and/or Decedents or their family members. Such documents include, but are not limited to, letters, emails, and notes or memoranda from telephone or in-person conversations.

**ANSWER:**

**Document Request No. 5**

Produce each and every document related to any contracts or agreements between or among you and Plaintiff and/or Decedents or their family members.

**ANSWER:**

**Document Request No. 6**

Produce any and all utility bills and/or notices that were mailed and/or left at the Residence between August 2011 and December 2011.

**ANSWER:**

**Document Request No. 7**

Produce any and all documents that in any way relate to your Response to Interrogatory No. 10.

**ANSWER:**

**Document Request No. 8**

Produce any and all company policy guidelines, teaching manuals, memorandums, communications, and/or any other documents that in any way relate to your Response to Interrogatory No. 12.

**ANSWER:**

**Document Request No. 9**

Produce any and all documents that in any way relate to your Response to Interrogatory No. 13.

**ANSWER:**

**Document Request No. 10**

Produce any and all documents that in any way relate to your Response to Interrogatory  
No. 14.

**ANSWER:**

**Document Request No. 11**

Produce any and all documents that in any way relate to your Response to Interrogatory  
No. 15.

**ANSWER:**

**Document Request No. 12**

Produce any and all documents that in any way relate to your Response to Interrogatory  
No. 16.

**ANSWER:**

**Document Request No. 13**

Produce any and all documents that in any way relate to your Response to Interrogatory No. 17.

**ANSWER:**

**Document Request No. 14**

Produce any and all documents that in any way relate to your Response to Interrogatory No. 18.

**ANSWER:**

**Document Request No. 15**

Produce any and all documents that in any way relate to your Response to Interrogatory No. 19. This request includes any documentation necessary to provide, support or explain the data that Plaintiff has requested of you.

**ANSWER:**

**Document Request No. 16**

Produce any and all documents that in any way relate to your Response to Interrogatory No. 20. This request includes any documentation necessary to provide, support or explain the data that Plaintiff has requested of you.

**ANSWER:**

**Document Request No. 17**

Produce any and all documents you referred to, relied upon, or that otherwise relate to any Response provided to the foregoing Interrogatories.

**ANSWER:**

**Document Request 18**

Produce copies of any of the insurance policies identified in response to Interrogatory 23.

**ANSWER:**

Respectfully submitted,

DRODER & MILLER CO., L.P.A.

/s/ \_\_\_\_\_  
Donald A. Lane (0038974)  
Attorneys for Plaintiff  
125 West Central Parkway  
Cincinnati, Ohio 45202-1006  
Phone (513) 721-1504  
Fax (513) 721-0310  
[dlane@drodermiller.com](mailto:dlane@drodermiller.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon the following by electronic mail on this 4<sup>th</sup> day of May, 2015:

Robert A. McMahon  
Eberly McMahon Copetas LLC  
2321 Kemper Lane, Suite 100  
Cincinnati, Ohio 45206  
[bmcmahon@emclawyers.com](mailto:bmcmahon@emclawyers.com)  
*Attorney for Duke Energy Ohio, Inc.*

Amy B. Spiller  
Elizabeth H. Watts  
139 East Fourth Street  
Cincinnati, OH 45202  
[Amy.spiller@duke-energy.com](mailto:Amy.spiller@duke-energy.com)  
*Attorneys for Duke Energy Ohio, Inc.*

/s/ \_\_\_\_\_  
Donald A. Lane (0038974)

**VERIFICATION**

**STATE OF OHIO**                   :  
  :  
**COUNTY OF \_\_\_\_\_**       :  
  :

**SS:**

I hereby verify, to the best of my knowledge, that the information provided in the foregoing responses is true and accurate.

\_\_\_\_\_

Subscribed and sworn to before me, a Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public



## PracticeMaster Journal File



Date 05/05/2015 Tue  
User DLANE  
E-mail

Time 02:59 PM

Client 71.0380 Lykins/Gayle  
Civil litigation

To [dlane@drodermiller.com](mailto:dlane@drodermiller.com)  
From Bob McMahon <[BMcMahon@emclawyers.com](mailto:BMcMahon@emclawyers.com)>  
CC [amy.spiller@duke-energy.com](mailto:amy.spiller@duke-energy.com)  
Subject RE: Pitzer v Duke

Don,

The discovery requests served yesterday by email were purportedly sent on behalf of Jeffrey Pitzer. To date you have not taken any action to substitute Mr. Pitzer in place of Gail Lykins as the complainant in these proceedings. Unless and until you do so, Mr. Pitzer is not a party to these proceedings and, as such, cannot serve discovery requests. Therefore, we do not consider yesterday's discovery requests to be properly served, meaning our client is not obligated to respond.

Regards,

Bob McMahon

Robert A. McMahon

Eberly McMahon Copetas LLC

2321 Kemper Lane, Suite 100

Cincinnati, OH 45206

(513) 533-3441 (direct)

(513) 460-5490 (mobile)

(513) 533-3554 (fax)

[bmcMahon@emclawyers.com](mailto:bmcMahon@emclawyers.com)

~~From: Don Lane [mailto:[dlane@drodermiller.com](mailto:dlane@drodermiller.com)]  
Sent: Monday, May 04, 2015 11:17 AM  
To: Spiller, Amy B  
Cc: Bob McMahon  
Subject: Pitzer v Duke~~

**EXHIBIT B**

## PracticeMaster Journal File



Date 05/05/2015 Tue  
User DLANE  
E-mail

Time 04:21 PM

Client 71.0380 Lykins/Gayle  
Civil litigation

To [BMcMahon@emclawyers.com](mailto:BMcMahon@emclawyers.com)  
From Don Lane <[dlane@drodermiller.com](mailto:dlane@drodermiller.com)>  
CC [amy.spiller@duke-energy.com](mailto:amy.spiller@duke-energy.com)  
Subject RE: Pitzer v Duke

Thank you for catching that, Bob. As I may have mentioned both before and at the settlement conference – in March, we substituted Mr. Pitzer as fiduciary in both estates here in Hamilton County, but I neglected to correct the record at PUCO. You will shortly be receiving our motion to amend. As such, we think it safe for you to go ahead and start working on the discovery responses. Thanks again.

