

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

**DUKE ENERGY OHIO, INC.'S MOTION TO COMPEL DISCOVERY RESPONSES BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL AND
REQUEST FOR EXPEDITED RULING
AFFIDAVIT OF ROBERT A. MCMAHON ATTACHED**

I. Introduction

As a party in this proceeding, the Office of the Ohio Consumers' Counsel (OCC) is subject to discovery, including the obligations imposed upon a responding party as provided in the Public Utilities Commission of Ohio's (Commission) administrative regulations. Here, however, the OCC has failed to provide appropriate responses to the discovery requests issued by Duke Energy Ohio, Inc. (Duke Energy Ohio or Company). Rather, as discussed herein, it has asserted improper and curiously conflicting objections. It has claimed inapplicable privileges. And it has engaged in a pattern likely intended to prompt delay. The Company thus respectfully requests an order deeming admitted certain requests for admission and otherwise compelling the OCC to respond to certain interrogatories and requests for the production of documents. Further, with the hearing scheduled to commence on December 2, Duke Energy Ohio requests an expedited ruling on this motion. The OCC easily can respond fully and promptly to the Company's discovery requests, thereby avoiding the need to delay the scheduled hearing.

II. Discussion

A. Duke Energy Ohio has exhausted its efforts to resolve its discovery disputes with the OCC.

The facts surrounding the Company's discovery dispute with the OCC are set forth in the attached Affidavit of Robert A. McMahon, one of Duke Energy Ohio's attorneys in this proceeding. Briefly, the facts are as follows.

On September 30, 2015, Duke Energy Ohio propounded specific and narrow requests for admissions, interrogatories, and requests for production of documents on the OCC in an effort to identify, among other things, the allegedly disputed facts in the case and relevant information and documents in the OCC's possession. After all, the OCC chose to intervene in this action and has been actively assisting Complainant and his attorneys throughout the case, including recently signing a joint defense agreement with Complainant. Accordingly, Duke Energy Ohio is entitled and needed to conduct discovery with the OCC in preparation for the hearing scheduled to start on December 2, 2015.

Unfortunately, the OCC chose to engage in obstructionist tactics by asserting baseless objections to multiple discovery requests and otherwise not providing substantive responses to those requests. Duke Energy Ohio's attorneys spoke with OCC's counsel on October 21, 2015, regarding those deficiencies and sent a letter the following day to explain in detail how the OCC had failed to comply with and answer Duke Energy Ohio's reasonable discovery requests. With the impending hearing date, Duke Energy Ohio requested in its attorney's letter that the OCC amend its discovery responses or provide a written response by the close of business on Monday, October 26.

Even though the OCC chose to intervene in this case, thereby subjecting itself to the case schedule as well as the right and obligation to conduct discovery, the OCC claimed in a letter dated

October 26 that it did not have time to respond to Duke Energy Ohio's concerns. The OCC indicated in that letter that it "should be able to respond fully by the end of the week."¹ But that deadline came and went without any further communication from the OCC, even though Duke Energy Ohio confirmed by letter dated October 29 that it expected to receive the OCC's substantive and complete discovery responses by Friday, October 30. The OCC provided purported supplemental responses on November 2, 2015. However, such responses are similarly deficient and, as evident from the OCC's communication of November 2, any further efforts to resolve the discovery dispute would be futile at this time. As a result, Duke Energy Ohio is forced to seek the Commission's intervention to protect its rights and interests given the OCC's refusal to comply with the discovery rules.

B. The OCC's objections to and inadequate responses to Duke Energy Ohio's discovery requests do not comply with the law.

1. Requests for Admission

The Commission's regulations detail the scope of discovery, including requests for admission. As an initial matter, discovery may be had of any matter, not privileged, that is relevant to the proceeding.² Further, discovery is permitted of any matter that is reasonably calculated to lead to the discovery of admissible evidence.³

Insofar as requests for admission are concerned, the Commission's regulations provide, in pertinent part, as follows:

If an objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully make an admission or denial. A denial shall fairly meet the

¹ Notably, the OCC was too busy to respond to Duke Energy Ohio's legitimate discovery issues but had ample time to prepare and file a ten-page reply memorandum in support of Complainant's Second Motion to Amend the Complaint. See, Reply to Duke's Memorandum in Opposition to Complainant's Second Motion to Amend by the Office of the Ohio Consumers' Counsel, filed 10/30/15.

² O.A.C. 4901-1-16.

³ Id.

substance of the requested admission, and when good faith requires that a party qualify his or her answer or deny only part of the matter of which an admission is requested, the 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. 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 reasons why an admission or denial cannot be made.

Where the responding party fails to comply with the requirements of O.A.C. 4901-1-22, the requesting party may seek an order deeming the request for admission admitted.⁴

Here, the OCC has provided responses that, at first blush, are intended to follow the applicable Commission requirements. But on closer examination, it is apparent that the OCC has merely provided evasive, non-substantive responses, refusing to identify even information indisputably in its possession given its participation in discovery. The most egregious of the OCC's responses to requests for admission⁵ are addressed herein and it is the responses to these requests that should be deemed admitted.

Request for Admission No. 1

When it first answered this request, the OCC clearly had no trouble understanding the phrase, "customer of record." Rather, it remarkably claimed that it could not admit the truthfulness of this response because the information necessary to do so was solely in the possession of Duke Energy Ohio. It further contended that it had made a reasonable inquiry, but did not possess sufficient information to enable a response. In its allegedly good faith effort at engaging in discovery, the OCC then claimed that the request was vague. The OCC's responses are inadequate

⁴ O.A.C. 4901-1-22(C).

⁵ The OCC's initial and supplemental discovery responses are attached as Exhibits A and E, respectfully, to the Affidavit of Robert A. McMahon.

and, given its unjustified responses that cannot be supported under O.A.C. 4901-1-22, its answer should be deemed admitted.

The information needed to answer this request, which necessarily include billing statements, are in the possession of the OCC. By the time the OCC served those objections and “responses” on October 20, the OCC had received discovery responses and documents from Duke Energy Ohio; engaged in multiple communications and meetings with Complainant and his attorney; and participated in the depositions of Gail Lykins (the original Complainant), Jeff Pitzer (the current Complainant), and Jack Easterling (Complainant’s brother-in-law). Because the OCC has billing records, account notes and other customer-related documents in its possession, and has participated in three depositions, it is more than capable of admitting or denying key facts in this case, just as it did in response to Request Nos. 29 and 30.

The claim of vagueness is similarly inappropriate. The OCC understood the question the first time it responded to it. The OCC cannot now manufacture objections in an attempt to support a denial. The request should be deemed admitted.

Request for Admission Nos. 3, 4, and 5.

The OCC objected to these requests, again initially claiming that the information needed to answer these requests was solely in the possession of Duke Energy Ohio. It then continued, claiming that it had made a reasonable inquiry and could neither admit nor deny the requests based upon the information known by it. In its purported supplemental response, the OCC claimed that the issue was outside the scope of discovery. The OCC denied the requests, over its claimed objections. But the objections are not proper.

Whether Dorothy Easterling was a customer of Duke Energy Ohio, as defined under Commission regulation, is indeed relevant to this proceeding given the obligations owing to, and

owed by, customers. Further, as confirmed above, the OCC has in its possession information as to the identity of the Duke Energy Ohio customer during all times relevant to the allegations in this proceeding. Thus, to contend that it was, and remained, unable to obtain information sufficient to respond to the truth of the matter set forth in this request is inaccurate and contrary to O.A.C. 4901-1-22. Further, the OCC failed to provide a response that meets the substance of the requested admission in that it does not address whether, in the OCC's view, Dorothy Easterling was a customer in respect of the utility account at issue in this proceeding. The requests should be deemed admitted for purposes of this proceeding.

Request for Admission Nos. 6, 7, and 8

The OCC again claimed that "the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny" those requests. The OCC also claimed that "the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession." Neither response is accurate or justified under OAC 4901-1-22, as discussed above, given the pertinent information in the possession of the OCC. The responses here also confirm the OCC's evasive behavior. Seemingly, for two individuals, the OCC was purportedly able to examine their status as an alleged customer of Duke Energy Ohio, but it could not for a third. As the same information would have been relied upon by the OCC, its responses here cannot be reconciled with its prior responses and the OCC's failure to properly respond to relevant requests should result in those requests being deemed admitted.

Request for Admission Nos. 12, 13, 28, 31, and 33

These requests are undeniably unambiguous, seeking an admission that the account was in arrears at the time the electric service was disconnected and that no payment had been made between a specific, limited period of time. Despite these rather simple requests, the OCC again

objected on the basis that the information needed to answer was solely in the Company's possession and, after reasonable inquiry, it did not have sufficient information to either admit or deny the truthfulness of the matter. The objections are baseless. When the OCC provided these responses on October 20, it possessed all relevant billing records and it had participated in the depositions of the Complainant, his wife and her brother – depositions in which it was confirmed that the account was in arrears.⁶ The objections are improper and the responses should be deemed admitted.

Request for Admission Nos. 14, 15, 20, and 21

In responding to these requests, the OCC erroneously asserted the claim of privilege – both attorney-client and work product. In attempting to cure these deficient answers, the OCC supplemented its responses. In doing so, however, it renewed its objection predicated upon privilege and further objected on the basis that the matters address genuine issues for hearing. The OCC also objected on the grounds that Duke Energy Ohio failed to respond to some undefined discovery requests. These responses fall well short of compliance with O.A.C. 4901-1-22.

