

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.)	

**RESPONDENT DUKE ENERGY OHIO, INC.'S
ANSWER TO JEFFREY PITZER'S AMENDED COMPLAINT**

For its Answer to the Amended Complaint of Jeffrey Pitzer (Complainant), Respondent Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) states as follows:

1. Duke Energy Ohio admits the allegations of paragraph 1 of the Amended Complaint.
2. Duke Energy Ohio denies that Dorothy Easterling ever was the Company's customer on any gas and electric account at the property located at 11312 Orchard Street, Cincinnati, Ohio 45241 (Property), including but not limited to, the account in the name of Estill Easterling and assigned Account #0120-0420-20-5 (Account). Duke Energy Ohio further denies that the Company ever had a contract of any kind with Dorothy Easterling. Duke Energy Ohio lacks sufficient information to form a belief as to the truth of the remaining allegations of paragraph 2 of the Amended Complaint and, therefore, denies such allegations.

3. Duke Energy Ohio lacks sufficient information to form a belief as to the truth of the allegations of paragraph 3 of the Amended Complaint and, therefore, denies such allegations.
4. Duke Energy Ohio lacks sufficient information to form a belief as to the truth of the allegations of paragraph 4 of the Amended Complaint and, therefore, denies such allegations.
5. Duke Energy Ohio admits that the Company properly disconnected the electric service at the Property on November 4, 2011, after timely providing all required notices. Duke Energy Ohio denies the remaining allegations of paragraph 5 of the Amended Complaint.
6. Duke Energy Ohio admits that, on September 14, 2011, the Commission entered a Finding and Order for the 2011-2012 winter heating season in *In the Matter of the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for 2011-2012 Winter Heating Season*, Case No. 11-4913-GE-UNC (2011 Winter Reconnect Order). Duke Energy Ohio further admits that the 2011 Winter Reconnect Order applied to the Company. Duke Energy Ohio denies the remaining allegations of paragraph 6 of the Amended Complaint.
7. Duke Energy Ohio admits that the Company properly disconnected the electric service at the Property on November 4, 2011, after timely providing all required notices. Duke Energy Ohio denies the remaining allegations of paragraph 7 of the Amended Complaint.
8. Duke Energy Ohio denies the allegations of paragraph 8 of the Amended Complaint.
9. Duke Energy Ohio lacks sufficient information to form a belief as to the truth of the allegations of paragraph 9 of the Amended Complaint and, therefore, denies such allegations.

10. Duke Energy Ohio denies all allegations of the Amended Complaint not expressly admitted herein.

AFFIRMATIVE DEFENSES

11. The Amended Complaint fails to state a claim against Duke Energy Ohio upon which relief may be granted.

12. The Amended Complaint does not assert any allegations of fact that would give rise to a cognizable claim against Duke Energy Ohio.

13. Duke Energy Ohio asserts as an affirmative defense that pursuant to R.C. 4905.26 and O.A.C. 4901-9-01-(C)(3), Complainant has failed to set forth reasonable grounds for complaint.

14. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company has provided reasonable and adequate service and billed its customer Estill Easterling according to all applicable provisions of Title 49 of the Ohio Revised Code and regulations promulgated thereunder, and in accordance with all of Duke Energy Ohio's filed tariffs.

15. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company acted in conformance with O.A.C. 4901:1-10-22-23 and R.C. 4933.28 with respect to the Company's billings to Complainant.

16. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company acted in conformance with O.A.C. 4901:1-10 and 4901:1-18 with respect to the disconnection of the electric service at the Property for non-payment.

17. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company acted in conformance with its filed tariffs with respect to the disconnection of the electric service at the Property for non-payment.
18. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company timely provided written notice to its customer Estill Easterling and any consumers living at the Property that the electric services at the Property were subject to disconnection for non-payment, as follows:
- a. Duke Energy Ohio included the 14-day disconnection notice on the front page of the bill prepared by the Company on October 4, 2011, and also enclosed a bill insert disconnection notice with that bill;
 - b. Duke Energy Ohio mailed the final 10-day disconnection notice to Estill Easterling on October 19, 2011; and
 - c. Duke Energy Ohio posted a written notice to the Property on November 4, 2011, when the electric service was disconnected.
19. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company disconnected the electric service at the Property after allowing for the running of the 10-day notice period and additional 3-day mailing period set forth in O.A.C. 4901:1-18-06(B)(3).
20. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, Estill Easterling failed to pay the minimum required prior to October 28, 2011, to avoid disconnection of the electric service at the Property despite the Company's written notice that the service was subject to disconnection for non-payment.

21. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, the Company fully complied with the 2011 Winter Reconnect Order with respect to the subject Account.
22. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, neither Estill Easterling, the Company's customer, nor anyone acting on his behalf or on behalf of any consumers living at the Property contacted the Company in response to any of the disconnection notices provided by Duke Energy Ohio and either requested a payment plan or exercised any rights under O.A.C. 4901:1-18-06(B)(3) or the 2011 Winter Reconnect Order with respect to the unpaid charges on the subject Account.
23. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, neither Estill Easterling, the Company's customer, nor anyone acting on his behalf or on behalf of any consumers living at the Property contacted the Company at any time after Duke Energy Ohio disconnected the electric service at the Property on November 4, 2011, even though the Company posted a written notice of the disconnection at the Property.
24. Duke Energy Ohio asserts as an affirmative defense that Complainant lacks standing to assert any claims against the Company on behalf of Dorothy Easterling and Estill Easterling III, neither of whom was Duke Energy Ohio's customer of record on the Account or any other account at the Property.
25. Duke Energy Ohio asserts as an affirmative defense that Complainant failed to file his claims against Duke Energy Ohio within the applicable 2-year statute of limitations governing wrongful death claims under Ohio law. See, R.C. 2125.01, *et seq.*

26. Duke Energy Ohio asserts as an affirmative defense that Complainant was not authorized by the Hamilton County, Ohio Probate Court to assert the claims at issue in these proceedings against Duke Energy Ohio, either on behalf of Dorothy Easterling or Estill Easterling III.
27. Duke Energy Ohio asserts as an affirmative defense that Complainant has not stated any request for relief, including relief which may be granted by this Commission.
28. Duke Energy Ohio reserves the right to raise additional affirmative defenses or to withdraw any of the foregoing affirmative defenses as may become necessary during the investigation and discovery of this matter.

CONCLUSION

WHEREFORE, having fully answered, Duke Energy Ohio, Inc., respectfully moves this Commission to dismiss Jeffrey Pitzer's Amended Complaint for failure to set forth reasonable grounds for complaint and to deny Complainant's Request for Relief, if any.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via email on this 20TH day of November, 2015, upon the following counsel of record:

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Summary: Answer Respondent Duke Energy Ohio, Inc.'s Answer to Jeffrey Pitzer's Amended Complaint electronically filed by Mr. Robert A. McMahon on behalf of Duke Energy Ohio, Inc.