Donald A. Lane

Droder & Miller Co., LPA

125 West Central Parkway

Cincinnati, OH 45202

513/721-1504, ext. 304

[dlane@drodermiller.com](mailto:dlane@drodermiller.com)

[www.drodermiller.com](http://www.drodermiller.com)

*If the above law firm has not entered into a written agreement to represent you, please note that this message does not create an attorney-client relationship. Unless you have entered into a representation agreement with this law firm, Droder & Miller cannot and will not have any duty to keep confidential any information that you send via email. This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and prohibited from redisclosure under applicable law. If the reader of this communication is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please disregard and discard this message and notify us immediately by telephone or return email.*

~~From: Bob McMahon [mailto:[BMcMahon@emclawyers.com](mailto:BMcMahon@emclawyers.com)]  
Sent: Tuesday, May 05, 2015 2:59 PM  
To: Don Lane  
Cc: Spiller, Amy  
Subject: RE: Pitzer v Duke~~

**EXHIBIT C**

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

Gail Lykins, Personal Representative of	)	
Dorothy Easterling and Estill Easterling	)	
11312 Orchard Street	)	
Cincinnati, OH 45241	)	
	)	
Complainant,	)	Case No. 15-298-GE-CSS
	)	
v.	)	
	)	
Duke Energy Ohio, Inc.	)	
	)	
Respondent.	)	

---

**RESPONDENT'S REQUESTS FOR ADMISSION, INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO COMPLAINANT**

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Pursuant to Chapters 4901-1-19, 4901-1-20 and 4901-1-22 of the Ohio Administrative Code, Respondent Duke Energy Ohio, Inc. submits the following Requests for Admission, Interrogatories and Requests for Production of Documents to Complainant Gail Lykins, Personal Representative of Dorothy Easterling and Estill Easterling ("Complainant"). Complainant shall answer the discovery requests in writing, and under oath as to the Interrogatories, and serve her written responses within 20 days on Respondent's counsel at the following address: Robert A. McMahon, Eberly McMahon Copetas LLC, 2321 Kemper Lane, Suite 100, Cincinnati, Ohio 45206.

**INSTRUCTIONS FOR ANSWERING**

1. With respect to all requests, all information is to be divulged which is within the possession or control of the person or legal entity to whom the Interrogatories are addressed or to his or its attorneys, investigators, agents, employees, or other representatives.
2. All answers must be made separately and fully stated under oath.

3. Where a discovery request calls for an answer in more than one part, each part should be separated in the answer so that the answer is clearly understandable.

4. You are under a continuing duty to seasonably supplement your answers with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, the identity and location of persons expected to be called as expert witnesses at trial, and the subject matter on which they are expected to testify and to correct any response which you know or later learn is not correct.

5. Space for your answers has been provided beneath each discovery request; should there not be sufficient space to complete your answer you may complete it in sequence on a separate appendix attached to the answers and identified appropriately.

6. If you are unable to fully answer any discovery request at this time, you are to answer the request as completely as you can based upon the information you now have.

### **DEFINITIONS AND INSTRUCTIONS**

For the purposes of these discovery requests, unless otherwise stated, the following terms shall have the meanings indicated:

“Document” means the original and any copy, regardless of origin or location, of any data, correspondence, record, book, account book, pamphlet, periodical, letter, memorandum, telegram, cable, report, record, study, stenographic or handwritten note, working paper, invoice, voucher, check, statement, chart, graph, map, diagram, blueprint, table, index, picture, voice recording, tape, microfilm, tape data sheet, or data processing card or disc, or any other written, recorded, transcribed, punched, taped, filmed, or graphic matter, however stored, produced or reproduced, to which you have or have had access or the location of which is known to you.

“Person” includes natural persons, corporations, public corporations, governments, governmental agencies, boards, commissions, regulatory authorities, committees, partnerships, joint ventures, groups, firms, associations, limited liability companies, or other organizations and entities.

“Identify” with respect to a person means to provide the name, address and telephone number of that person.

“Identify” with respect to a document means to provide: the title of the document; the date the document was prepared; the name and address of its author; the location of the original document; and, if the original has been destroyed, the date and reasons for its destruction and the name and address of the person who destroyed the document.

“You” and “Complainant” mean Complainant Gail Lykins.

“Easterlings” means, collectively, Dorothy Easterling and Estill Easterling III, the decedents for whom Complainant is the court-appointed fiduciary.

“Dorothy” means Dorothy Easterling.

“Estill III” means Estill Easterling III.

“Estill II” means Estill Easterling II, Dorothy’s husband and Estill II’s father.

“Respondent” or “DE-Ohio” means Respondent Duke Energy Ohio, Inc.

The “Property” refers to the real property located at 11312 Orchard Street, Cincinnati, OH 45241.

The “Account” means the DE-Ohio gas and electric account at the Property, which DE-Ohio has assigned Account Number 0120-0420-20-6, and which is at issue in the Complaint in this action.

“Winter Heating Season” refers to the dates from November 1 through and including April 15 of each year, as defined by O.A.C. 4901:1-18-06(B).

The “Wrongful Death Claim” refers to the Complaint filed by Complainant in Hamilton County Court of Common Pleas, Case No. A1307654.

“Probate Court” means Hamilton County Court of Common Pleas, Probate Division.

### **REQUESTS FOR ADMISSION**

1. Admit that the Account was opened in the name of Estill II.

**RESPONSE:**

2. Admit that Estill II was DE-Ohio's customer of record on the Account during 2011.

**RESPONSE:**

3. Admit that Estill II was DE-Ohio's "customer" on the Account, as that term was defined in O.A.C. 4901:1-18-01(G) during 2011.

**RESPONSE:**

4. Admit that Dorothy was not, at any time, a customer of DE-Ohio on the Account.

**RESPONSE:**

5. Admit that Dorothy was not, at any time, a customer of DE-Ohio at the Property.

**RESPONSE:**

6. Admit that Dorothy was not DE-Ohio's "customer" on the Account, as that term was defined in O.A.C. 4901:1-18-01(G) during 2011.

**RESPONSE:**

7. Admit that Estill III was not, at any time, a customer of DE-Ohio on the Account.

**RESPONSE:**

8. Admit that Estill III was not, at any time, a customer of DE-Ohio at the Property.

**RESPONSE:**

9. Admit that Estill III was not DE-Ohio's "customer" on the Account, as that term was defined in O.A.C. 4901:1-18-01(G) during 2011.

**RESPONSE:**

10. Admit that the document attached hereto as Exhibit A is a true and accurate copy of the utility bill for the Account for utility services provided by DE-Ohio between July 5, 2011, and August 3, 2011.

**RESPONSE:**

11. Admit that the amount owed for the utility bill attached hereto as Exhibit A was not paid by the due date.

**RESPONSE:**

12. Admit that the document attached hereto as Exhibit B is a true and accurate copy of the utility bill for the Account for utility services provided by DE-Ohio between August 3, 2011, and September 1, 2011.

**RESPONSE:**

13. Admit that the utility bill attached hereto as Exhibit B contains a reminder notice.

**RESPONSE:**

14. Admit that the amount owed for the utility bill attached hereto as Exhibit B was not paid by the due date.

**RESPONSE:**

15. Admit that the document attached hereto as Exhibit C is a true and accurate copy of the utility bill for the Account for utility services provided by DE-Ohio between September 1, 2011, and October 3, 2011.

**RESPONSE:**

16. Admit that the utility bill attached hereto as Exhibit C contains a disconnection notice.

**RESPONSE:**

17. Admit that the disconnection notice reflected within the utility bill attached hereto as Exhibit C is not confusing.

**RESPONSE:**

18. Admit that the document attached hereto as Exhibit E is a true and accurate copy of the Ohio Residential Disconnection Notice used by DE-Ohio in October 2011.

**RESPONSE:**



19. Admit that a copy of the document attached hereto as Exhibit E was inserted with the utility bill attached hereto as Exhibit C and mailed by DE-Ohio to the Property.