As an initial matter, the OCC has not identified for the Commission the relevant requests that Duke Energy Ohio purportedly failed to answer or its efforts in seeking responses thereto. The OCC has, yet again, ignored the account information and deposition testimony in its possession. The objections are improper and the requests should be deemed admitted.

Request for Admission Nos. 16 and 17 and 22

In responding to these requests, the OCC also erroneously asserted the claim of privilege – both attorney-client and work product. When the OCC supplemented its responses, it claimed once again that Duke Energy Ohio allegedly “failed to respond to discovery and produce

⁶ See, Gail Lykins depo. at 20, 23, 54; Jeffrey Pitzer depo. at 27, 38

requisite documents” without providing any support for those conclusions. Finally, the OCC cited to the deposition transcript of Gail Lykins in denying Request Nos. 16 and 17 and also to the deposition transcript of Jeff Pitzer in denying Request No. 22. The problem for the OCC, however, is that the deposition testimony of Ms. Lykins and Mr. Pitzer does not remotely support the OCC’s baseless denials—neither person has personal knowledge that anyone *ever* contacted Duke Energy Ohio during the relevant time periods.⁷ In other words, they know nothing, but the OCC questionably cites to their deposition testimony to support its denials.⁸ These requests should be deemed admitted.

Request for Admission Nos. 18 and 19

The responses here reflect the OCC’s constant refrain—that only Duke Energy Ohio possessed the information needed to answer and, despite its efforts, the OCC did not have information sufficient to answer. The OCC’s alleged supplemental responses are no better – claiming the matters concern a genuine issue for hearing and that there is conflicting information. But the OCC knows—from sworn deposition testimony of the Complainant and his family members—that there is no conflict. Moreover, the claimed lack of information in respect of Request for Admission No. 19 cannot be reconciled with the OCC’s response to Request for Admission 43, wherein it alleges that Duke Energy Ohio did not provide electric service between November 15 and November 20. The answers do not comply with the rule and the responses should be deemed admitted.

⁷ See, Gail Lykins depo. at 81; Jeffrey Pitzer depo. at 43

⁸ Notably, the OCC never cites to a specific page of either deposition transcript. The Commission should not accept the OCC’s unsubstantiated deposition citations without question because the deposition testimony of both the current and former Complainant flatly refutes the OCC’s arguments and demonstrates that Complainant does not have any evidence to support his claims against Duke Energy Ohio.

Request for Admission No. 25

The objections are unfounded. The question here does not address the requirements that must be met before disconnection for non-payment may occur. The question is simply **whether** a utility company is authorized, under Commission regulation to disconnect for non-payment of services provided. The objection is merely a ruse, intended to avoid an admission of something the OCC knows to be true. The response should be deemed admitted.

Request for Admission No. 27

The OCC again objected on the basis that Duke Energy Ohio alone possessed the needed information, it had tried to obtain the information but the Company failed to respond to requests, and it is incapable of answering. The OCC also hopes to avoid this question by claiming that it is a genuine issue for hearing. The objections are unfounded. Again, the OCC has not identified for the Commission the relevant requests that Duke Energy Ohio purportedly failed to answer or its efforts in seeking responses. The OCC has, yet again, ignored the account information and deposition testimony in its possession. Quite simply, the OCC possesses the written notices and it is more than capable of admitting that they were provided. The objections are improper and the request should be deemed admitted.

Request for Admission No. 35

The OCC's efforts to evade discovery are particularly evident here. The request is simple, seeking a comparison between a partial payment and the amount needed to prevent a disconnection. Whether the OCC believes that second amount is provided for under an unidentified Commission order on which it is relying is immaterial. Either the partial payment is equal to or greater than the amount needed to avoid disconnection for non-payment or it is not. The response should be deemed admitted.

Request for Admission Nos. 43 through 45

In responding to these requests, the OCC initially claimed, albeit improperly, the attorney-client and attorney work product privileges. As Duke Energy Ohio explained in its attorney's letter to the OCC on October 22, the Company is entitled to inquire about evidence in the possession of and known to the OCC. None of these discovery requests call for the disclosure of information protected by the attorney-client privilege or work product doctrine. Hoping to cure its prior objections, the OCC provided supplemental responses. But the responses cannot be reconciled. If the Company were not providing electric service, as the OCC contends, it could not have violated laws pertaining to the provision of the service. The responses should be deemed admitted.

2. Interrogatories

The Commission should compel the OCC's full and complete response to the following Interrogatories.

Interrogatory No. 2

Duke Energy Ohio is entitled to use interrogatories to "elicit facts, data, or other information known or readily available to" the OCC.⁹ That includes using interrogatories to ascertain the identity of people with knowledge of facts relevant to the proceedings. Asking a party to identify those people does not in any way invade confidential attorney-client communications, nor does it call for the disclosure of attorney work product. And, contrary to the OCC's supplemental response, the OCC cannot confine its response to its witnesses and avoid providing a substantive response. To the extent the OCC knows, whether through discovery, its

⁹ O.A.C. 4901-1-19(B).

association with the Complainant's counsel, or otherwise, of persons with relevant information, it must identify them here.

Interrogatory No. 5

The OCC cannot hide behind a baseless claim of privilege and have it both ways by stating that "Duke unlawfully disconnected electric service to the account in November 2011" without identifying any fact or document supporting that contention. Either the OCC has knowledge of relevant facts and documents or it does not. Duke Energy Ohio is entitled to know. And the supplemental response does not cure this deficiency – it merely references the otherwise non-substantive responses of the OCC.

Interrogatory No. 6

The OCC may not answer, only weeks before the hearing is scheduled the start, that "is still compiling information" and that "it is unclear whether Duke unlawfully disconnected gas service to the account in November 2011." Neither the current nor former Complainant has provided any evidence that the gas service was disconnected, nor do any account-related documents in Duke Energy Ohio's possession suggest otherwise. There is no actual conflict and the OCC must answer this interrogatory truthfully as required by O.A.C. 4901-1-19.

Interrogatory Nos. 7-10

In response to these narrow and specific interrogatories, the OCC actually claims that "Duke **may** have violated" the referenced provisions of the O.A.C. and Commission rules yet refuses to identify any facts and documents in support of those contentions. Duke Energy Ohio is entitled to all such information in the possession of the OCC now so that the Company may properly prepare for hearing.

Interrogatory No. 14

In this interrogatory, Duke Energy Ohio reasonably is trying to ascertain what facts support the OCC's contention that "Duke did not follow all of the PUCO's directives in the 2011 Winter Reconnection Order." The OCC refuses to respond, claiming that the information is protected by attorney-client privilege and work product. This information has nothing to do with attorney-client communications or the thoughts and mental impressions of the OCC's attorneys, meaning their work product. The OCC claims, in its purported supplemental response, that Duke Energy Ohio has the information or it is of public record. Such a response, however, confirms the OCC's refusal to engage, in good faith, in the discovery process. Rather, as this response confirms, when the Company seeks admissions from the OCC on issues relevant to the proceeding, the OCC refuses to provide a substantive response, claiming it does not have the information and is otherwise incapable of answering. Yet when the Company seeks what information supports the claims of the OCC, the OCC maintains that information exists to support its claims but the Company needs to ascertain that information for itself. Duke Energy Ohio is entitled to a full and complete answer to this interrogatory.

Interrogatory No. 17

The OCC and Complainant apparently signed a joint defense agreement on October 7, 2015, and produced that written agreement in discovery. However, based on Complainant's discovery responses, Duke Energy Ohio knows that Complainant and the OCC have communicated for months about this case. The OCC may not use a joint defense agreement dated October 7, 2015, to conceal discoverable information that predates the signing of that agreement. Further, it cannot hide behind such an agreement to refuse to identify meetings and persons in attendance at those meetings. Such information does not tread upon any privilege. See *In the*

Matter of the Application of the Ohio Edison Co., Case No. 10-176-EL-ATA, Entry, at (20) (January 27, 2011) (finding that a joint defense agreement signed by the OCC and other parties did not apply to documents gathered by parties or communications prior to its date of execution). Moreover, the OCC's response that "[a] privilege log does not exist" does not suffice. The OCC should produce such a log so that the Commission and Duke Energy Ohio may inquire into the merits of the privilege claims, just as the OCC has done in other cases. *Id.* at (19).

3. Requests for Production of Documents

The Commission should compel the OCC's full and complete responses to the following requests for production of documents.

Request No. 3

As noted above in connection with Interrogatory No. 17, documents that pre-date the signing of the joint defense agreement between Complainant and the OCC are clearly discoverable. Those documents do not fall under any attorney-client privilege. To the extent the OCC claims otherwise, must provide a privilege log and bear the burden of demonstrating how each document withheld from production is protected by a recognized privilege. Only then can the Commission adequately rule on the OCC's baseless objections.

Request No. 4

The OCC cannot conceal relevant recorded or written witness statements under the guise of an objection based on attorney-client privilege, attorney work product doctrine, or that the request is "vague" or "overly broad." Duke Energy Ohio is entitled to discover what documents, if any, the OCC possesses. Again, if the OCC contends certain witness statements are privileged, the OCC must overcome its burden of demonstrating how the privilege applies and produce a

privilege log so that Duke Energy Ohio may ascertain the grounds upon which the privilege objection is based.

