

**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 MEMORANDUM IN OPPOSITION TO
COMPLAINANT JEFFREY PITZER’S FOURTH MOTION TO COMPEL**

I. Introduction

Complainant Jeffrey Pitzer previously filed three separate motions to compel with the Public Utilities Commission of Ohio (Commission). The Attorney Examiner denied the vast majority of the motions to compel¹ and, in certain circumstances, Duke Energy Ohio agreed to and did produce information and documents only after Complainant agreed to narrow or modify his previously objectionable discovery requests. Complainant now brings a fourth motion to compel before the Commission in an effort to disparage Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) on the eve of the hearing. As with the prior motions, Complainant falsely accuses Duke Energy Ohio of failing to comply with discovery requests when the record shows otherwise. Complainant also grossly distorts and mischaracterizes the discovery requests at issue in this case in an attempt to portray the Company as recalcitrant because he has no evidence whatsoever to support his case before the Commission. As the record before the Commission

¹ In fact, Duke Energy Ohio is not aware of any portion of a motion to compel filed by Complainant that was actually *granted* by the Attorney Examiner.

shows, Complainant is, once again, wasting valuable time and resources with a frivolous and baseless motion. As discussed herein, the Commission should deny Complainant's fourth motion to compel.

II. Complainant's Written Discovery Requests

The only discovery requests relevant to this case are the Interrogatories and Requests for Documents served by Complainant, along with the Amended Notice of Corporate Designee Deposition. The subpoena served by Complainant's wife, Gail Lykins, in a separate lawsuit before the Hamilton County Court of Common Pleas is not remotely relevant to this case, nor is it appropriate for Complainant to attach the subpoena to his motion. Until Complainant filed the present motion, the Company was not aware that, "[s]ince October, 2013" Duke Energy Ohio has been "embroiled in discovery disputes"² with members of the Easterling family. In fact, Duke Energy Ohio fully and timely responded to the narrow scope of the requested documents in that pre-suit subpoena two years ago.³ To the extent the named plaintiff in that case now takes issue with the Company's response to that subpoena, the Commission is not the proper forum to address those issues.

It is not remotely clear what *specific* discovery requests served by Complainant in this case are at issue in the fourth motion to compel. At one point, Complainant directs the Attorney Examiner's attention to certain requests contained within Complainant's First Set of Interrogatories and Requests for Production of Documents to Duke Energy Ohio. However, at no point in his motion does Complainant actually move to compel Duke Energy Ohio's response to *any* of those discovery requests, nor does Complainant explain how the Company's timely written objections and responses to those specific discovery requests were in any way improper

² See, Complainant's motion at 2.

³ As set forth in the subpoena, the named plaintiff in that case (Complainant's wife) sought specific documents "from August 2011 through December 2011."

or incomplete. In fact, Complainant does not bother to attach Duke Energy Ohio's written objections and responses to those discovery requests to his motion.

Moreover, notably absent from Complainant's motion is any evidence that Complainant identified or tried to resolve a discovery dispute with Duke Energy Ohio in connection with Complainant's First Set of Interrogatories and Requests for Production of Documents, as required by O.A.C. 4901-1-23(C). Again, it was not until Duke Energy Ohio received the present motion that the Company first became aware that Complainant thought such a dispute even existed.

Having failed to comply with O.A.C. 4901-1-23(C), Complainant now prefers to deal in generalities, claiming that a "fair reading of this discovery reveals that it does require the production of all documentation relating to the Account."⁴ First, that is not remotely accurate. Attached hereto as Exhibit A is a copy of Duke Energy Ohio's written objections and responses to Complainant's First Set of Interrogatories and Requests for Production of Documents. The Attorney Examiner can see how the Company properly objected and responded to Complainant's various discovery requests. Second, Complainant disregards a fundamental and salient fact: this case involves *only* the disconnection of electric service to the Account on November 4, 2011, for non-payment. Therefore, that is precisely why Duke Energy Ohio objected to every discovery request seeking information and documents outside the relevant time period of August 2011 through November 20, 2011, when Dorothy Easterling and her son were found deceased at the property. Complainant has been silent for more than five months since he received the Company's written objections and responses to the First Set of Interrogatories and Requests for Production of Documents, not once claiming before filing the present motion that Duke Energy

⁴ See, Complainant's motion at 2.