**RESPONSE:**

20. Admit that the amount owed for the utility bill attached hereto as Exhibit C was not paid by the due date.

**RESPONSE:**

21. Admit that a payment of \$143.49 was received by DE-Ohio on October 12, 2011, for the Account.

**RESPONSE:**

22. Admit that a payment of \$143.49 was made to DE-Ohio on October 12, 2011, for the Account.

**RESPONSE:**

23. Admit that the past due amount of \$248.82 to avoid disconnection of services, as set forth in the utility bill attached hereto as Exhibit C, was not paid before October 28, 2011.

**RESPONSE:**

24. Admit that the document attached hereto as Exhibit D is a true and accurate copy of the utility bill for the Account for utility services provided by DE-Ohio between October 3, 2011, and November 1, 2011.

**RESPONSE:**

25. Admit that the amount owed for the utility bill attached hereto as Exhibit D was not paid by the due date.

**RESPONSE:**

26. Admit that the document attached hereto as Exhibit F is a true and accurate copy of the form "Final Disconnection Notice" which DE-Ohio mailed to the Property on October 19, 2011.

**RESPONSE:**

27. Admit that the Easterlings received by mail each of the documents attached hereto as Exhibits A-F.

**RESPONSE:**

28. Admit that Dorothy received by mail each of the documents attached hereto as Exhibits A-F.

**RESPONSE:**

29. Admit that DE-Ohio mailed to its customer each of the documents attached hereto as Exhibits A-F.

**RESPONSE:**

30. Admit that DE-Ohio mailed to the Property each of the documents attached hereto as Exhibits A-F.

**RESPONSE:**

31. Admit that, from October 13, 2011, through and including November 4, 2011, DE-Ohio did not receive any payments on the Account.

**RESPONSE:**

32. Admit that, from October 1, 2011, through and including November 4, 2011, Dorothy did not contact DE-Ohio about the Account or to ask for a payment plan on the Account.

**RESPONSE:**

33. Admit that, from October 1, 2011, through and including November 4, 2011, Estill III did not contact DE-Ohio about the Account or to ask for a payment plan on the Account.

**RESPONSE:**

34. Admit that, from October 1, 2011, through and including November 4, 2011, no one contacted DE-Ohio on behalf of the Easterlings about the Account or to ask for a payment plan on the Account.

**RESPONSE:**

35. Admit that, from October 1, 2011, through and including November 4, 2011, no one contacted DE-Ohio on behalf of the customer of record on the Account or to ask for a payment plan on the Account.

**RESPONSE:**

36. Admit that DE-Ohio did not disconnect the gas service at the Property on November 4, 2011.

**RESPONSE:**

37. Admit that DE-Ohio disconnected only the electric service at the Property on November 4, 2011, for nonpayment.

**RESPONSE:**

38. Admit that the document attached hereto as Exhibit G is a true and accurate copy of the form "Disconnection of Service Ohio Winter Notice" which DE-Ohio left at the Property on November 4, 2011, when the electric service was disconnected.

**RESPONSE:**

39. Admit that the Easterlings received the document attached hereto as Exhibit G.

**RESPONSE:**

40. Admit that Dorothy received the document attached hereto as Exhibit G.

**RESPONSE:**

41. Admit that someone acting on behalf of the Easterlings received the document attached hereto as Exhibit G.

**RESPONSE:**

42. Admit that, from November 4, 2011, through and including November 20, 2011, Dorothy did not contact DE-Ohio about the Account or to have the electric service restored at the Property.

**RESPONSE:**

43. Admit that, from November 4, 2011, through and including November 20, 2011, Estill III did not contact DE-Ohio about the Account or to have the electric service restored at the Property.

**RESPONSE:**

44. Admit that, from November 4, 2011, through and including November 20, 2011, no one contacted DE-Ohio on behalf of the Easterlings about the Account or to have the electric service restored at the Property.

**RESPONSE:**

45. Admit that DE-Ohio did not improperly disconnect the electric service at the Property.

**RESPONSE:**

46. Admit that DE-Ohio is authorized to disconnect a customer's electric service for nonpayment.

**RESPONSE:**

47. Admit that DE-Ohio did not disconnect the electric service at the Property for nonpayment of any electric services provided at the Property during the Winter Heating Season.

**RESPONSE:**

48. Admit that, at some point between November 4, 2011, and November 20, 2011, Gail Lykins knew that the electric service at the Property had been disconnected.

**RESPONSE:**

49. Admit that, at some point between November 4, 2011, and November 20, 2011, Gail Lykins should have known that the electric service at the Property had been disconnected.

**RESPONSE:**

50. Admit that, at some point between November 4, 2011, and November 20, 2011, Jeffrey Pitzer knew that the electric service at the Property had been disconnected.

**RESPONSE:**

51. Admit that, at some point between November 4, 2011, and November 20, 2011, Jeffrey Pitzer should have known that the electric service at the Property had been disconnected.

**RESPONSE:**

52. Admit that, at some point between November 4, 2011, and November 20, 2011, one or more of the Easterlings' relatives knew that the electric service at the Property had been disconnected.

**RESPONSE:**

53. Admit that, at some point between November 4, 2011, and November 20, 2011, one or more of the Easterlings' relatives should have known that the electric service at the Property had been disconnected.

**RESPONSE:**

54. Admit that DE-Ohio provided all required written notices to the Easterlings before disconnecting the electric service at the Property on November 4, 2011.

**RESPONSE:**

55. Admit that, as of November 4, 2011, the Account had past due gas and electric charges owed to DE-Ohio.

**RESPONSE:**

56. Admit that, as of November 4, 2011, the Account had not yet incurred gas or electric usage during the Winter Heating Season which had been billed by DE-Ohio.

**RESPONSE:**

57. Admit that, as of November 4, 2011, DE-Ohio had not generated any bills on the Account which included gas or electric usage during the Winter Heating Season.

**RESPONSE:**

58. Admit that the Easterlings failed to exercise any rights available to customers of DE-Ohio seeking to avoid disconnection of utility services.

**RESPONSE:**

59. Admit that no one acting on behalf of the Easterlings exercised any of the rights available to customers of DE-Ohio seeking to avoid disconnection of utility services at the Property.

**RESPONSE:**



60. Admit that the partial payment of \$143.49 received by DE-Ohio on October 12, 2011, did not satisfy the minimum payment required prior to October 28, 2011, to avoid disconnection of the utility services at the Property.

**RESPONSE:**

61. Admit that O.A.C. 4901:1-18-05 requires the customer to initiate contact with a utility company like DE-Ohio to obtain information about available payment plans.

**RESPONSE:**

62. Admit that O.A.C. 4901:1-18-05(B)(3) only requires a utility company like DE-Ohio to offer the additional one-third payment plan during the Winter Heating Season once the customer contacts the utility company.

**RESPONSE:**

63. Admit that O.A.C. 4901:1-18-05(B)(3) does not require a utility company like DE-Ohio to automatically put a customer on the additional one-third payment plan during the Winter Heating Season when the customer makes a payment but fails to contact the utility company.

**RESPONSE:**

64. Admit that O.A.C. 4901:1-18-06 relates to disconnection procedures for a utility company's "customer"--not a "consumer"—as those terms are defined in O.A.C. 4901:1-18-01.

**RESPONSE:**

65. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-06(B).

**RESPONSE:**

66. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-05.