The foregoing information requested by Duke Energy Ohio is the proper subject of specific discovery requests propounded by the Company to the OCC. The information is directly relevant to the facts and issues in these proceedings and, therefore, is discoverable from the OCC, another party which chose to intervene. See *In the Matter of the Complaint of Chad Kister*, Case No. 11-3467-TP-CSS, Entry, at p.2 (February 11, 2013) (granting motion to compel discovery); *In the Matter of the Complaint of Sherron Neal-Putman*, Case No. 07-690-EL-CSS, Entry, at p.3 (January 18, 2008)(ordering complainant to answer respondent's interrogatories and that requests for admission to be partially deemed admitted). If the OCC fails to comply with and respond to the Company's discovery requests, the Commission should dismiss the OCC and bar the OCC from participating in these proceeding. O.A.C. 4901-1-23(F)(4). See, *In the Matter of the Complaint of Lewis C. Zajac*, Case No. 10-2310-EL-CSS, Entry, at p.2 (July 11, 2011)(granting motion to compel discovery); *In the Matter of Sandra Kanieski dba Iron Horse Saloon*, Case No. 11-755-EL-CSS, Entry, at p. 2 (May 18, 2011)(granting motion to compel discovery).

WHEREFORE, Duke Energy Ohio, Inc. respectfully moves that the Commission grant the following relief:

- A. Compel the Office of the Ohio Consumers' Counsel to respond fully to Request for Admission Nos. 1, 3-8, 12-22, 25, 27-28, 31, 33, 35, 43-45, or deem those requests admitted as a matter of law for purposes of these proceedings;
- B. Compel the Office of the Ohio Consumers' Counsel to respond fully to Interrogatory Nos. 2, 5, 6, 7-10, 14 and 17;

- C. Compel the Office of the Ohio Consumers' Counsel to respond fully to Request for Production of Documents Nos. 3 and 4; and
- D. Grant Duke Energy Ohio such other, further and different relief as the Commission deems just and proper.

Respectfully submitted,

/s/ Robert A. McMahon
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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 on this 3rd day of November, 2015, upon the following counsel of record:

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/s/ Robert A. McMahon

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

STATE OF OHIO)
) SS
COUNTY OF HAMILTON)

1. I am one of the attorneys of record in this case for Respondent Duke Energy Ohio, Inc. ("Duke Energy Ohio"). I have personal knowledge of all facts set forth in this affidavit.

2. On September 30, 2015, Duke Energy Ohio served Requests for Admission, Interrogatories, and Requests for Production of Documents on the Office of the Ohio Consumers' Counsel (the "OCC").

3. On October 20, 2015, the OCC served its responses and objections to Duke Energy Ohio's discovery requests. A true and accurate copy of that document is attached hereto as Exhibit A.

4. On October 22, 2015, I sent a letter to the OCC's attorney to address the OCC's deficient discovery responses and objections. A true and accurate copy of that letter is attached

hereto as Exhibit B. In that letter, I requested a written reply from OCC by the end of the business day on Monday, October 26, 2015.

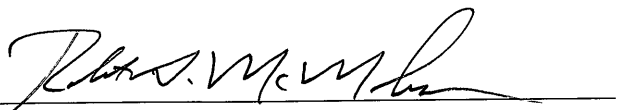
5. On October 26, 2015, the OCC's attorney sent a letter to me and indicated, among other things, that the OCC would be able to respond substantively to my letter by the end of the week. A true and accurate copy of that letter is attached hereto as Exhibit C.

6. On October 29, 2015, in an effort to resolve any discovery disputes, I sent the letter attached hereto as Exhibit D to the OCC's attorney and indicated that Duke Energy Ohio expected the OCC's substantive response by October 30.

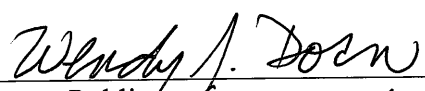
7. The OCC did not provide a substantive response to my letters or any supplemental or modified discovery responses by the agreed deadline of October 30.

8. At 5:18 pm on November 2, 2015, the OCC emailed supplemental responses to certain of Duke Energy Ohio's discovery requests. True and accurate copies of counsel's email and the OCC supplemental discovery responses are attached as Exhibit E. Between counsel's email and the OCC's still deficient supplemental responses, it is clear that further discussions between the parties will not prompt the OCC's compliance with and complete response to Duke Energy Ohio's reasonable discovery requests.

FURTHER AFFIANT SAYETH NAUGHT.


Robert A. McMahon

Sworn to and subscribed to before me
this 3rd day of November, 2015:


Notary Public
My commission expires: 7/17/2016



Wendy J. Dorn
Notary Public, State of Ohio
My Commission Expires 07-17-2016

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Jeffrey Pitzer, Personal Representative of)
Dorothy Easterling and Estill Easterling)
11312 Orchard Street)
Cincinnati, OH 45241)

Complainant,

v.

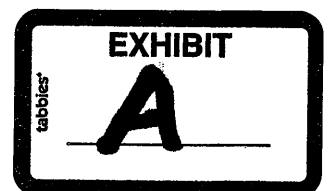
Duke Energy Ohio, Inc.

Respondent.

Case No. 15-298-GE-CSS

**RESPONSES AND OBJECTIONS TO DUKE ENERGY OHIO, INC.'S
REQUESTS FOR ADMISSION, INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), by and through its counsel, hereby submits its Responses and Objections to the Requests for Admission, Interrogatories and Requests for Production of Documents submitted to OCC by Duke Energy Ohio, Inc. ("Duke" or the "Company") in the above-captioned case. OCC's responses to these discovery requests are being provided subject to, and without waiver of, the general objections stated below and the specific objections posed in response to each interrogatory and request for production of documents. The general objections are hereby incorporated by reference into the individual response made to each discovery request. OCC's responses to these discovery requests are submitted without prejudice to, and without waiving any general objections not expressly set forth therein.



The provisions of any response below shall not waive OCC's objections. The responses below, while based on diligent investigation and reasonable inquiry by OCC and its counsel, reflect only the current state of OCC's knowledge and understanding and belief with respect to the matters about which the discovery requests seek information, based upon the information and discovery to date. OCC's investigation is not yet complete and is continuing as of the date of the responses below. OCC anticipates the possibility that it may discover additional information and/or documents, and without obligating itself to do so, OCC reserves the right to continue its investigation and to modify or supplement the responses below, as required by the Ohio Administrative Code, with such pertinent information or documents as it may reasonably discover. The responses below are made without prejudice to OCC's right to rely upon or use subsequently discovered information or documents, or documents or information inadvertently omitted from the responses below as a result of mistake, error, or oversight. OCC reserves the right to object on appropriate grounds to the use of such information and/or documents. The fact that OCC, in the spirit of cooperation, has elected to provide relevant information below in response to the Company's discovery requests shall not constitute or be deemed a waiver of OCC's objections. OCC hereby fully preserves all of its objections to the discovery request or the use of its responses for any purpose.

Furthermore, OCC's provision of responses to these discovery requests shall not be construed as a waiver of the attorney-client privilege, the trial preparation doctrine, or any other applicable privilege or doctrine. OCC reserves its right to file a motion for protective order under Ohio Adm. Code 4901-1-24 in order to protect OCC from

annoyance, embarrassment, oppression or undue burden or expense or for any other reason.

GENERAL OBJECTIONS

1. OCC objects to any discovery requests as improper, overbroad, and unduly burdensome to the extent that they purport to impose upon OCC any obligations broader than those set forth in the rules of the Public Utilities Commission of Ohio (“PUCO”) or otherwise permitted by law. In part, the rules of discovery require that matters inquired into must be relevant to the subject matter of the proceeding, and must appear to be “reasonably calculated to lead to the discovery of admissible evidence.” Ohio Adm. Code 4901-1-16(B).
2. OCC objects to these discovery requests and to the Company’s Definitions and Instructions as improper, overbroad, and unduly burdensome to the extent that they improperly seek or purport to require the disclosure of information protected by the attorney-client privilege, trial preparation doctrine or any other applicable privilege or doctrine. Such responses as may hereafter be given shall not include any information protected by such privileges or doctrines, and the inadvertent disclosure of such information shall not be deemed as a waiver of any such privilege or doctrine.
3. OCC objects to these discovery requests and to the Company’s Definitions and Instructions to the extent that they improperly seek or purport to require OCC to provide documents and information not in OCC’s possession, custody or control.

4. The objections and responses contained herein and documents produced in response hereto are not intended nor should they be construed to waive OCC's right to object to these requests, responses or documents produced in response hereto, or the subject matter of such requests, responses, or documents, as to their competency, relevancy, materiality, privilege and admissibility as evidence for any purpose, in or at any hearing of this or any other proceeding.
5. OCC objects to these discovery requests to the extent they improperly seek or purport to require the production of documents or information which is not relevant to the subject matter of the proceeding nor reasonably calculated to lead to the discovery of admissible evidence.
6. OCC objects to these discovery requests and to the Company's Definitions and Instructions to the extent they improperly seek or purport to require production of documents in a form other than how the documents are maintained in the regular course of business.
7. OCC objects to these discovery requests insofar as they request the production of documents or information that are publicly available or already in the Company's possession, custody, or control.
8. OCC objects to each and every discovery request that seeks to obtain "all," "each" or "any" document to the extent that such requests are overly broad and unduly burdensome and seek information that is not relevant to the subject matter of this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

9. OCC objects to these discovery requests to the extent that such requests are not limited to any stated time period or identify a stated period of time that is longer than is relevant for purposes of this proceeding, as such discovery is unduly broad and overly burdensome.
10. OCC objects to these discovery requests to the extent they are vague, ambiguous, use terms that are subject to multiple interpretations but are not properly defined for purposes of these discovery requests, or otherwise provide no basis from which OCC can determine what information is sought.
11. The objections and responses contained herein are not intended nor should they be construed to waive OCC's rights to object to other discovery involving or relating to the subject matter of these requests, responses or documents produced in response hereto.