Ohio somehow failed to comply or produce relevant information and documents in response to any specific discovery request.

Although Complainant labels a section of his motion “Documents Not Produced,” he fails to identify how or when Duke Energy Ohio supposedly failed to respond to or comply with specific discovery requests. Instead, he wants the Attorney Examiner to

issue an order requiring Duke to produce all information contained in the System, all documents preceding 2011 that are contained in the ‘work order data base,’ especially that relating [sic] to the disconnection of service on November 3 and 4, and all other documents or electronic data that it maintains relating to the Account before November, 2011, inclusive.⁵

The scope of Complainant’s requested relief is truly astounding, especially considering the undeniable fact that, as set forth in the Amended Complaint, this case is about only the disconnection of electric service to the Account on November 4, 2011. Complainant has never requested “all information contained in the System”⁶ and, even if he did, Complainant would not be entitled to such irrelevant information. Nor would Complainant be entitled to compel the Company’s production of documents and information in response to such an incredibly overbroad and unduly burdensome discovery request. Similarly, Complainant has never requested “all documents preceding 2011 that are contained in the ‘work order data base,’” whatever that may be. As demonstrated by the record before the Commission, Complainant is not entitled to an order *compelling* Duke Energy Ohio’s production of documents when he has not and cannot identify a discovery request about such documents that the Company failed to answer. .

Even if a “fair reading” of some obscure discovery request may include within its scope certain “work order” documents dated *prior* to 2011—which Duke Energy Ohio steadfastly

⁵ See, Complainant’s motion at 5.

⁶ Complainant defined the “System” as the Company’s “customer data base system.” See, Complainant’s motion at 5.

denies—Complainant fails to explain how those documents are remotely relevant to the disconnection of electric service to the subject Account on November 4, 2011, for non-payment. As previously noted, Duke Energy Ohio objected to every discovery request seeking information and documents outside the relevant time period of August 2011 through November 20, 2011. Complainant has *never* contested those objections or explained how any account document or information predating 2011 would be remotely relevant to the narrow facts, claims, and issues in this case and, therefore, subject to discovery by Complainant. On the contrary, Complainant, through counsel, agreed to the narrow time period relevant to this proceeding, as described above, when conducting the corporate designee deposition,⁷ thereby demonstrating that the relevant time period for this case is August 2011 through November 20, 2011.

III. Complainant’s Improper Questions During the Deposition of Duke Energy Ohio’s Corporate Designee

Duke Energy Ohio properly objected when Complainant *twice* served corporate designee deposition notices and failed to “designate with reasonable particularity the matters on which examination is requested,” as mandated by O.A.C. 4901-1-21(F). At the November 10th prehearing conference, the parties agreed to limit the scope of the examination of Duke Energy Ohio’s corporate designee “to testify with respect to the abbreviations and acronyms in the account notes that have been produced in discovery and how those activities relate to what occurred on the account through November 20, 2011.”⁸ Complainant’s counsel then ignored that agreement and inappropriately tried to expand the clearly defined parameters of the agreed and authorized scope of his examination of Duke Energy Ohio’s corporate designee. Complainant now wants the Attorney Examiner to order Duke Energy Ohio to make its corporate designee available for deposition yet again to answer questions to which the Company properly objected.

⁷ See, Prehearing Conference Transcript at 46

⁸ See, Prehearing Conference Transcript at 46.