**RESPONSE:**

67. Admit that DE-Ohio complied with all rules and regulations adopted or enacted by the Public Utilities Commission of Ohio with respect to the Account.

**RESPONSE:**

68. Admit that DE-Ohio complied with all rules and regulations adopted or enacted by the Public Utilities Commission of Ohio with respect to the disconnection of the electric services at the Property on November 4, 2011.

**RESPONSE:**

69. Admit that DE-Ohio complied with its tariffs on file with the Public Utilities Commission of Ohio with respect to the Account.

**RESPONSE:**

70. Admit that DE-Ohio complied with its tariffs on file with the Public Utilities Commission of Ohio with respect to the disconnection of the electric services at the Property on November 4, 2011.

**RESPONSE:**

71. Admit that You do not have any facts or evidence to support Your complaint against DE-Ohio in this case.

**RESPONSE:**

**INTERROGATORIES**

1. What are the name, address and phone number of each person assisting in the preparation of Your answers to these interrogatories?

**ANSWER:**

2. What are the names, addresses, and telephone numbers of all people who have knowledge of any facts relating to the allegations of the Complaint?

**ANSWER:**

3. Identify all persons whom You expect to call as a fact or lay witness in the hearing of this action.

**ANSWER:**

4. Identify all persons whom You expect to call as an expert witness in the hearing of this action, and identify each expert's opinion.

**ANSWER:**

5. Provide the names, ages, addresses, and telephone numbers of all of Dorothy's children, grandchildren, siblings, nieces and nephews.

**ANSWER:**

6. Provide the names, addresses, and telephone numbers of the Easterlings' neighbors who live within a 5-house radius of the Property.

**ANSWER:**

7. During the period January 1, 2011, through November 19, 2011, identify each person who assisted Dorothy or Estill III with tasks such as housecleaning, yard work, grocery shopping, taking out the garbage, etc.

**ANSWER:**

8. On what date did Dorothy die?

**ANSWER:**

9. On what date did Estill III die?

**ANSWER:**

10. Identify all individuals who saw or spoke with Dorothy during the month of November 2011, and describe those interactions.

**ANSWER:**

11. Identify all individuals who saw or spoke with Estill II during the month of November 2011, and describe those interactions.

**ANSWER:**

12. Identify each date on which Gail Lykins visited the Property during November 2011.

**ANSWER:**

13. Identify each date on which You visited the Property during November 2011.

**ANSWER:**

14. Identify each date on which Gail Lykins telephoned Dorothy or Estill III during November 2011.

**ANSWER:**

15. Identify each date on which You telephoned Dorothy or Estill III during November 2011.

**ANSWER:**

16. Identify the date on which You last spoke with Dorothy.

**ANSWER:**

17. Identify the date on which You last spoke with Estill III.

**ANSWER:**

18. Identify the date on which Gail Lykins last spoke with Dorothy.

**ANSWER:**

19. Identify the date on which Gail Lykins last spoke with Estill.

**ANSWER:**

20. What was Dorothy's general state of health as of October and November 2011?

**ANSWER:**

21. What was Estill III's general state of health as of October and November 2011?

**ANSWER:**

22. Identify the last person to see Dorothy prior to her death, and the date and circumstances of that observation or interaction.

**ANSWER:**

23. Identify the last person to see Estill III prior to his death, and the date and circumstances of that observation or interaction.

**ANSWER:**

24. What was Dorothy's Social Security Number?

**ANSWER:**

25. Identify every checking or savings account (by name of financial institution and account number) used by Dorothy during 2011 to pay her bills and living expenses, including but not limited to, gas and electric bills, telephone bills, water bills, groceries, etc.

**ANSWER:**

26. Provide the names and contact information for Dorothy's primary care physician and any other medical professionals who had treated her during 2011.

**ANSWER:**

27. Provide the names and contact information for Estill III's primary care physician and any other medical professionals who had treated him during 2011.

**ANSWER:**

28. With respect to the water service to the Property, provide the following information:



- a. Identify the name and account number under which water service was provided to the Property from September through November 2011;
- b. Identify all dates or periods of time during which water service was not functioning or had been disconnected during 2011; and
- c. Explain why the water service was not functioning or had been disconnected.

**ANSWER:**

29. With respect to the telephone service at the Property, provide the following information:

- a. Identify the name and account number under which telephone service was provided to the Property from September through November 2011;
- b. Identify all dates or periods of time during which telephone service was not functioning or had been disconnected during 2011; and
- c. Explain why the telephone service was not functioning or had been disconnected.

**ANSWER:**

30. With respect to the television/cable service at the Property, provide the following information:

- a. Identify the name and account number under which television/cable service was provided to the Property from September through November 2011;
- b. Identify all dates or periods of time during which television/cable service was not functioning or had been disconnected during 2011; and
- c. Explain why the television/cable service was not functioning or had been disconnected.

**ANSWER:**

31. Identify all communications that Jeffrey Pitzer, Gail Lykins, Your counsel, or anyone else acting on Your behalf have had with the Office of the Ohio Consumers' Counsel, including the following:

- a. Names of those in attendance
- b. Dates of all meetings
- c. Detail all conversations
- d. Identify and produce copies of all notes, letters, emails, etc.
- e. Identify and produce copies of all documents exchanged or provided by anyone;
- f. Identify and produce copies of all documents reviewed by anyone.

**ANSWER:**

32. Identify all communications that Jeffrey Pitzer, Gail Lykins, Your counsel, or anyone else acting on Your behalf have had with any outside attorney for the Office of the Ohio Consumers' Counsel, including the following:

- a. Names of those in attendance
- b. Dates of all meetings
- c. Detail all conversations
- d. Identify and produce copies of all notes, letters, emails, etc.
- e. Identify and produce copies of all documents exchanged or provided by anyone;
- f. Identify and produce copies of all documents reviewed by anyone.

**ANSWER:**

33. Do you contend that DE-Ohio was required to communicate in some manner with the Hamilton County Department of Job and Family Services about the Account or DE-Ohio's

intent to disconnect the utility services at the Property? If Your answer is “yes,” please explain the grounds in detail and identify all relevant facts, rules and regulations.

**ANSWER:**

33. Provide the following information relating to the furnace or other heat source at the Property on November 4, 2011:

- a) Make and model number of the unit;
- b) The date of manufacture;
- c) The date it was installed at the Property;
- d) Whether the unit runs on gas or electricity;
- e) Whether the unit was operating from November 5, 2011, through November 19, 2011.

**ANSWER:**

34. If You denied any of the Requests for Admission above, either in whole or in part, identify in detail all facts supporting, relating or otherwise referring to each such denial.

**ANSWER:**

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

1. All documents which You intend to introduce at any hearing in this case.

**RESPONSE:**

2. All documents requested or identified in response to the Interrogatories.

**RESPONSE:**

3. All documents supporting or in any way substantiating any allegation of Your Complaint.

**RESPONSE:**

4. All documents referring or relating to communications between DE-Ohio and either of the Easterlings or anyone acting on their behalf relating to the Account, including but not limited to phone calls, letters, faxes, emails, notes, etc.