REQUESTS FOR ADMISSION

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

2. 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:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within DE-Ohio's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

5. 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:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

8. 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:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within DE-Ohio's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

9. Admit that the OCC does not have any evidence that DE-Ohio failed to provide written notice to the attention of Estill II during October 2011 that the Account was subject to disconnection for nonpayment.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

10. Admit that the OCC does not have any evidence that DE-Ohio failed to provide written notice to the Easterlings during October 2011 that the Account was subject to disconnection for nonpayment.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

11. Admit that the OCC does not have any evidence that DE-Ohio failed to provide written notice to the Property during October 2011 that the Account was subject to disconnection for nonpayment.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

12. Admit that the Account was in arrears at the time of disconnection of the electric service.

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

14. Admit that the OCC does not have any evidence that Dorothy contacted DE-Ohio from October 1, 2011, through and including November 4, 2011, about the Account or to ask for a payment plan on the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

15. Admit that the OCC does not have any evidence that Estill III contacted DE-Ohio from October 1, 2011, through and including November 4, 2011, about the Account or to ask for a payment plan on the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

16. Admit that the OCC does not have any evidence that anyone acting on behalf of the Easterlings contacted DE-Ohio from October 1, 2011, through and including November 4, 2011, about the Account or to ask for a payment plan on the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

17. Admit that the OCC does not have any evidence that anyone acting on behalf of the customer of record contacted DE-Ohio from October 1, 2011, through and including November 4, 2011, about the Account or to ask for a payment plan on the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

20. Admit that the OCC does not have any evidence that Dorothy contacted DE-Ohio from November 4, 2011, through and including November 20, 2011, about the Account or to have the electric service restored at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

21. Admit that the OCC does not have any evidence that Estill III contacted DE-Ohio from November 4, 2011, through and including November 20, 2011, about the Account or to have the electric service restored at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

22. Admit that the OCC does not have any evidence that anyone contacted DE-Ohio on behalf of the Easterlings from November 4, 2011, through and including November 20, 2011, about the Account or to have the electric service restored at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

23. Admit that the OCC does not have any evidence that anyone contacted DE-Ohio on behalf of the customer of record from November 4, 2011, through and including November 20, 2011, about the Account or to have the electric service restored at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. This request is overly broad. The assertion does not take into consideration the limitations on Duke's authority to disconnect residential customers' electric service for nonpayment that are found in the PUCO's disconnection rules and in the PUCO's Winter Reconnect Order. Hence, OCC denies the statement.

26. 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:

Objection. See General Objections No. 1. OCC also objects because of relevance as Ohio Adm. Code 4901:1-18-06(B) makes no reference to when usage occurred. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement because the last bill Duke rendered to the customer before disconnecting service at the property contains usage during the Winter Heating Season.

27. 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:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Although the bill/disconnect notice prepared by Duke on November 2, 2011 (attached to the Complaint) shows past due charges, it is unknown whether payment was made on the account between November 2, 2011 and November 4, 2011. Hence OCC can neither admit nor deny this statement.

29. 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:

Objection. See General Objections No. 1. OCC also objects because of relevance as Ohio Adm. Code 4901:1-18-06(B) makes no reference to when usage occurred. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as the last bill Duke rendered to the customer before disconnecting service at the property (the bill prepared on November 2, 2011, attached to the Complaint) contains usage during the Winter Heating Season.

30. 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:

Objection. See General Objections No. 1. OCC also objects because of relevance as Ohio Adm. Code 4901:1-18-06(B) makes no reference to when usage occurred. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as the bill prepared on November 2, 2011 (attached to the Complaint) contains usage during the Winter Heating Season.

31. Admit that the OCC does not have any evidence that the Easterlings exercised or tried to exercise any of the rights available to customers of DE-Ohio seeking to avoid disconnection of utility services.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

32. Admit that the OCC does not have any evidence that anyone acting on behalf of the Easterlings exercised or tried to exercise any of the rights available to customers of DE-Ohio seeking to avoid disconnection of utility services at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

33. Admit that the OCC does not have any evidence that the Easterlings exercised or tried to exercise any of the rights available to consumers of DE-Ohio seeking to avoid disconnection of utility services.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

34. Admit that the OCC does not have any evidence that anyone acting on behalf of the Easterlings exercised or tried to exercise any of the rights available to consumers of DE-Ohio seeking to avoid disconnection of utility services at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

35. 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:

Objection. See General Objections Nos. 3, 7 and 10. Subject to, and without waiving these objections or any general objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

36. 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:

Objection. See General Objections No. 8. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as the plain language of Ohio Adm. Code 4901:1-18-05 places no requirements on customers.

37. 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:

Objection. See General Objections No. 8. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as the plain language of Ohio Adm. Code 4901:1-18-05(B)(3) contains no such requirement.

38. 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:

Objection. See General Objections No. 8. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as Duke is mischaracterizing or misinterpreting the plain language of Ohio Adm. Code 4901:1-18-05(B)(3).

39. 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:

Objection. See General Objections No. 8. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as some provisions of Ohio Adm. Code 4901:1-18-06 are not just specific to the "customer" but also relate to "consumers" at the premises.

40. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-06(B) in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

41. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-05 in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

42. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-09 in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

43. Admit that DE-Ohio did not violate R.C. 4933.121(A) in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

44. Admit that DE-Ohio did not violate R.C. 4933.121(C) in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

45. Admit that DE-Ohio did not violate R.C. 4933.122 in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

46. 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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

47. 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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

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

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

49. 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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

50. Admit that the OCC does not have any facts or evidence to support the Complaint against DE-Ohio in this case.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC believes the facts relating to the bills/disconnect notices and customer payments support the Complaint.

INTERROGATORIES

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

ANSWER:

Objection. Interrogatory No. 1 requests more information than what is mandated by Ohio Adm. Code 4901-1-19(A). Additionally, OCC objects to the extent that the Company is inquiring into analysis exempt from discovery under the trial preparation doctrine and/or the attorney-client privilege. Without waiving any specific or general objections, OCC responds as follows:

OCC Counsel provided the objections to each of the Interrogatories and Document Requests.

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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. OCC further objects because the interrogatory is vague, overly broad, and seeks information that is irrelevant to this proceeding and may not be in OCC's possession. See General Objections No. 1, 8, and 10.

3. Identify all persons whom the OCC expects to call as a fact witness in the hearing of this action.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it has not yet made a determination regarding who OCC may call as a fact witness.

4. Identify all persons whom the OCC expects to call as an expert witness in the hearing of this action.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it has not yet made a determination regarding who OCC may call as an expert witness.

5. Does the OCC claim that DE-Ohio unlawfully disconnected the electric service to the Account in November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it appears that Duke unlawfully disconnected electric service to the account in November 2011. OCC is still compiling information on the case.

6. Does the OCC claim that DE-Ohio unlawfully disconnected the gas service to the Account in November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it is unclear whether Duke unlawfully disconnected gas service to the account in November 2011. OCC is still compiling information on the case.

7. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated Ohio Adm. Code 4901:1-18-05 in connection with the Account in October or November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that based on the plain language of Ohio Adm. Code 4901:1-18-05(B)(3), Duke may have violated that rule. OCC is still compiling information on the case.

8. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated Ohio Adm. Code 4901:1-18-06 in connection with the Account in October or November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that based on the plain language of Ohio Adm. Code 4901:1-18-06, Duke may have violated that rule. OCC is still compiling information on the case

9. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated Ohio Adm. Code 4901:1-18-09 in connection with the Account in October or November 2011?

If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that based on the plain language of Ohio Adm. Code 4901:1-18-09, Duke may have violated that rule. OCC is still compiling information on the case

10. Does the OCC claim that DE-Ohio failed to offer an extended payment plan to the Easterlings or Estill II in October or November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that based on the plain language of Ohio Adm. Code 4901:1-18-05(B)(3) and Ohio Adm. Code 4901:1-18-09, Duke may have violated PUCO rules. OCC is still compiling information regarding this issue.

11. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated R.C. 4933.121(A)? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that the facts of the case are unclear as to whether disconnection properly occurred and/or was continued during the period stated in R.C. 4933.121(A). OCC is still compiling information regarding this issue.

12. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated R.C. 4933.121(C)? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it is unclear from the facts of the case whether Duke provided the customer with the information required under the statute. OCC is still compiling information regarding this issue.

13. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated R.C. 4933.122? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it is unclear from the facts of the case whether Duke provided the customer with the information required under the statute. OCC is still compiling information regarding this issue.

14. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated the 2011 Winter Reconnection Order with respect to the Account? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it appears that Duke did not follow all the PUCO’s directives in the 2011 Winter Reconnection Order.