When Complainant's counsel first raised this dispute in his December 16th letter, he identified a total of five deposition questions which he claimed (in error) were not answered by the Company's corporate designee.⁹ Duke Energy Ohio's attorney promptly responded by letter dated December 18th.¹⁰ It is apparent that Complainant's attorney did not bother reading the Company's response or the deposition transcript because Complainant continues to maintain that counsel's "questions are clearly within the scope of what the parties agreed at the Prehearing Conference."¹¹

This distortion of reality is truly dumbfounding. Rather than deal with what actually transpired, Complainant again glosses over details and paints with a broad brush. Unfortunately for Complainant, details actually matter, especially when one moves to compel testimony in response to specific deposition questions. Accordingly, consistent with its prior explanation, Duke Energy Ohio provides here the relevant detail so lacking in Complainant's futile motion:

- Page 11, line 21: this question did *not* relate to abbreviations and acronyms in the account notes and related activities on the subject account. Instead, Complainant's counsel asked about the manner in which documents and data were produced in discovery. That is outside the agreed and authorized scope of counsel's examination of Duke Energy Ohio's corporate designee. Therefore, Duke Energy Ohio's attorney properly instructed the witness not to answer.
- Page 25, line 6: Complainant's counsel did not inquire about any specific account note or acronym in the documents attached to the deposition notice. Instead, he expressly asked about information *outside* those documents and what information the corporate designee would "expect to see" in the Company's records. Also, to the extent this question was intended to inquire about the Final Disconnection Notice mailed to the property on October 19, 2011, Complainant fails to recognize that Duke Energy Ohio's corporate designee fully answered questions surrounding the mailing of that notice and related acronyms in the documents.¹² There is nothing more to compel.
- Page 3, line 7: as the Company explained to Complainant's attorney, there is no deposition question and corresponding objection identified at that part of the deposition transcript. What Complainant now seeks to compel in that regard is unknown.

⁹ See, Complainant's motion, Ex. D.

¹⁰ See, Complainant's motion, Ex. E.

¹¹ See, Complainant's motion, at 4.

¹² See, Byndon tr. at 24-25, 33.

- Page 33, line 25: once again, Complainant's attorney did not inquire about any specific account note or acronym in the documents attached to the deposition notice. Instead, he expressly asked about information *outside* those documents relating to Duke Energy Ohio's document retention practice. That is far outside the narrow scope of counsel's authorized examination of the Company's corporate designee.
- Page 48, line 7: the Company's corporate designee fully answered this question without any objection by Duke Energy Ohio's attorney. Again, there is nothing to compel.

In sum, the Attorney Examiner should not order Marion Byndon, Duke Energy Ohio's corporate designee, to appear again for questioning because her deposition is complete. Of the five deposition questions identified by Complainant, only three actually involved objections by Duke Energy Ohio and instructions not to answer. Those objections and instructions were proper because Complainant's deposition questions were not limited to abbreviations and acronyms in the account notes and related activities on the subject account, as agreed to by the parties and ordered by the Attorney Examiner. As such, Complainant violated both the parties' agreement at the Prehearing Conference and O.A.C. 4901-1-21(F) by asking questions about matters outside the scope of the noticed deposition of Duke Energy Ohio's corporate designee. Complainant's reliance on O.A.C. 4901-1-16(A) is misplaced because that rule does not require the Company's corporate designee to answer improper questions that exceed the agreed, lawful scope of the deposition examination.

In addition, the Attorney Examiner should reject Complainant's request to order Duke Energy Ohio to produce yet another corporate designee for deposition. Even though Complainant has not served an appropriate deposition notice in compliance with O.A.C. 4901-1-21(F), Complainant now wants the Attorney Examiner to *compel* the Company to "produce a witness who is knowledgeable enough about the System to testify about all the data contained therein."¹³ Incredibly, that is a direct quote from Complainant's motion. This nonsensical request is typical of the manner in which Complainant has conducted discovery in this case:

¹³ See, Complainant's motion, at 7

ignore the discovery rules; do not serve legitimate discovery requests or deposition notices; do not make any effort to resolve previously undefined discovery disputes; besmirch Duke Energy Ohio by falsely accusing the Company of not producing documents and information in response to non-existent discovery requests; and then move to compel that which has never been requested in discovery.