**RESPONSE:**

5. All documents which the Easterlings received from DE-Ohio.

**RESPONSE:**

6. Copies of all payments made by the Easterlings to DE-Ohio during 2011 for the Account.

**RESPONSE:**

7. Copies of all monthly statements for 2011 for any bank or financial account in name of either of the Easterlings or in which one or more of the Easterlings was a beneficiary.

**RESPONSE:**

8. Copies of all monthly statements for 2011 for any bank or financial account identified in response to Interrogatory No. 25 above.

**RESPONSE:**

9. All documents which You or Your attorney have received from or provided to the Office of the Ohio Consumers' Counsel.

**RESPONSE:**

10. All documents which You or Your attorney have received from or provided to outside counsel for the Office of the Ohio Consumers' Counsel.

**RESPONSE:**

11. All documents referring or relating to the disconnection of any of the following services at the Property during 2011: water, telephone, television/cable, and sewer.

**RESPONSE:**

12. All documents referring or relating to any witness statement or recorded statement provided by any witness in this action.

**RESPONSE:**

13. All documents referring or relating to the date(s) on which Dorothy and Estill III died.

**RESPONSE:**

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Attorneys for Duke Energy Ohio, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served via email and regular U.S. Mail, postage prepaid, on this \_\_\_\_ day of May, 2015, upon the following counsel of record:

Donald A. Lane, Esq.  
Droder & Miller Co., L.P.A.  
125 W. Central Parkway  
Cincinnati, OH 45202  
dlane@drodermiller.com

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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

Gail Lykins, Personal Representative of )  
Dorothy Easterling and Estill Easterling )  
11312 Orchard Street )  
Cincinnati, Ohio 45241 )

Complainant, )

v. )

Duke Energy Ohio, Inc. )

Respondent. )

Case No. 15-298-GE-CSS

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**RESPONDENT'S REQUESTS FOR ADMISSION, INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF DOCUMENTS TO COMPLAINANT**

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Complainant, Jeffrey Pitzer ("Complainant"), for his responses to the request for admissions served on him by Respondent, Duke Energy Ohio, Inc. ("Duke"), states as follows:

1. Admit that the Account was opened in the name of Estill II.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

2. Admit that Estill II was DE-Ohio's customer of record on the Account during 2011.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

3. Admit that Estill II was DE-Ohio's "customer" on the Account, as that term was defined in O.A.C. 4901:1-18-01 (G) during 2011.

**RESPONSE: This request calls for a legal conclusion, and, therefore, Complainant can neither admit nor deny the substance of it.**



4. Admit that Dorothy was not, at any time, a customer of DE-Ohio on the Account.

**RESPONSE:** This request is vague, as worded. Factually, Dorothy Easterling ("D. Easterling") was a resident of 11312 Orchard Street, Cincinnati, Ohio ("the Residence") during the time at which Duke provided electric and natural gas service to the Residence, and, as such, she would be considered a customer of Duke. Unlike Request 3, the request does not refer to statutory or regulatory authority. Had it done so, the request would have called for a legal conclusion, and, therefore, Complainant could neither admit nor deny the substance of it.

5. Admit that Dorothy was not, at any time, a customer of DE-Ohio at the Property.

**RESPONSE:** This request is vague, as worded. Factually, D. Easterling was a resident of the Residence during the time at which Duke provided electric and natural gas service to the Residence, and, as such, she would be considered a customer of Duke. Unlike Request 3, the request does not refer to statutory or regulatory authority. Had it done so, the request would have called for a legal conclusion, and, therefore, Complainant could neither admit nor deny the substance of it.

6. Admit that Dorothy was not DE-Ohio's "customer" on the Account, as that term was defined in O.A.C. 4901:1-18-01(G) during 2011.

**RESPONSE:** This request calls for a legal conclusion, and, therefore, Complainant can neither admit nor deny the substance of it.

7. Admit that Estill III was not, at any time, a customer of DE-Ohio on the Account.

**RESPONSE:** This request is vague, as worded. Factually, Estill Easterling III ("E. Easterling") was a resident of the Residence during the time at which Duke provided electric and natural gas service to the Residence, and, as such, he would be considered a customer of Duke. Unlike Request 3, the request does not refer to statutory or regulatory authority. Had it done so, the request would have called for a legal conclusion, and, therefore, Complainant could neither admit nor deny the substance of it.

8. Admit that Estill III was not, at any time, a customer of DE-Ohio at the Property.

**RESPONSE:** This request is vague, as worded. Factually, E. Easterling was a resident of the Residence during the time at which Duke provided electric and natural gas service to the Residence, and, as such, she would be considered a customer of Duke. Unlike Request 3, the request does not refer to statutory or regulatory authority. Had it done so, the request would have called for a legal conclusion, and, therefore, Complainant could neither admit nor deny the substance of it.

9. Admit that Estill III was not DE-Ohio's "customer" on the Account, as that term was defined in O.A.C. 4901:1-18-01(G) during 2011.

**RESPONSE:** This request calls for a legal conclusion, and, therefore, Complainant can neither admit nor deny the substance of it.

10. Admit that the document attached hereto as Exhibit A is a true and accurate copy of the utility bill for the Account for utility services provided by DE-Ohio between July 5, 2011, and August 3, 2011.

**RESPONSE:** Complainant admits that Exhibit A appears to be a portion of a utility bill for the Residence. Complainant does not have the requisite knowledge as to whether Exhibit A contains the complete documentation of a billing submitted to the Residence.

11. Admit that the amount owed for the utility bill attached hereto as Exhibit A was not paid by the due date.

**RESPONSE:** Complainant admits the substance of this request.

12. Admit that the document attached hereto as Exhibit B is a true and accurate copy of the utility bill for the Account for utility services provided by DE-Ohio between August 3, 2011, and September 1, 2011.

**RESPONSE:** Complainant admits that Exhibit B appears to be a portion of a utility bill for the Residence. Complainant does not have the requisite knowledge as to whether Exhibit B contains the complete documentation of a billing submitted to the Residence.

13. Admit that the utility bill attached hereto as Exhibit B contains a reminder notice.

**RESPONSE:** Complainant admits that Exhibit B contains a statement that reads as follows:

*REMINDER – Did you overlook paying last month's bill? Unless you paid your bill recently, please give this your prompt attention.*

**The term "reminder notice" is not defined in the request, so Complainant is unaware of whether Duke is referring to this language in the request.**

14. Admit that the amount owed for the utility bill attached hereto as Exhibit B was not paid by the due date.

**RESPONSE:** Complainant admits the substance of this request.

15. Admit that the document attached hereto as Exhibit C is a true and accurate copy of the utility bill for the Account for utility services provided by DE-Ohio between September 1, 2011, and October 3, 2011.

**RESPONSE:** Complainant admits that Exhibit C appears to be a portion of a utility bill for the Residence. Complainant does not have the requisite knowledge as to whether Exhibit C contains the complete documentation of a billing submitted to the Residence.

