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to:	PUCO Docketing Desk
from:	Julie / Donald A. Lane, Esq.
date:	October 22, 2015
reference:	Case No. 15-298-GE-CSS
fax number:	614/466-0313

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PUCO

Dear Clerk –

Please accept the attached Second Motion to Amend Complaint for fax filing with the Public Utilities Commission of Ohio. Thank you in advance for your assistance with this. Please do not hesitate to contact me should you have any questions or concerns.

Thank you.

Julie Denzler  
Droder & Miller

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Jeffrey Pitzer	)	
	)	
Complainant,	)	Case No. 15-298-GE-CSS
	)	
v.	)	<b>JEFFREY PITZER'S SECOND</b>
	)	<b>MOTION TO AMEND</b>
Duke Energy Ohio, Inc.	)	<b>COMPLAINT</b>
	)	
Respondent	)	


Pursuant to OAC 4901-1-06, Complainant, Jeffrey Pitzer, requests that he be permitted to amend the February 6, 2016 administrative complaint filed in this matter. Ongoing discovery has revealed that Mr. Pitzer has additional administrative causes of action that should be included in the PUCO's determination of this matter, as justice so requires. A proposed amended complaint is attached hereto.

Respondent, Duke Energy Ohio, Inc., will not be prejudiced by this amendment, insofar as the additional allegations and regulatory issues raised do not change the overall tenor of this matter.

Mr. Pitzer respectfully requests that this motion be considered on an expedited basis so that his amended complaint be placed of record well in advance of the December 2, 2015 hearing of this matter.

Respectfully submitted,

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

  
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**CERTIFICATE OF SERVICE**

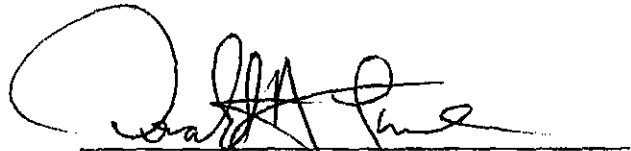
I hereby certify that a copy of the foregoing Motion to Amend Complaint has been served upon the following by electronic mail this 22nd day of October, 2015:

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Jeffrey Pitzer	)	
	)	
Complainant,	)	Case No. 15-298-GE-CSS
	)	
v.	)	<b>JEFFREY PITZER'S</b>
	)	<b>AMENDED COMPLAINT</b>
Duke Energy Ohio, Inc.	)	
	)	
Respondent	)	

Complainant, Jeffrey Pitzer, for his amended administrative complaint against Respondent, Duke Energy Ohio, Inc. ("Duke"), states as follows:

1. Duke is a "public utility" within the meaning of Ohio Revised Code ("ORC") Section 4905.03 and is, therefore, subject to the jurisdiction of the Public Utilities Commission of Ohio ("the PUCO") and subject to its applicable rules.

2. At all relevant times, Dorothy Easterling was a "customer" of Duke with respect to the utility service provided her at 11312 Orchard Street, Cincinnati, Ohio ("the Residence"). Ms. Easterling qualified as a customer under Ohio Administrative Code ("OAC") Section 4901:1-18-01(G) because Duke accepted utility payments from her at the Residence for several years after her husband, Estill Easterling II, passed. Therefore, Ms. Easterling had a contract with Duke to purchase electric and gas service at the Residence.

3. At all relevant times, Ms. Easterling lived at the Residence with her son, Estill Easterling III, who was severely mentally and physically disabled.

4. Upon information and belief, prior to September, 2011, Ms. Easterling had made timely payments to Duke for utility services at the Residence.

5. At an as-yet undetermined date in November, 2011, Duke disconnected electrical service at the Premises. Such disconnection was in violation of the regulations governing disconnection procedures, and promulgated by the PUCO, in the following respects:

- a. Duke failed to provide the requisite 14 day notice required by OAC §4901:1-18-06(A);
- b. Duke failed to provide a notice with the contents required by OAC §4901:1-18-06(A)(5);
- c. Duke failed to provide the personal notice required by OAC §4901:1-18-06(A)(2); and
- d. Duke failed to comply with the special rules in effect from November 1 through April 15, under OAC §4901:1-18-06(B).

6. On September 14, 2011, PUCO adopted findings and orders concerning PUCO's "consideration of solutions concerning the disconnection of gas and electric service in winter emergencies for the 2011 – 2012 winter heating season" ("the 2011 Winter Order"). The 2011 Winter Order was applicable to Duke, pursuant to ORC 4905.03.

7. In disconnecting electric service to the Residence in November, 2011, Duke violated the 2011 Winter Order by, *inter alia*:

- a. failing to err on the side of maintaining service to the Residence, when there is a doubt as to whether it gave proper notification to Ms. Easterling, permitting disconnection under OAC 4901:1-18-03;
- b. disconnecting service, despite the fact that Ms. Easterling had made a payment toward the past due balance, this requirement not confined solely to an account holder but to any person whose service has been disconnected;
- c. failing to provide Ms. Easterling with special notice of reconnection rights; and
- d. failing to provide Ms. Easterling with the availability of payment plan options.

8. As a result of Duke's actions in disconnecting service at the Residence, Ms. Easterling and her son perished, due to hypothermia.

9. On March 20, 2015, Mr. Pitzer was appointed the duly authorized representative of the estate of Ms. Easterling by the Probate Court of Hamilton County, Ohio. On March 3, 2015, Mr. Pitzer was appointed the duly authorized representative of the estate of Estill Easterling III.

WHEREFORE, Mr. Pitzer seeks a determination that, by disconnecting electrical service at the Residence in the manner that it did, Duke has violated rules promulgated by the PUCO under the authority given it by ORC 4905.04.

Respectfully submitted,

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

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Amended Complaint has been served upon the following by electronic mail this \_\_\_\_\_ day of October, 2015:

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