Amazingly, Complainant apparently takes issue with Marion Byndon's apparent inability to answer questions but does not bother identifying those questions or how another corporate designee would be able to answer appropriate questions. Complainant mistakenly believes that O.A.C. 4901-1-21(F) entitles him to skip right to a motion to compel. Complainant is sorely mistaken. As Duke Energy Ohio explained in connection with the original and amended notice of corporate designee deposition that Complainant actually served, O.A.C. 4901-1-21(F) requires a party to serve a notice and "designate with reasonable particularity the matters on which examination is requested." Having failed to serve the required notice, Complainant may not use a motion to compel to force the Company to identify someone to "who is knowledgeable enough about the System to testify about all the data contained therein." Duke Energy Ohio cannot possibly identify one or more witnesses "to testify about all the data contained" in its customer data base system. That request should be summarily denied.

The improper allegations asserted by Complainant are further reflected in the false accusations against counsel. Indeed, Complainant goes so far as to falsely accuse Duke Energy Ohio's attorney of trying to assist the Company's corporate designee in answering "the questions identified by counsel."¹⁴ That is patently false. In reality, Duke Energy Ohio's attorney acted professionally by trying to assist opposing counsel in conducting his examination because Complainant's counsel apparently did not bother reviewing the documents attached to the

¹⁴ See, Complainant's motion at 7

amended notice of corporate designee deposition or realize that the number which he was asking about was, in fact, the electric meter read identified on the monthly bills produced in discovery. Rather than looking at the bills and asking follow up questions of Duke Energy Ohio's corporate designee, Complainant wants to waste time and money deposing another corporate designee about such insignificant topics as the identification number on the electric meter at the Property. . This is not remotely consistent with O.A.C. 4901-1-21(F). Accordingly, the Attorney Examiner should deny Complainant's request to depose yet another corporate designee of Duke Energy Ohio.

IV. The Commission Should Deny Complainant's Fourth Motion to Compel.

As with Complainant's prior unsuccessful motions to compel, the record before the Commission firmly establishes that Complainant's fourth motion to compel should be denied in its entirety.

Duke Energy Ohio complied with O.A.C. 4901-1-19 and 4901-1-20 in connection with Complainant's First Set of Interrogatories and Requests for Documents. Complainant has not identified a single discovery request to which the Company has not objected or otherwise responded fully in writing and produced responsive information or documents.

Duke Energy Ohio also complied with O.A.C. 4901-1-21(F) with respect to the deposition of its corporate designee Marion Byndon. There are no grounds to require the Company to make that corporate designee available for additional questions or to produce another corporate designee in response to Complainant's belated attempt to notice a deposition without serving an appropriate written notice in compliance with O.A.C. 4901-1-21(F).

On the contrary, Complainant has *not* complied with O.A.C. 4901-1-23(C) with respect to his motion to compel Duke Energy Ohio's production of information and documents in

response to the First Set of Interrogatories and Requests for Documents. Complainant's attorney did not make any effort to identify, much less resolve, any such discovery disputes, either in his December 16th letter or any other communication. Nor is there any evidence of such efforts attached to the motion to compel.

Once again Complainant has wrongly accused the Company of not conducting discovery in a reasonable manner. The record of the discovery requests and communications between the parties' counsel shows otherwise. As for the interrogatory and document requests, parties to cases before the Commission are entitled to conduct discovery that is "relevant to the subject matter of the proceeding . . . [or] if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."¹⁵ Here, the *only* issue before the Commission is whether Duke Energy Ohio unlawfully disconnected the electric service to the Account on November 4, 2011. There are no other issues. Contrary to Complainant's accusations, Duke Energy Ohio remains willing to produce relevant information and documents provided Complainant serves a discovery request that complies with the rules. Duke Energy Ohio has done exactly what is required in this case: the Company has produced relevant information and documents responsive to legitimate discovery requests, and further identified and made available a corporate representative for deposition in compliance with the agreement reached at the Prehearing Conference.

Complainant is not entitled to anything further, notwithstanding his desire to waste valuable resources filing baseless motions with the Commission. The actual record before the Commission undeniably proves that Complainant has not complied with the rules by filing yet another premature motion to compel and that Duke Energy Ohio is willing to comply with

¹⁵ See, O.A.C. 4901-1-16(B).

reasonable discovery requests limited to the facts and circumstances of this case. Accordingly, Complainant's fourth motion to compel must be denied.