16. Admit that the utility bill attached hereto as Exhibit C contains a disconnection notice.

**RESPONSE:** Complainant admits that Exhibit C contains a statement that reads as follows:

*If your service is disconnected for non payment, in addition to a reconnection charge, you will be required to pay a deposit in the amount of \$200.00 before service is restored.*

*IMPORTANT: Your service may be disconnected if your past due amount of \$248.82 is not paid before 10/28/2011. A reconnection charge will be required. In addition, a service deposit may be required; if so, payment arrangements may be available. For questions, please call the number shown above.*

*You also have the option to retain or have reconnected one of your services, either gas or electric. Please contact us at the number shown above to discuss this option.*

**The term "disconnection notice" is not defined in the request, so Complainant is unaware of whether Duke is referring to this language in the request.**

17. Admit that the disconnection notice reflected within the utility bill attached hereto as Exhibit C is not confusing.

**RESPONSE: Complainant objects to this request to the extent that the term "confusing" is vague and is subject to varying interpretations, especially in light of the fact that the real parties in interest here ("the Customers") were an elderly woman and a mentally and physically disabled man.**

18. Admit that the document attached hereto as Exhibit E is a true and accurate copy of the Ohio Residential Disconnection Notice used by DE-Ohio in October 2011.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request. Complainant is not an employee or agent of Duke.**

19. Admit that a copy of the document attached hereto as Exhibit E was inserted with the utility bill attached hereto as Exhibit C and mailed by DE-Ohio to the Property.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request. Duke has failed to produce substantive evidence that it inserted this document in any mailing that it sent to the Customers. Complainant further notes that the copy of Exhibit C attached by Duke to these requests does not contain such a notice.**

20. Admit that the amount owed for the utility bill attached hereto as Exhibit C was not paid by the due date.

**RESPONSE: Complainant admits the substance of this request.**

21. Admit that a payment of \$143.49 was received by DE-Ohio on October 12, 2011 for the Account.

**RESPONSE: Complainant admits that a payment was made on the account serving the Residence ("the Account") sometime between October 4 and November 2, 2011.**

22. Admit that a payment of \$143.49 was made to DE-Ohio on October 12, 2011, for the Account.

**RESPONSE: Complainant admits that a payment was made on the Account sometime between October 4 and November 2, 2011.**

23. Admit that the past due amount of \$248.82 to avoid disconnection of services, as set forth in the utility bill attached hereto as Exhibit C, was not paid before October 28, 2011.

**RESPONSE: Complainant admits only that the only payment made between October 4, 2011 and November 2, 2011 is the one referenced in connection with Requests 21 and 22.**

24. Admit that the document attached hereto as Exhibit D is a true and accurate copy of the utility bill for the Account for utility services provided by DE-Ohio between October 3, 2011, and November 1, 2011.

**RESPONSE: Complainant admits that Exhibit D appears to be a portion of a utility bill for the Residence. Complainant does not have the requisite knowledge as to whether Exhibit D contains the complete documentation of a billing submitted to the Residence.**

25. Admit that the amount owed for the utility bill attached hereto as Exhibit D was not paid by the due date.

**RESPONSE: Complainant admits the substance of this request.**

26. Admit that the document attached hereto as Exhibit F is a true and accurate copy of the form "Final Disconnection Notice" which DE-Ohio mailed to the Property on October 19, 2011.

**RESPONSE: Complainant denies the substance of this request. The identifiers on the document have been redacted, and**

**Complainant concludes that this document does not show a mailing to the Customers. Duke has failed to produce documentation showing that it mailed such a notice to the Customers.**

27. Admit that the Easterlings received by mail each of the documents attached hereto as Exhibits A-F.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

28. Admit that Dorothy received by mail each of the documents attached hereto as Exhibits A-F.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

29. Admit that DE-Ohio mailed to its customer each of the documents attached hereto as Exhibits A-F.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request. In further responding, Complainant states that Duke has not included a definition of "its customer" in the definitions section of the requests.**

30. Admit that DE-Ohio mailed to the Property each of the documents attached hereto as Exhibits A-F.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

31. Admit that, from October 13, 2011, through and including November 4, 2011, DE-Ohio did not receive any payments on the Account.

**RESPONSE: Complainant denies the substance of this request.**

32. Admit that, from October 1, 2011, through and including November 4, 2011, Dorothy did not contact DE-Ohio about the Account or to ask for a payment plan on the Account.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

33. Admit that, from October 1, 2011, through and including November 4, 2011, Estill III did not contact DE-Ohio about the Account or to ask for a payment plan on the Account.

**RESPONSE: Complainant admits the substance of this request. As Duke has been informed and is aware, Estill Easterling III was mentally and physically disabled.**

34. Admit that, from October 1, 2011, through and including November 4, 2011, no one contacted DE-Ohio on behalf of the Easterlings about the Account or to ask for a payment plan on the Account.

**RESPONSE: Complainant does not currently have information sufficient to admit or deny the substance of this request; however, he is searching his records because he believes such a discussion took place and will supplement this response.**

35. Admit that, from October 1, 2011, through and including November 4, 2011, no one contacted DE-Ohio on behalf of the customer of record on the account or to ask for a payment plan on the Account.

**RESPONSE: Complainant does not currently have information sufficient to admit or deny the substance of this request; however, he is searching his records because he believes such a discussion took place and will supplement this response.**

36. Admit that DE-Ohio did not disconnect the gas service at the Property on November 4, 2011.

**RESPONSE: Complainant admits the substance of this request.**

37. Admit that DE-Ohio disconnected only the electric service at the Property on November 4, 2011, for nonpayment.

**RESPONSE: Complainant admits only that Duke disconnected the electric service at the Residence but does not have complete knowledge or information as to Duke's motivation for doing so.**

38. Admit that the document attached hereto as Exhibit G is a true and accurate copy of the form "Disconnection of Service Ohio Winter Notice" which DE-Ohio left at the Property on November 4, 2011, when the electric service was disconnected.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

39. Admit that the Easterlings received the document attached hereto as Exhibit G.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

40. Admit that Dorothy received the document attached hereto as Exhibit G.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

41. Admit that someone acting on behalf of the Easterlings received the document attached hereto as Exhibit G.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

42. Admit that, from November 4, 2011, through and including November 20, 2011, Dorothy did not contact DE-Ohio about the Account or to have the electric service restored at the Property.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

43. Admit that, from November 4, 2011, through and including November 20, 2011, Estill III did not contact DE-Ohio about the Account or to have the electric service restored at the Property.

**RESPONSE: Complainant admits the substance of this request. As Duke has been informed and is aware, Estill Easterling III was mentally and physically disabled.**



44. Admit that, from November 4, 2011, through and including November 20, 2011, no one contacted DE-Ohio on behalf of the Easterlings about the Account or to have the electric service restored at the Property.

**RESPONSE:** Complainant does not currently have information sufficient to admit or deny the substance of this request; however, he is searching his records because he believes such a discussion took place and will supplement this response.

45. Admit that DE-Ohio did not improperly disconnect the electric service at the Property.

**RESPONSE:** Complainant denies the substance of this request.

46. Admit that DE-Ohio is authorized to disconnect a customer's electric service for nonpayment.

**RESPONSE:** Complainant does not have information sufficient to admit or deny the substance of this request. In further responding, Complainant admits only that Duke must follow procedures established by the Ohio legislature, the Public Utilities Commission of Ohio ("PUCO") and its own internal procedures before taking such action.

47. Admit that DE-Ohio did not disconnect the electric service at the Property for nonpayment of any electric services provided at the Property during the Winter Heating Season.