15. Does the OCC claim that DE-Ohio failed to reconnect the electric service after November 4, 2011, in response to a request by Dorothy, Estill II or someone acting on their behalves? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that the facts of case are unclear as to whether Duke properly reconnected service in response to a request by or on behalf of the customer or consumer. OCC is still compiling information regarding this issue.

16. Identify every notice that, according to the OCC, DE-Ohio allegedly failed to provide before disconnecting the electric service to the Account on November 4, 2011.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it is unclear whether Duke provided the in-person notice on the day of disconnection required under the PUCO's rules. OCC is still compiling information regarding this issue.

17. Identify all communications that the OCC has had with Complainant and/or Complainant's 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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. OCC also objects to the extent that the request seeks information that is protected under OCC's Joint Defense Agreement with the Complainant.

18. If the OCC 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:

See OCC's objections and responses to each request for admission.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documents which the OCC intends to introduce at any hearing in this case.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC has not yet determined which documents it intends to introduce at the hearing.

2. All documents requested or identified in response to Interrogatory Nos. 5-17 to the OCC.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

3. All documents which the OCC or its attorneys have received from or provided to Complainant or his attorneys.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that in addition to documents provided to all parties through discovery or email correspondence, OCC provided the Complainant's attorneys with a Joint Defense Agreement. A copy of the Joint Defense Agreement is attached.

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

RESPONSE:

OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. OCC further objects as the request is vague, overly broad, and seeks documents regarding witnesses in this case who have not yet been identified. See General Objections No. 3, 9, and 10.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via email upon the counsel of record listed below on this 20th day of October 2015.

/s/ Terry L. Etter
Terry L Etter
Assistant Consumers' Counsel

Robert A. McMahon, Esq.
Eberly McMahon Copetas LLC
2321 Kemper Lane, Suite 100
Cincinnati, OH 45206
bcmahon@emclawyers.com

Amy B. Spiller
Elizabeth H. Watts
Duke Energy Ohio
139 E. Fourth Street, 1303-Main
P.O. Box 960
Cincinnati, Ohio 45201-0960
Amy.spiller@duke-energy.com
Elizabeth.watts@duke-energy.com

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

October 22, 2015

VIA EMAIL

Terry L. Etter, Esq.
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485

Kimberly W. Bojko, Esq.
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 N. High Street
Columbus, OH 43215

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

Dear Counsel:

Following up on Amy Spiller's conversation with Terry Etter yesterday, this letter addresses the deficient responses by the Office of the Ohio Consumers' Counsel (the "OCC") to the Requests for Admission, Interrogatories and Requests for Production of Documents propounded by Duke Energy Ohio, Inc. Please get back to us in writing by close of business on Monday, October 26, so that we file a motion in advance of the hearing scheduled for December 2-3.

Requests for Admission

The OCC has communicated with Complaints and/or their attorney on multiple occasions. The OCC also has participated in written discovery and the depositions of Gail Lykins, Jeff Pitzer and Jack Pitzer. Accordingly, it is completely unreasonable and inappropriate for the OCC to contend, at this stage of the proceedings, that "the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny" Requests for Admission. Yet that is how the OCC responded to Request Nos. 1-8, 12-13, 18-19, 24, 27, and 35. The OCC also claimed in response to those same requests that "the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession." That is not true, which the OCC surely knows since, among other reasons, the OCC, its attorneys, Complainant and his attorney have billing records, account notes and other customer-related documents in their possession.

The indefensibility of these responses is further evident in the fact that the OCC conveniently relied upon certain billing records – in its possession – for purposes of responding to certain requests (see, e.g., response to Request Nos. 29 and 30). Accordingly, Duke Energy Ohio requests that the OCC amend its responses to Request Nos. 1-8, 12-13, 18-19, 24, 27, and 35 and comply with OAC 4901-1-22.

Terry L. Etter, Esq.
Kimberly W. Bojko, Esq.
October 22, 2015
Page 2 of 4

The OCC also refused to respond to 25 separate requests under a misguided and inappropriate claim of attorney-client privilege. Duke Energy Ohio is entitled to inquire about evidence in the possession of and known to the OCC. That is a fundamental purpose of the discovery rules. Asking the OCC to admit that it does not possess evidence regarding a certain fact does not call for the disclosure of information protected by the attorney-client privilege or work product doctrine. Similarly, asking the OCC to admit that Duke Energy Ohio did not violate a particular regulation, statute or tariff does not seek information protected by the attorney-client privilege or work product doctrine. The OCC may not ambush Duke Energy Ohio at the scheduled hearing and, therefore, is required by OAC 4901-1-22 to admit or deny Request Nos. 9-11, 14-17, 20-23, 31-34, and 40-49 without reservation.

Interrogatories

Interrogatory No. 2: Duke Energy Ohio is entitled to use interrogatories to “elicit facts, data, or other information known or readily available to” the OCC. See, OAC 4901-1-19(B). That includes using interrogatories to ascertain the identity of people with knowledge of facts relevant to the proceedings. Asking a party to identify those people does not in any way invade confidential attorney-client communications, nor does it call for the disclosure of attorney work product. Also, to the extent the OCC believes (in error) that this interrogatory is “vague, overly broad, etc.,” it must provide relevant information that is not objectionable as surely the OCC is capable of identifying certain people in response to this interrogatory.

Interrogatory No. 5: the OCC cannot hide behind a baseless claim of privilege and have it both ways by stating that “Duke unlawfully disconnected electric service to the account in November 2011” without identifying any fact or document supporting that contention. Either the OCC has knowledge of relevant facts and documents or it does not. Duke Energy Ohio is entitled to the requested information without delay.

Interrogatory No. 6: it is absurd for the OCC to answer, at this stage of the proceedings, that “is still compiling information” and that “it is unclear whether Duke unlawfully disconnected gas service to the account in November 2011.” There is not a shred of evidence that the gas service was disconnected, which the Complainant, former Complainant, their attorney, and the OCC all know. The OCC should stop evading its obligations in discovery and answer this interrogatory truthfully as required by OAC 4901-1-19.

Interrogatory Nos. 7-9: the same goes for the OCC’s ridiculous responses to these discovery requests. The OCC may not state that “Duke *may* have violated” the referenced provisions of the Ohio Administrative Code without identifying the facts and documents in support of those contentions. Duke Energy Ohio is entitled to that information now, not later.

Terry L. Etter, Esq.
Kimberly W. Bojko, Esq.
October 22, 2015
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Interrogatory No. 10: again, the OCC may not state that “Duke *may* have violated PUCO rules” without identifying the facts and documents requested by this interrogatory.

Interrogatory No. 14: if the OCC believes that “Duke did not follow all of the PUCO’s directives in the 2011 Winter Reconnection Order,” now is the time for the OCC to identify the facts and documents supporting that believe. This has nothing to do with attorney-client privilege and attorney work product. Duke Energy Ohio is entitled to this information.

With regard to the above-cited interrogatories, Duke Energy Ohio further observes that the OCC, through the signature of its same counsel in this proceeding, has certified a complaint against the Company. The allegations in that case draw, in large part, upon this proceeding. It is troubling, given the expectations under Civ.R. 11, for the OCC to admit here that they do not have legitimate facts of wrongdoing or are otherwise still “investigating.”

Interrogatory No. 17: we note that the JDA was not signed until October 7, 2015. However, the OCC, as admitted by attorney Lane, has had communications with the Complainant and/or his counsel well before October 7. Yet the OCC is now hiding behind the JDA and neither identifying any communications nor disclosing those communications that clearly are not protected by that JDA.

Requests for Documents

Request No. 3: documents that pre-date the JDA are clearly discoverable and do not fall under any attorney-client privilege. If the OCC feels otherwise, it must provide a privilege log.

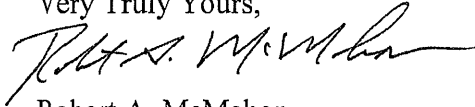
Request No. 4: recorded or written witness statements are not protected by the attorney-client privilege or attorney work product doctrine. In addition, there is nothing remotely “vague” or “overly broad” about a simple, straight-forward request for those documents. If the OCC possesses those documents, it must produce them immediately. If the OCC believes they are privileged, it must provide a privilege log so that we may inquire into the grounds for the asserted privilege.

This matter is set for hearing on December 2-3. Duke Energy Ohio prefers not to waste time and money on unnecessary motions to compel but will seek appropriate relief if the OCC fails to fully comply with the discovery rules. Given the time frame, we need the OCC’s written

Terry L. Etter, Esq.
Kimberly W. Bojko, Esq.
October 22, 2015
Page 4 of 4

response by close of business on Monday. If we cannot resolve these issues, we will seek relief from the Commission.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Robert A. McMahon", written in a cursive style.

Robert A. McMahon

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



Office of the Ohio Consumers' Counsel

October 26, 2015

Via email

Robert A. McMahon
Eberly McMahon Copetas LLC
2321 Kemper Lane, Suite 100
Cincinnati, OH 45206

Dear Mr. McMahon:

In response to your letter of last Thursday, we are reviewing your request. However, because we are involved in several major proceedings right now that limit the time available to us for review, we are unable to provide a thorough reply to your requests on such short notice. Your request for a two business day response for substantial review and revisions to numerous discovery requests is unreasonable and impractical, particularly given the major proceedings that OCC's counsel are currently involved in.