WHEREFORE, Respondent Duke Energy Ohio, Inc., requests that the Commission deny the fourth motion to compel filed by Complainant Jeffrey Pitzer in its entirety; and enter an appropriate protective order under O.A.C. 4901-1-23(D) providing that Complainant is not entitled to any additional depositions and requested information and documents beyond that already provided by Duke Energy Ohio, Inc.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via email on this 30th day of December, 2015, upon the following counsel of record:

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**DUKE ENERGY OHIO'S RESPONSES TO THE
FIRST SET OF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS FROM
COMPLAINANT, JEFFREY PITZER
TO DUKE ENERGY OHIO, INC.**

Dated: July 2, 2015

Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) hereby submits its responses and objections to the First Set of Discovery Interrogatories and Request for Production of Documents (Discovery Request) submitted by Jeffrey Pitzer (“Complainant”) to Duke Energy Ohio in the above-captioned case.

Duke Energy Ohio’s responses are being provided subject to, and without waiver of, the general objections stated below and the specific objections posed in response to each Discovery Request. The general objections are hereby incorporated by reference into the individual response made to each Discovery Request. Duke Energy Ohio’s responses to these Discovery Requests are submitted without prejudice to, and without waiving, any general objections not expressly set forth herein. The provision of any response shall not waive Duke Energy Ohio’s objections.

Duke Energy Ohio expressly reserves the right to supplement these responses, as required under Ohio law and Public Utilities Commission of Ohio (Commission) rule. The Company further expressly reserves the right to object, on appropriate grounds, to the use of any or all of its responses for purposes of discovery or as evidence in the hearing of the captioned matter. Duke Energy Ohio hereby fully preserves all of its objections to the Discovery Requests or the use of its responses for any purpose.

Duke Energy Ohio’s responses to the Discovery Requests shall not be construed as a waiver of the attorney-client privilege, trial preparation and/or work product doctrine, or any other applicable privilege or doctrine. Duke Energy Ohio reserves the right to seek protective treatment in respect of discovery, as permitted under the Ohio Rules of Civil Procedure and Commission Rule.

GENERAL OBJECTIONS

1. Duke Energy Ohio objects to any Discovery Request as improper, overbroad, and unduly burdensome to the extent it purports to impose upon the Company any obligations broader than those set forth the Commission's rules or as otherwise allowed by law.
2. Duke Energy Ohio objects to these Discovery Requests and to Complainant's Definitions and Instructions as improper, overbroad, and unduly burdensome to the extent that they seek or purport to require the disclosure of information protected by the attorney-client privilege, trial preparation and/or work product doctrine, or any other applicable privilege or doctrine. Duke Energy Ohio's responses as may hereinafter be given shall not include any information protected by such privileges or doctrines, and any inadvertent disclosure of such information shall not be deemed as a waiver of any such privilege or doctrine.
3. Duke Energy Ohio objects to these Discovery Requests and to the Complainant's Definitions and Instructions to the extent they improperly seek or purport to require Duke Energy Ohio to provide documents and information not in the possession, custody, or control of Duke Energy Ohio.
4. The objections and responses contained herein and produced in response hereto are not intended to, nor they, be construed as waiving Duke Energy Ohio's right to object to these Discovery Requests or the information provided in response thereto for any purpose, including but not limited to discovery, motion practice, and hearing.
5. Duke Energy Ohio objects to these Discovery Requests to the extent they improperly seek or purport to require the production of documents or information that is not relevant to the subject matter of the captioned proceeding and/or not reasonably calculated to lead to the discovery of admissible evidence.