**RESPONSE:** Complainant denies the substance of this request.

48. Admit that, at some point between November 4, 2011, and November 20, 2011, Gail Lykins knew that the electric service at the Property had been disconnected.

**RESPONSE:** Complainant denies the substance of this request.

49. Admit that, at some point between November 4, 2011, and November 20, 2011, Gail Lykins should have known that the electric service at the Property had been disconnected.

**RESPONSE:** Complainant admits the substance of this request. Duke was aware that it should have contacted her and provided notice of the disconnection.

50. Admit that, at some point between November 4, 2011, and November 20, 2011, Jeffrey Pitzer knew that the electric service at the Property had been disconnected.

**RESPONSE: Complainant denies the substance of this request.**

51. Admit that, at some point between November 4, 2011, and November 20, 2011, Jeffrey Pitzer should have known that the electric service at the Property had been disconnected.

**RESPONSE: Complainant admits the substance of this request. Duke was aware that it should have contacted he and his spouse, Gail Lykins ("Lykins") and provided notice of the disconnection.**

52. Admit that, at some point between November 4, 2011, and November 20, 2011, one or more of the Easterlings' relatives knew that the electric service at the Property had been disconnected.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request. Since both D Easterling and E Easterling are deceased, neither Complainant nor anyone else is able to ascertain what they knew during that period of time, and they are certainly "relatives" of each other, as Complainant understands that term. Complainant is not aware of any other "relatives" of the Customers that had such knowledge.**

53. Admit that, at some point between November 4, 2011, and November 20, 2011, one or more of the Easterlings' relatives should have known that the electric service at the Property had been disconnected.

**RESPONSE: Complainant admits the substance of this request. Duke was aware that it should have contacted G. Lykins and provided notice of the disconnection.**

54. Admit that DE-Ohio provided all required written notices to the Easterlings before disconnecting the electric service at the Property on November 4, 2011.

**RESPONSE: Complainant denies the substance of this request.**

55. Admit that, as of November 4, 2011, the Account had past due gas and electric charges owed to DE-Ohio.

**RESPONSE: Complainant admits the substance of this request.**

56. Admit that, as of November 4, 2011, the Account had not yet incurred gas or electric usage during the Winter Heating Season which had been billed by DE-Ohio.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request, insofar as the term "incurred" is vague and confusing, and Duke has failed to define the same.**

57. Admit that, as of November 4, 2011, DE-Ohio had not generated any bills on the Account which included gas or electric usage during the Winter Heating Season.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request, insofar as the term "usage" is vague and confusing, and Duke has failed to define the same.**

58. Admit that the Easterlings failed to exercise any rights available to customers of DE-Ohio seeking to avoid disconnection of utility services.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request, insofar as the term "rights" is vague and confusing, and Duke has failed to define the same.**

59. Admit that no one acting on behalf of the Easterlings exercised any of the rights available to customers of DE-Ohio seeking to avoid disconnection of utility services at the Property.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request, insofar as the term "rights" is vague and confusing, and Duke has failed to define the same.**

60. Admit that the partial payment of \$143.49 received by DE-Ohio on October 12, 2011, did not satisfy the minimum payment required prior to October 28, 2011, to avoid disconnection of the utility services at the Property.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request. Further, the request seeks a legal conclusion and does not ask that Complainant respond to a factual contention.**

61. Admit that O.A.C. 4901:1-18-05 requires the customer to initiate contact with a utility company like DE-Ohio to obtain information about available payment plans.

62. Admit that O.A.C. 4901:1-18-05(B)(3) only requires a utility company like DE-Ohio to offer the additional one-third payment plan during the Winter Heating Season once the customer contacts the utility company.

63. Admit that O.A.C. 4901:1-18-05(B)(3) does not require a utility company like DE-Ohio to automatically put a customer on the additional one-third payment plan during the Winter Heating Season when the customer makes a payment but fails to contact the utility company.

64. Admit that O.A.C. 4901:1-18-06 relates to disconnection procedures for a utility company's "customer"—not a "consumer"—as those terms are defined in O.A.C. 4901:1-18-01.

**RESPONSE: 61 – 64.** These requests seek the interpretation of various regulations promulgated by the PUCO, which regulations speak for themselves. Further, the job of interpreting these regulations is left, in the first instance, to the Hearing Examiner. Therefore, the requests are not proper, and Complainant cannot properly respond to them.

65. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-06(B).

**RESPONSE: Complainant denies the substance of this request.**

66. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-05.

**RESPONSE: Complainant denies the substance of this request.**

67. Admit that DE-Ohio complied with all rules and regulations adopted or enacted by the Public Utilities Commission of Ohio with respect to the Account.

**RESPONSE: Complainant denies the substance of this request.**

68. Admit that DE-Ohio complied with all rules and regulations adopted or enacted by the Public Utilities Commission of Ohio with respect to the disconnection of the electric services at the Property on November 4, 2011.

**RESPONSE: Complainant denies the substance of this request.**

69. Admit that DE-Ohio complied with its tariffs on file with the Public Utilities Commission of Ohio with respect to the Account.

**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request.**

70. Admit that DE-Ohio complied with its tariffs on file with the Public Utilities Commission of Ohio with respect to the disconnection of the electric services at the Property on November 4, 2011.

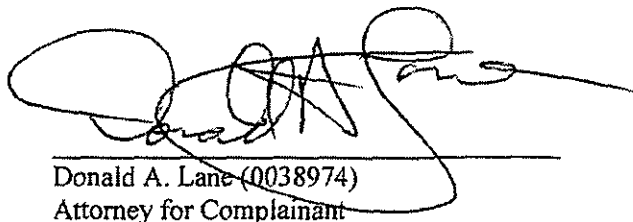
**RESPONSE: Complainant does not have information sufficient to admit or deny the substance of this request**

71. Admit that You do not have any facts or evidence to support Your complaint against DE-Ohio in this case.

**RESPONSE: Complainant denies the substance of this request.**

Respectfully submitted,

DRODER & MILLER CO., L.P.A.

A handwritten signature in black ink, appearing to read 'Donald A. Lane', is written over a horizontal line.