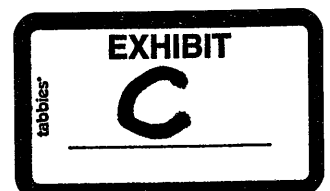
We should be able to respond fully by the end of the week. Allowing six business days to respond to the numerous disputed items is not an unreasonable request, given that the hearing in this proceeding is still six weeks away.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry L. Etter", with a horizontal line extending to the right.

Terry L. Etter
Assistant Consumers' Counsel

cc: Kim Bojko
Amy Spiller



October 29, 2015

VIA EMAIL

Terry L. Etter, Esq.
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485

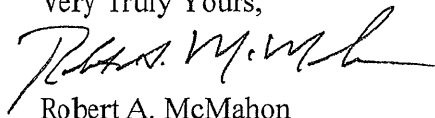
Kimberly W. Bojko, Esq.
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 N. High Street
Columbus, OH 43215

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

Dear Counsel:

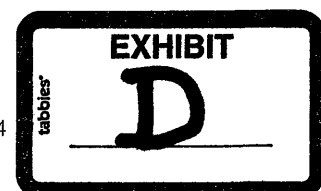
In response to Mr. Etter's correspondence of October 26, 2015, please accept the following. The Office of the Ohio Consumers' Counsel (the "OCC") claims that it needs additional time to review and revise discovery responses due to its involvement in other proceedings. Certainly, the OCC appreciated, when it intervened in this proceeding, that it was subject to the discovery process and Duke Energy Ohio should not now be prejudiced because of the OCC's management of its docket. Because the OCC does not need additional time to merely advise that it is standing on its objections, we anticipate substantive, proper responses by Friday, October 30.

Very Truly Yours,



Robert A. McMahon

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



Bob McMahon

From: Kimberly W. Bojko <bojko@CarpenterLipps.com>
Sent: Monday, November 02, 2015 5:18 PM
To: Bob McMahon
Cc: Spiller, Amy; 'Don Lane'; terry.etter@occ.ohio.gov
Subject: RE: Pitzer v. Duke Energy Ohio, Inc.: discovery
Attachments: OCC Supplemental Responses to Duke Discovery (15-298) (641825).DOCX

Mr. McMahon,

We are in receipt of your letters dated October 22, 2015 and October 29, 2015 where you discuss OCC's responses to discovery that Duke served on OCC.

In the spirit of resolving the discovery dispute without Commission intervention, OCC provides the attached supplemental responses.

Please note however that we do not agree with the allegations raised in your letters and believe that you are misinterpreting the Commission's discovery rules, precedent, and past practice of the Commission. We would also note that Duke criticizes OCC for providing responses that are not unlike the responses Duke itself has provided to parties in this case. We further disagree with your demand that OCC must respond in an abbreviated time period to your request.

Please let us know if you have any further questions. Thank you.

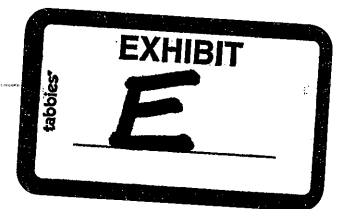
Kim

Kimberly W. Bojko
CARPENTER LIPPS & LELAND LLP
280 Plaza, Suite 1300
280 N. High Street
Columbus, OH 43215
(614) 365-4124
bojko@carpenterlipps.com

CONFIDENTIALITY NOTICE

The sender intends this message to be used exclusively by the addressee. This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. Unauthorized disclosure or use of this information is strictly prohibited. If you received this communication in error please dispose of the message and reply to or contact Kim Bojko at (614) 365-4124.

From: Bob McMahon [mailto:BMcMahon@emclawyers.com]
Sent: Thursday, October 29, 2015 1:17 PM
To: terry.etter@occ.ohio.gov; Kimberly W. Bojko
Cc: Spiller, Amy
Subject: Pitzer v. Duke Energy Ohio, Inc.: discovery
Importance: High



Counsel, please see the attached letter.

Regards,

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)
bcmcmahon@emclawyers.com

If this email is spam, report it to www.OnlyMyEmail.com

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Jeffrey Pitzer, 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.)	

**SUPPLEMENTAL RESPONSES AND OBJECTIONS
TO DUKE ENERGY OHIO, INC.'S REQUESTS FOR ADMISSION,
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS,
FIRST SET
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
November 2, 2015**

The Office of the Ohio Consumers' Counsel ("OCC"), by and through its counsel, hereby submits its Supplemental Responses and Objections to the Requests for Admission, Interrogatories and Requests for Production of Documents submitted to OCC by Duke Energy Ohio, Inc. ("Duke" or the "Company") in the above-captioned case. OCC's responses to these discovery requests are being provided subject to, and without waiver of, the general objections and specific objections stated in its initial responses to this discovery (repeated below). The general objections are hereby incorporated by reference into the individual response made to each discovery request. OCC's responses to these discovery requests are submitted without prejudice to, and without waiving any general objections not expressly set forth therein.

The provisions of any response below shall not waive OCC's objections. The responses below, while based on diligent investigation and reasonable inquiry by OCC and its counsel, reflect only the current state of OCC's knowledge and understanding and belief with respect to the matters about which the discovery requests seek information, based upon the information and discovery to date. OCC's investigation is not yet complete and is continuing as of the date of the responses below. OCC anticipates the possibility that it may discover additional information and/or documents, and without obligating itself to do so, OCC reserves the right to continue its investigation and to modify or supplement the responses below, as required by the Ohio Administrative Code, with such pertinent information or documents as it may reasonably discover. The responses below are made without prejudice to OCC's right to rely upon or use subsequently discovered information or documents, or documents or information inadvertently omitted from the responses below as a result of mistake, error, or oversight. OCC reserves the right to object on appropriate grounds to the use of such information and/or documents. The fact that OCC, in the spirit of cooperation, has elected to provide relevant information below in response to the Company's discovery requests shall not constitute or be deemed a waiver of OCC's objections. OCC hereby fully preserves all of its objections to the discovery request or the use of its responses for any purpose.

Furthermore, OCC's provision of responses to these discovery requests shall not be construed as a waiver of the attorney-client privilege, the trial preparation doctrine, or any other applicable privilege or doctrine. OCC reserves its right to file a motion for protective order under Ohio Adm. Code 4901-1-24 in order to protect OCC from

annoyance, embarrassment, oppression or undue burden or expense or for any other reason.

GENERAL OBJECTIONS

1. OCC objects to any discovery requests as improper, overbroad, and unduly burdensome to the extent that they purport to impose upon OCC any obligations broader than those set forth in the rules of the Public Utilities Commission of Ohio (“PUCO”) or otherwise permitted by law. In part, the rules of discovery require that matters inquired into must be relevant to the subject matter of the proceeding, and must appear to be “reasonably calculated to lead to the discovery of admissible evidence.” Ohio Adm. Code 4901-1-16(B).
2. OCC objects to these discovery requests and to the Company’s Definitions and Instructions as improper, overbroad, and unduly burdensome to the extent that they improperly seek or purport to require the disclosure of information protected by the attorney-client privilege, trial preparation doctrine or any other applicable privilege or doctrine. Such responses as may hereafter be given shall not include any information protected by such privileges or doctrines, and the inadvertent disclosure of such information shall not be deemed as a waiver of any such privilege or doctrine.
3. OCC objects to these discovery requests and to the Company’s Definitions and Instructions to the extent that they improperly seek or purport to require OCC to provide documents and information not in OCC’s possession, custody or control.

4. The objections and responses contained herein and documents produced in response hereto are not intended nor should they be construed to waive OCC's right to object to these requests, responses or documents produced in response hereto, or the subject matter of such requests, responses, or documents, as to their competency, relevancy, materiality, privilege and admissibility as evidence for any purpose, in or at any hearing of this or any other proceeding.
5. OCC objects to these discovery requests to the extent they improperly seek or purport to require the production of documents or information which is not relevant to the subject matter of the proceeding nor reasonably calculated to lead to the discovery of admissible evidence.
6. OCC objects to these discovery requests and to the Company's Definitions and Instructions to the extent they improperly seek or purport to require production of documents in a form other than how the documents are maintained in the regular course of business.
7. OCC objects to these discovery requests insofar as they request the production of documents or information that are publicly available or already in the Company's possession, custody, or control.
8. OCC objects to each and every discovery request that seeks to obtain "all," "each" or "any" document to the extent that such requests are overly broad and unduly burdensome and seek information that is not relevant to the subject matter of this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

9. OCC objects to these discovery requests to the extent that such requests are not limited to any stated time period or identify a stated period of time that is longer than is relevant for purposes of this proceeding, as such discovery is unduly broad and overly burdensome.
10. OCC objects to these discovery requests to the extent they are vague, ambiguous, use terms that are subject to multiple interpretations but are not properly defined for purposes of these discovery requests, or otherwise provide no basis from which OCC can determine what information is sought.
11. The objections and responses contained herein are not intended nor should they be construed to waive OCC's rights to object to other discovery involving or relating to the subject matter of these requests, responses or documents produced in response hereto.

REQUESTS FOR ADMISSION

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, OCC states that this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and the request is vague as to the term "customer of record." Nonetheless, OCC denies that Mr. Easterling II was DE-Ohio's customer during 2011.

2. 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:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within DE-Ohio's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies that Mr. Easterling II was DE-Ohio's customer during 2011.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies that Ms. Easterling was not, at any time, a customer of DE-Ohio.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies that Ms. Easterling was not, at any time, a customer of DE-Ohio.