6. Duke Energy Ohio objects to these Discovery Requests and the Complainant'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 by the Company in the ordinary course of business.
7. Duke Energy Ohio objects to these Discovery Requests to the extent they seek documents or information that is publically available to, and thus equally accessible by Complainant.
8. Duke Energy Ohio objects to those Discovery Requests that seek "all" or "any" document, to the extent that such requests are overly broad, unduly burdensome, expose the Company to undue expense, and are designed to elicit information that is irrelevant or not likely to lead to the discovery of admissible evidence.
9. Duke Energy Ohio objects to those Discovery Requests that fail to include reasonable time parameters pursuant to which they are to be answered, on the basis that said requests are overly broad, unduly burdensome, expose the Company to undue expense, and are designed to elicit information that is irrelevant or not likely to lead to the discovery of admissible evidence.
10. Duke Energy Ohio objects to these Discovery Requests to the extent they are vague, ambiguous, lacking in definition, include terminology that is subject to differing interpretations, and otherwise force the Company to engage in speculation and guesswork as to their intended meaning.
11. Duke Energy Ohio objects to these Discovery Requests and to Complainant's Definitions and Instructions to the extent they improperly seek or purport to require the production of information relating to entities not within the jurisdiction of the Commission.

12. The objections and responses contained herein are not intended to be, nor should they be construed as, a waiver of Duke Energy Ohio's right to object to other discovery involving or relating to the subject matter of these requests and responses.

**PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS
TO DUKE ENERGY OHIO, INC.
Docket No. 15-298-GE-CSS**

INTERROGATORIES

INTERROGATORY NO. 1:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 2:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 3:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 4:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 5:.

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 6:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 7:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 8:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 9:

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

- a. Specifically identify any and all employees and/or agents who ordered the disconnection of service at the Residence.
- b. Specifically identify any and all employees and/or agents who physically and/or remotely performed the disconnection of service at the Residence.

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 10:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 11:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 12:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 13:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 14:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 15:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 16

Specifically identify any and all letters, communications, notices, and/or other forms of communication by which you notified Decedents of their rights during the Winter Heating Season, including but not limited to (a) extended payment plans; (b) medical certification programs; and (c) sources of federal, state, and local government aid for payment of utility bills and/or home weatherization. Your response should include the identity of any written communications delivered to the Decedents, and the manner of delivery, and the identity of any

persons whom you allege visited the Residence in connection with such disconnection and the date of such visit. If you allege that any specific written communications once existed but are no longer available, indicate the circumstances under which such communication was destroyed or is not accessible.

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 17:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 18:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 19:

Identify each and every instance of a disconnection of utility services at any residence that you serve in the State of Ohio from January 1, 2011 to the present. In connection with your response, identify any and all notices that you provided to each utility customer, concerning such disconnection, both before and after the disconnection, and the method by which such notification was provided. You are not excused from responding to this Interrogatory based on the confidentiality of customer information. You are invited to identify the involved customer accounts by assigning them a confidential identifier that you select for purposes of fully responding to this Interrogatory. Your response should include all relevant dates.

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 20:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 21:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 22:

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

Response: See response provided contemporaneous herewith.

INTERROGATORY NO. 23:

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

Response: See response provided contemporaneous herewith.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION OF DOCUMENT NO. 1:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 2:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 3:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 4:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 5:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 6:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 7:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 8:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 9:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 10:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 11:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 12:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 13:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 14:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 15:

Produce any and all documents that in any way relate to your Response to Interrogatory No. 19.

This request includes any documentation necessary to provide, support or explain the data that Plaintiff has requested of you.

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 16:

Produce any and all documents that in any way relate to your Response to Interrogatory No. 20.

This request includes any documentation necessary to provide, support or explain the data that Plaintiff has requested of you.

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 17:

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

Response: See response provided contemporaneous herewith.

REQUEST FOR PRODUCTION OF DOCUMENT NO. 18:

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

Response: See response provided contemporaneous herewith.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

A handwritten signature in cursive script, reading "Amy B. Spiller /mra", written over a horizontal line.

Amy B. Spiller

Deputy General Counsel

Elizabeth Watts

Associate General Counsel

Jeanne W. Kingery

Associate General Counsel

Rocco D'Ascenzo

Associate General Counsel

Duke Energy Business Services, Inc.