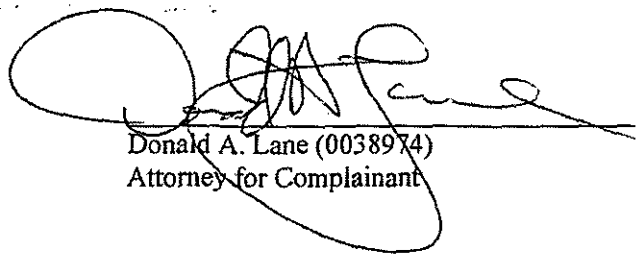
Donald A. Lane (0038974)  
Attorney for Complainant  
125 West Central Parkway  
Cincinnati, Ohio 45202-1006  
Phone (513) 721-1504  
Fax (513) 721-0310  
[dlane@drodermiller.com](mailto:dlane@drodermiller.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon the following by electronic mail on this 5<sup>th</sup> day of June, 2015:

Robert A. McMahon  
Eberly McMahon Copetas LLC  
2321 Kemper Lane, Suite 100  
Cincinnati, Ohio 45206  
[bmcMahon@emclawvers.com](mailto:bmcMahon@emclawvers.com)  
*Attorney for Duke Energy Ohio, Inc.*

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*Attorneys for Duke Energy Ohio, Inc.*



Donald A. Lane (0038974)  
Attorney for Complainant



David A. Eberly\*\*  
Robert A. McMahon\*  
Ted Copetas

Attorneys at Law

\*Also admitted in Kentucky  
\*\*Also admitted in Indiana

June 9, 2015

VIA EMAIL

Donald A. Lane  
Droder & Miller Co., L.P.A.  
125 W. Central Parkway  
Cincinnati, OH 45202

Re: Gail Lykins v. Duke Energy Ohio, Inc.  
PUCO Case No. 15-298-GE-CSS

Dear Don:

On May 7<sup>th</sup> we served Respondent's Requests for Admission, Interrogatories and Requests for Production of Documents to Complainant. By rule Complainant was required to respond within 20 days because we served the discovery requests by email. Even if you add 3 days because we also served the discovery requests by mail, Complainant's response would have been due no later than June 1<sup>st</sup>. However, Complainant did not serve its responses to the Requests for Admission until June 5<sup>th</sup>. To date Complainant has not served responses to the Interrogatories or Requests for Production of Documents, or asked for additional time. Please confirm at your earliest convenience when we will receive Complainant's responses to the Interrogatories and Requests for Production of Documents, as well as copies of all responsive documents.

Also, by separate letter we will address the substance, or lack thereof, of Complainant's responses to the Requests for Admission and the multiple ways in which Complainant failed to comply with the rules and properly respond. However, we wanted to document the timeline only this letter.

Very Truly Yours,

Robert A. McMahon

cc: Amy B. Spiller, Esq., Duke Energy Ohio (via email)

**EXHIBIT F**

June 10, 2015

*VIA EMAIL*

Donald A. Lane, Esq.  
Droder & Miller Co., L.P.A.  
125 W. Central Parkway  
Cincinnati, OH 45202

Re: Gail Lykins v. Duke Energy Ohio, Inc.  
PUCO Case No. 15-298-GE-CSS

Dear Don:

This letter addresses Complainant's Responses to Respondent's Requests for Admission. As previously indicated, Complainant failed to respond to the Requests for Admission in a timely manner. Therefore, Duke Energy Ohio, Inc. considers all of its Requests for Admission to be admitted for purposes of these proceedings, as provided in OAC 4901-1-22(B) and (D).

Even though the Requests for Admission have been admitted, as noted above, we now address the specific ways in which Complainant's responses are deficient. However, Duke Energy Ohio, Inc. does not waive its rights under OAC 4901-1-22(B) by taking issue with the substance, or lack thereof, of Complainant's discovery responses.

- OAC 4901-1-22(B) provides, in part: "An answering party may not give lack of information as a reason for failure to admit or deny a matter unless the party states that he or she has made reasonable inquiry and that information known or readily obtainable is insufficient to enable him or her to make an admission or denial." Complainant ignored this rule in response to Request Nos. 1-2, 10, 12, 15, 19, 24, 27-30, 32, 34-35, 37-42, 44, 46, 52, 56-60, and 69-70. Accordingly, Complainant must revise its answers to these requests and fully comply with OAC 4901-1-22(B).
- Request Nos. 3, 6, 9: Complainant has neither objected nor responded to these requests. Requests for admission are allowed to apply the law to a fact, and doing so does not "call for a legal conclusion." Complainant must admit or deny whether the referenced individuals are, in fact, Duke Energy Ohio, Inc.'s **customer** on this account. If Complainant cannot or will not do so, the Complaint should be dismissed.
- Request Nos. 4-5 and 7-8: Please review the Ohio Administrative Code because a "consumer" is not necessarily a utility's "customer" under the law. Complainant must



admit or deny whether the referenced individuals are Duke Energy Ohio, Inc.'s customer on this account. These are pretty simple requests for admission.

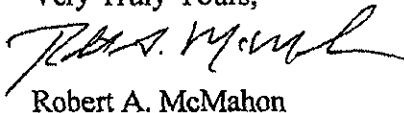
- Request No. 17: The request is directed to Complainant, not the decedents. As such, Complainant must respond. The request is not remotely vague or confusing, and surely the word "confusing" is not confusing in and of itself.
- Request Nos. 21 and 22: Complainant did not object to these requests. Therefore, Complainant's attempt to qualify its admissions fails. Further, Complainant should be able to narrow down the date on which a payment was made on the account beyond simply saying "sometime between October 4 and November 2, 2011." Surely Complainant has access to the relevant banking and payment records.
- Request No. 23: Complainant did not object to this request, and its answer is otherwise non-responsive. Therefore, Complainant's attempt to qualify its admission fails.
- Request No. 46: Complainant did not object to this request, and its answer is otherwise non-responsive. Therefore, Complainant's attempt to qualify its admission fails.
- Request No. 56: Complainant did not object to this request, and its answer is otherwise non-responsive. Therefore, Complainant's attempt to qualify its admission fails. In addition, neither this request nor the word "incurred" is remotely vague or confusing.
- Request No. 57: Complainant did not object to this request, and its answer is otherwise non-responsive. Therefore, Complainant's attempt to qualify its admission fails. In addition, neither this request nor the word "usage" is remotely vague or confusing.
- Request Nos. 58 and 59: Complainant did not object to these requests, and its answers are otherwise non-responsive. Therefore, Complainant's attempt to qualify its admission fails. In addition, neither these requests nor the word "rights" is remotely vague or confusing.
- Request No. 60: Complainant did not object to this request, and its answer is otherwise non-responsive. Therefore, Complainant's attempt to qualify its admission fails. In addition, this request does not call for a legal conclusion of any kind.
- Request Nos. 61-64: Complainant did not object to these requests, and its answers are otherwise non-responsive. There is nothing preventing Complainant from admitting or

Donald A. Lane, Esq.  
June 10, 2015  
Page 3

denying these requests. Moreover, as provided in OAC 4901-1-22(B), "A party who considers the truth of a matter of which an admission has been requested to be a genuine issue for the hearing may not, on that basis alone, object to the request, but may deny the matter or set forth the reasons why an admission or denial cannot be made." Finally, requests for admission are allowed to apply the law to a fact, and doing so does not "call for a legal conclusion" or allow a party to defer to a hearing officer's future interpretation of a regulatory provision. Duke Energy Ohio, Inc. is entitled to discover whether and how Complainant believes these provisions apply to facts in this case. Complainant must fully respond to each of these requests.

If Complainant disagrees with Duke Energy Ohio, Inc.'s position that Complainant has admitted all of Respondent's Requests for Admission by failing to respond in a timely manner, Complainant must modify the answers to the foregoing requests and serve full and complete responses in accordance with OAC 4901-1-22(B). Duke Energy Ohio, Inc. prefers not to spend time and money on unnecessary motions to compel but will seek appropriate relief if Complainant fails to fully comply with the discovery rules. Your prompt attention to this matter is anticipated.

Very Truly Yours,



Robert A. McMahon

cc: Amy B. Spiller, Esq., Duke Energy Ohio, Inc. (via email)