5. 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:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies that Ms. Easterling was not a customer of DE-Ohio during 2011.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

8. 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:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within DE-Ohio's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

9. Admit that the OCC does not have any evidence that DE-Ohio failed to provide written notice to the attention of Estill II during October 2011 that the Account was subject to disconnection for nonpayment.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. OCC also states that the RFA unreasonably assumes that Duke is only required to provide the notice stated therein and that the RFA assumes that Duke's notice was proper. Nonetheless, OCC has not identified any additional evidence at this time.

10. Admit that the OCC does not have any evidence that DE-Ohio failed to provide written notice to the Easterlings during October 2011 that the Account was subject to disconnection for nonpayment.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. OCC also states that the RFA unreasonably assumes that Duke is only required to provide written notice and that the RFA assumes that Duke's notice was proper. Nonetheless, OCC has not identified any additional evidence at this time.

11. Admit that the OCC does not have any evidence that DE-Ohio failed to provide written notice to the Property during October 2011 that the Account was subject to disconnection for nonpayment.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., OCC states that this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. The RFA unreasonably assumes that Duke is only required to provide written notice and that the RFA assumes that Duke's notice was proper. Nonetheless, OCC has not identified any additional evidence at this time.

12. Admit that the Account was in arrears at the time of disconnection of the electric service.

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC at this time is insufficient to enable OCC to admit or deny this request.

14. Admit that the OCC does not have any evidence that Dorothy contacted DE-Ohio from October 1, 2011, through and including November 4, 2011, about the Account or to ask for a payment plan on the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC has not identified any evidence at this time.

15. Admit that the OCC does not have any evidence that Estill III contacted DE-Ohio from October 1, 2011, through and including November 4, 2011, about the Account or to ask for a payment plan on the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC has not identified any evidence at this time.

16. Admit that the OCC does not have any evidence that anyone acting on behalf of the Easterlings contacted DE-Ohio from October 1, 2011, through and including November 4, 2011, about the Account or to ask for a payment plan on the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC denies the statement. See Deposition transcript of Gail Lykins.

17. Admit that the OCC does not have any evidence that anyone acting on behalf of the customer of record contacted DE-Ohio from October 1, 2011, through and including November 4, 2011, about the Account or to ask for a payment plan on the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC denies the statement. See Deposition transcript of Gail Lykins.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing, and, given that there is conflicting information in the case, the information known to or readily obtainable by OCC at this time is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing, and, given that there is conflicting information in the case, the information known to or readily obtainable by OCC at this time is insufficient to enable OCC to admit or deny this request.

20. Admit that the OCC does not have any evidence that Dorothy contacted DE-Ohio from November 4, 2011, through and including November 20, 2011, about the Account or to have the electric service restored at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC has not identified any evidence at this time.

21. Admit that the OCC does not have any evidence that Estill III contacted DE-Ohio from November 4, 2011, through and including November 20, 2011, about the Account or to have the electric service restored at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC has not identified any evidence at this time.

22. Admit that the OCC does not have any evidence that anyone contacted DE-Ohio on behalf of the Easterlings from November 4, 2011, through and including November 20, 2011, about the Account or to have the electric service restored at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC denies the statement. See Deposition transcripts of Gail Lykins and/or Jeffrey Pitzer.

23. Admit that the OCC does not have any evidence that anyone contacted DE-Ohio on behalf of the customer of record from November 4, 2011, through and including November 20, 2011, about the Account or to have the electric service restored at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC denies the statement. See Deposition transcripts of Gail Lykins and/or Jeffrey Pitzer.

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

RESPONSE:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies that DE-Ohio did not improperly disconnect the electric service.

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

RESPONSE:

Objection. This request is overly broad. The assertion does not take into consideration the limitations on Duke's authority to disconnect residential customers' electric service for nonpayment that are found in the PUCO's disconnection rules and in the PUCO's Winter Reconnect Order. Hence, OCC denies the statement.

26. 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:

Objection. See General Objections No. 1. OCC also objects because of relevance as Ohio Adm. Code 4901:1-18-06(B) makes no reference to when usage occurred. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement because the last bill Duke rendered to the customer before disconnecting service at the property contains usage during the Winter Heating Season.

27. 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:

Objection. See General Objections Nos. 3 and 7. As a practical matter, the truth or falsity of the matter asked to be admitted can only be determined from documents or other materials solely or exclusively within Duke's possession. Subject to, and without waiving such objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Therefore, after reasonable inquiry, the information known to or readily obtainable by OCC at this time is insufficient to enable OCC to admit or deny this request.

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

RESPONSE:

Although the bill/disconnect notice prepared by Duke on November 2, 2011 (attached to the Complaint) shows past due charges, it is unknown whether payment was made on the account between November 2, 2011 and November 4, 2011. Hence OCC can neither admit nor deny this statement.

29. 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:

Objection. See General Objections No. 1. OCC also objects because of relevance as Ohio Adm. Code 4901:1-18-06(B) makes no reference to when usage occurred. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as the last bill Duke rendered to the customer before disconnecting service at the property (the bill prepared on November 2, 2011, attached to the Complaint) contains usage during the Winter Heating Season.

30. 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:

Objection. See General Objections No. 1. OCC also objects because of relevance as Ohio Adm. Code 4901:1-18-06(B) makes no reference to when usage occurred. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as the bill prepared on November 2, 2011 (attached to the Complaint) contains usage during the Winter Heating Season.

31. Admit that the OCC does not have any evidence that the Easterlings exercised or tried to exercise any of the rights available to customers of DE-Ohio seeking to avoid disconnection of utility services.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing, and, after reasonable inquiry, the information known to or readily obtainable by OCC at this time is insufficient to enable OCC to admit or deny this request.

32. Admit that the OCC does not have any evidence that anyone acting on behalf of the Easterlings exercised or tried to exercise any of the rights available to customers of DE-Ohio seeking to avoid disconnection of utility services at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC denies the statement. See Deposition transcripts of Gail Lykins.

33. Admit that the OCC does not have any evidence that the Easterlings exercised or tried to exercise any of the rights available to consumers of DE-Ohio seeking to avoid disconnection of utility services.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. It is unclear which rights are referenced in the RFA. Nonetheless, OCC has not identified any evidence at this time.

34. Admit that the OCC does not have any evidence that anyone acting on behalf of the Easterlings exercised or tried to exercise any of the rights available to consumers of DE-Ohio seeking to avoid disconnection of utility services at the Property.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing and Duke has failed to respond to discovery and produce requisite documents as requested. Nonetheless, OCC denies the statement. See Deposition transcripts of Gail Lykins.

35. 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:

Objection. See General Objections Nos. 3, 7 and 10. Subject to, and without waiving these objections or any general objections, OCC responds as follows: After reasonable inquiry, the information known to or readily obtainable by OCC is insufficient to enable OCC to admit or deny this request.

SUPPLEMENTAL RESPONSE:

See original General Objections. Duke seeks the disclosure of information that is publicly available or already in the Company's possession, custody, or control. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC denies this statement as it sets forth incorrect assumptions, requirements, and interpretations of the Commission's rules and orders.

36. 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:

Objection. See General Objections No. 8. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as the plain language of Ohio Adm. Code 4901:1-18-05 places no requirements on customers.

37. 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:

Objection. See General Objections No. 8. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as the plain language of Ohio Adm. Code 4901:1-18-05(B)(3) contains no such requirement.

38. 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:

Objection. See General Objections No. 8. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as Duke is mischaracterizing or misinterpreting the plain language of Ohio Adm. Code 4901:1-18-05(B)(3).

39. 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:

Objection. See General Objections No. 8. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC denies the statement as some provisions of Ohio Adm. Code 4901:1-18-06 are not just specific to the "customer" but also relate to "consumers" at the premises.

40. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-06(B) in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies this statement as it sets forth incorrect assumptions and interpretations of the applicability of this rule.

41. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-05 in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies this statement as it sets forth incorrect assumptions and interpretations of the applicability of this rule.

42. Admit that DE-Ohio did not violate O.A.C. 4901:1-18-09 in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies this statement as DE-Ohio failed to satisfy the requirements of the rule.

43. Admit that DE-Ohio did not violate R.C. 4933.121(A) in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies this statement as DE-Ohio did not provide service from November 15, 2011 through November 20, 2011.

44. Admit that DE-Ohio did not violate R.C. 4933.121(C) in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See supplemental response to RFA Nos. 43 above.

45. Admit that DE-Ohio did not violate R.C. 4933.122 in connection with the Account.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See supplemental responses to RFA Nos. 43 and 44 above.

46. 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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies this statement as DE-Ohio failed to satisfy or comply with all rules, regulations, and orders adopted by the Commission.

47. 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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C this is a genuine issue for the hearing. Nonetheless, OCC denies this statement as DE-Ohio failed to satisfy or comply with all rules, regulations, and orders adopted by the Commission.

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

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies this statement as DE-Ohio failed to satisfy or comply with all rules, regulations, and orders adopted by the Commission.

49. 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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

SUPPLEMENTAL RESPONSE:

See original General Objections. Additionally, this request runs afoul of Rule 4901-1-22(A), O.A.C., to the extent it seeks information that is otherwise outside the scope of Rule 4901-1-16, O.A.C. Subject to, and without waiving all objections, OCC further responds as follows: Under Rule 4901-1-22(B), O.A.C., this is a genuine issue for the hearing. Nonetheless, OCC denies this statement as DE-Ohio failed to satisfy or comply with all rules, regulations, and orders adopted by the Commission.