139 Fourth Street, 1303-Main

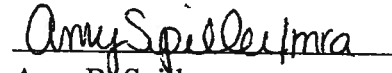
P. O. Box 960

Cincinnati, Ohio 45202-0960

(513) 287-4359

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Responses to Complainant's First Set of Interrogatories and Request for Production of Documents was served on the following parties this 2nd day of July, 2015 by regular U. S. Mail, overnight delivery or electronic delivery.


Amy B. Spiller

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Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-001

REQUEST:

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

RESPONSE:

Objection. This Interrogatory is overly broad and unduly burdensome in that it calls for information that is beyond that which is required by rule. Specifically, O.A.C. Rule 4901-1-19(A) provides that, if the responding party is a corporation, it must designate one or more of its officers, agents, or employees to answer the interrogatories, who shall furnish such information as is available to the party. Duke Energy Ohio is providing, for each interrogatory, the name of one or more persons who will be responsible for the answer to that interrogatory. This is in compliance with the rule. *See, e.g., In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets*, Case No. 08-917-EL-SSO, *et al.*, Entry, at Paragraph 6 (June 30, 2011). Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see "Person Responsible" designation on each discovery request.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-002

REQUEST:

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

RESPONSE:

Objection. This Interrogatory seeks to elicit privileged and confidential information that is protected by the attorney work product doctrine or the attorney-client privilege. Further, this Interrogatory seeks information that is not discoverable. Answering further, this Interrogatory is overly broad and unduly burdensome. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, Duke Energy Ohio identifies the following individuals: Mitch Carmosino and Josh Danzinger. As these individuals are employed by Duke Energy entities, any contact would necessarily be through Duke Energy Ohio's counsel.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015**

PITZER-INT-01-003

REQUEST:

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

RESPONSE:

Objection. This Interrogatory exposes Duke Energy Ohio to speculation and guesswork in that it seeks information about persons who have not been identified. Answering further, this interrogatory seeks to elicit privileged and confidential information that is protected by the attorney work product doctrine or the attorney client privilege. See, generally, O.A.C. 4901-1-29, which establishes deadlines for the submission of testimony in complaint proceedings, and response to PITZER-INT-01-004.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-004

REQUEST:

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

RESPONSE:

Objection. This Interrogatory exposes Duke Energy Ohio to speculation and guesswork in that it seeks information about persons who have not been identified. Answering further, this interrogatory seeks to elicit privileged and confidential information that is protected by the attorney work product doctrine or the attorney client privilege. See, generally, O.A.C. 4901-1-29, which sets forth the deadline for the submission of testimony in complaint proceedings. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, Duke Energy Ohio will identify witnesses in accordance with the applicable Commission rules.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-005

REQUEST:

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

RESPONSE:

Objection. This Interrogatory exposes Duke Energy Ohio to speculation and guesswork in that it seeks information about persons who have not been identified. Answering further, this interrogatory seeks to elicit privileged and confidential information that is protected by the attorney work product doctrine or the attorney client privilege. See, generally, O.A.C. 4901-1-29, which sets forth the deadline for the submission of testimony in complaint proceedings. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, Duke Energy Ohio will identify witnesses, and the subject matter on which they will testify, in accordance with the applicable Commission rules.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015**

PITZER-INT-01-006

REQUEST:

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

RESPONSE:

Objection. This Interrogatory exposes Duke Energy Ohio to speculation and guesswork in that it seeks information about persons who have not been identified. Answering further, this interrogatory seeks to elicit privileged and confidential information that is protected by the attorney work product doctrine or the attorney client privilege. See, generally, O.A.C. 4901-1-29. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see response to PITZER-INT-01-004.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-007

REQUEST:

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

RESPONSE:

Objection. This Interrogatory fails to contain any reasonable time parameters pursuant to which it is to be answered, thereby rendering it overly broad, unduly burdensome, and vague. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, Duke Energy Ohio does not have any record of any oral communications with Jeffrey Pitzer, Gail Lykins, Dorothy Easterling, or Estill Easterling IV regarding the account at issue in this proceeding and in regards to the time period relevant to this Interrogatory. However, Duke Energy Ohio does have record of having mailed various written communications, including but not limited to bills, bill inserts etc., to the property located at 11312 Orchard Street, Cincinnati, Ohio regarding the subject account.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-008