50. Admit that the OCC does not have any facts or evidence to support the Complaint against DE-Ohio in this case.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Subject to, and without waiving this objection or any general objections, OCC responds as follows: OCC believes the facts relating to the bills/disconnect notices and customer payments support the Complaint.

INTERROGATORIES

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

ANSWER:

Objection. Interrogatory No. 1 requests more information than what is mandated by Ohio Adm. Code 4901-1-19(A). Additionally, OCC objects to the extent that the Company is inquiring into analysis exempt from discovery under the trial preparation doctrine and/or the attorney-client privilege. Without waiving any specific or general objections, OCC responds as follows:

OCC Counsel provided the objections to each of the Interrogatories and Document Requests.

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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. OCC further objects because the interrogatory is vague, overly broad, and seeks information that is irrelevant to this proceeding and may not be in OCC's possession. See General Objections No. 1, 8, and 10.

SUPPLEMENTAL RESPONSE:

Without waiving the above objections or any general objections, to the extent Duke is inquiring into potential witnesses of OCC, see response to Interrogatory No. 3.

3. Identify all persons whom the OCC expects to call as a fact witness in the hearing of this action.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it has not yet made a determination regarding who OCC may call as a fact witness.

4. Identify all persons whom the OCC expects to call as an expert witness in the hearing of this action.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it has not yet made a determination regarding who OCC may call as an expert witness.

5. Does the OCC claim that DE-Ohio unlawfully disconnected the electric service to the Account in November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it appears that Duke unlawfully disconnected electric service to the account in November 2011. OCC is still compiling information on the case.

SUPPLEMENTAL RESPONSE:

Subject to, and without waiving any objections, please see Supplemental Responses provided herein.

6. Does the OCC claim that DE-Ohio unlawfully disconnected the gas service to the Account in November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it is unclear whether Duke unlawfully disconnected gas service to the account in November 2011. OCC is still compiling information on the case.

SUPPLEMENTAL RESPONSE:

See original General Objections. Subject to, and without waiving any objections, Duke seeks the disclosure of information that is publicly available or already in the Company’s possession, custody, or control. OCC states that there has been conflicting documentation filed in the docket. Therefore, the information known to or readily available to OCC at this time is insufficient to enable OCC to respond further.

7. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated Ohio Adm. Code 4901:1-18-05 in connection with the Account in October or November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that based on the plain language of Ohio Adm. Code 4901:1-18-05(B)(3), Duke may have violated that rule. OCC is still compiling information on the case.

SUPPLEMENTAL RESPONSE:

See original General Objections. Subject to, and without waiving any objections, please see Supplemental Responses provided herein. OCC also notes that Duke’s request sets forth incorrect assumptions, requirements, and interpretations of the Commission’s rules and orders.

8. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated Ohio Adm. Code 4901:1-18-06 in connection with the Account in October or November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that based on the plain language of Ohio Adm. Code 4901:1-18-06, Duke may have violated that rule. OCC is still compiling information on the case

SUPPLEMENTAL RESPONSE:

See original General Objections. Subject to, and without waiving any objections, please see Supplemental Responses provided herein. OCC also notes that Duke’s request sets forth incorrect assumptions, requirements, and interpretations of the Commission’s rules and orders.

9. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated Ohio Adm. Code 4901:1-18-09 in connection with the Account in October or November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that based on the plain language of Ohio Adm. Code 4901:1-18-09, Duke may have violated that rule. OCC is still compiling information on the case

SUPPLEMENTAL RESPONSE:

Subject to, and without waiving any objections, please see Supplemental Responses provided herein.

10. Does the OCC claim that DE-Ohio failed to offer an extended payment plan to the Easterlings or Estill II in October or November 2011? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that based on the plain language of Ohio Adm. Code 4901:1-18-05(B)(3) and Ohio Adm. Code 4901:1-18-09, Duke may have violated PUCO rules. OCC is still compiling information regarding this issue.

SUPPLEMENTAL RESPONSE:

Subject to, and without waiving any objections, please see Supplemental Responses provided herein.

11. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated R.C. 4933.121(A)? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that the facts of the case are unclear as to whether disconnection properly occurred and/or was continued during the period stated in R.C. 4933.121(A). OCC is still compiling information regarding this issue.

SUPPLEMENTAL RESPONSE:

Subject to, and without waiving any objections, please see Supplemental Responses provided herein.

12. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated R.C. 4933.121(C)? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it is unclear from the facts of the case whether Duke provided the customer with the information required under the statute. OCC is still compiling information regarding this issue.

SUPPLEMENTAL RESPONSE:

Subject to, and without waiving any objections, please see Supplemental Responses provided herein.

13. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated R.C. 4933.122? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it is unclear from the facts of the case whether Duke provided the customer with the information required under the statute. OCC is still compiling information regarding this issue.

SUPPLEMENTAL RESPONSE:

Subject to, and without waiving any objections, please see Supplemental Responses provided herein.

14. Does the OCC claim that DE-Ohio failed to comply with or otherwise violated the 2011 Winter Reconnection Order with respect to the Account? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it appears that Duke did not follow all the PUCO’s directives in the 2011 Winter Reconnection Order.

SUPPLEMENTAL RESPONSE:

See original General Objections. Duke seeks the disclosure of information that is publicly available or already in the Company’s possession, custody, or control. Subject to, and without waiving any objections, please see Supplemental Responses provided herein.

15. Does the OCC claim that DE-Ohio failed to reconnect the electric service after November 4, 2011, in response to a request by Dorothy, Estill II or someone acting on their behalves? If Your answer is anything but an unqualified “No,” identify every fact and document that support this claim, as well as each person with relevant knowledge or information.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that the facts of case are unclear as to whether Duke properly reconnected service in response to a request by or on behalf of the customer or consumer. OCC is still compiling information regarding this issue.

16. Identify every notice that, according to the OCC, DE-Ohio allegedly failed to provide before disconnecting the electric service to the Account on November 4, 2011.

ANSWER:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that it is unclear whether Duke provided the in-person notice on the day of disconnection required under the PUCO's rules. OCC is still compiling information regarding this issue.

17. Identify all communications that the OCC has had with Complainant and/or Complainant's 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:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. OCC also objects to the extent that the request seeks information that is protected under OCC's Joint Defense Agreement with the Complainant.

SUPPLEMENTAL RESPONSE:

See original General Objections. This interrogatory is overly broad and unduly burdensome and inquires into matters that are not relevant to the subject matter of the proceeding and are not "reasonably calculated to lead to discovery of admissible evidence." Rule 4901-1-16(B), O.A.C. The request also improperly seeks or purports to require OCC to provide or create documents and information not in OCC's possession. Subject to, and without waiving any objections, any relevant documents requested include information reflecting the parties to the joint defense agreement's legal strategies in this case, and, therefore, are not subject to disclosure. See *In the Matter of Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting*

Modifications, and Tariffs for Generation Service, Case No. 14-841-EL-SSO, et al., Entry at 3 (October 20, 2014). A privilege log does not exist.

18. If the OCC 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:

See OCC's objections and responses to each request for admission.

SUPPLEMENTAL RESPONSE:

See original General Objections. Subject to, and without waiving any objections, please see Supplemental Responses provided herein.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documents which the OCC intends to introduce at any hearing in this case.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC has not yet determined which documents it intends to introduce at the hearing.

2. All documents requested or identified in response to Interrogatory Nos. 5-17 to the OCC.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2.

3. All documents which the OCC or its attorneys have received from or provided to Complainant or his attorneys.

RESPONSE:

Objection. OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. Without waiving this objection or any general objection, OCC states that in addition to documents provided to all parties through discovery or email correspondence, OCC provided the Complainant's attorneys with a Joint Defense Agreement. A copy of the Joint Defense Agreement is attached.

SUPPLEMENTAL RESPONSE:

See original General Objections. This request is vague and inquires into matters that are not relevant to the subject matter of the proceeding and are not "reasonably calculated to lead to discovery of admissible evidence." Rule 4901-1-16(B), O.A.C. The request also improperly seeks or purports to require OCC to provide documents and information not in OCC's possession or are already in the Company's possession, custody, or control. See General Objection No. 7. Subject to, and without waiving any objections, any relevant documents requested include information reflecting the parties to the joint defense agreement's legal strategies in this case, and, therefore, are not subject to disclosure. See *In the Matter of Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service*, Case No. 14-841-EL-SSO, et al., Entry at 3 (October 20, 2014).

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

RESPONSE:

OCC objects to the extent that the request seeks information that is privileged by statute or common law, including privileged communications between attorney and client or attorney work product. Ohio Adm. Code 4901-1-16(B). See General Objections No. 2. OCC further objects as the request is vague, overly broad, and seeks documents regarding witnesses in this case who have not yet been identified. See General Objections No. 3, 9, and 10.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing supplemental responses was served via email upon the counsel of record listed below on this 2nd day of November 2015.

/s/Kimberly W. Bojko

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Case No(s). 15-0298-GE-CSS

Summary: Motion Duke Energy Ohio, Inc.'s Motion to Compel Discovery Responses by the Office of the Ohio Consumers' Counsel and Request for Expedited Ruling; Affidavit of Robert A. McMahon Attached electronically filed by Mr. Robert A. McMahon on behalf of Duke Energy Ohio, Inc.