REQUEST:

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

RESPONSE:

Objection. This Interrogatory fails to contain any relevant time periods pursuant to which it is to be answered, thereby rendering it overly broad, unduly burdensome, and vague. Moreover, it seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this Interrogatory seeks to elicit information in the form of tariffs and service regulations that are of public record and thus equally accessible to the complainant. Answering further, neither decedent was a customer of record in respect to the account identified in the complaint filed in this proceeding.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-009

REQUEST:

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

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

RESPONSE:

Objection. This Interrogatory is overly broad and unduly burdensome given that Duke Energy Ohio cannot possibly identify every person having knowledge of the disconnection of electric service on November 4, 2011. Without waiving said objection, to the extent discoverable, and in the spirit of discovery:

- (A) The account met the disconnection for non payment criteria and the disconnect for non payment order was automatically created.
- (B) Josh Danzinger.

PERSON RESPONSIBLE:

As to objection: Legal
As to response (A): Mitch Carmosino
As to response (B): Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015**

PITZER-INT-01-010

REQUEST:

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

RESPONSE:

Objection. This Interrogatory is overly broad and unduly burdensome. Furthermore, it seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Additionally, this Interrogatory also seeks to elicit information in the possession of the decedents or complainant. Without waiving said objection, to the extent discoverable, in the spirit of discovery, and with regard to the period between August 3, 2011, and November 20, 2011, a late payment of \$143.49 was received on October 12, 2011. No other payments for utility service were received during the period identified herein.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-011

REQUEST:

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

RESPONSE:

Objection. This Interrogatory is overly broad and unduly burdensome given that it fails to contain relevant time periods pursuant to which it is to be answered. It also seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this Interrogatory impermissibly exposes Duke Energy Ohio to speculation and guesswork in that it seeks information regarding what persons "were aware of". Duke Energy Ohio cannot possibly know of all persons with knowledge of any payments made at any time.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-012

REQUEST:

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

RESPONSE:

Objection. This Interrogatory is overly broad and unduly burdensome. Furthermore, it seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Without waiving said objection, to the extent discoverable, in the spirit of discovery, and with regard to the time period relevant to this Interrogatory (*i.e.*, August 3, 2011 to November 4, 2011), a customer would receive a disconnection bill accompanied by a separate disconnect bill insert. If applicable, fourteen days later, a ten-day disconnection notice would be mailed to the customer. The disconnect order would be issued on day twenty-nine. On the day of disconnect, a final attempt to make customer contact is made by knocking on the door and leaving a notice at the premises in a conspicuous location.

PERSON RESPONSIBLE: As to objection: Legal
As to response: Mitch Carmosino

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-013

REQUEST:

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

RESPONSE:

Objection. This Interrogatory fails to contain any reasonable time parameters pursuant to which it is to be answered, thereby rendering it overly broad, unduly burdensome, and vague. Moreover, this Interrogatory seeks to elicit information that is irrelevant or otherwise reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, Duke Energy Ohio states that its customer management system would, consistent with corporate record retention policies, reflect activity on an account, such as the mailing of a final (*i.e.*, ten-day) disconnection notice, and completion of a DNP order.

PERSON RESPONSIBLE: As to objection: Legal
As to response: Mitch Carmosino

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-014 PUBLIC

REQUEST:

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

RESPONSE:

See October bill, October bill insert, and 10-day letter, and on premises notice attached hereto as ATTACHMENT PITZER-INT-01-014 (a).

The Confidential response and Attachment PITZER-INT-01-0-14(b) will be provided to all parties in this case upon the execution of a Confidentiality Agreement.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-015

REQUEST:

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

RESPONSE:

Objection. This Interrogatory is predicated upon the false premise that Duke Energy Ohio was obligated, under application Commission regulation, to notify decedents of an impending disconnection for non-pay. Neither Dorothy Easterling nor her son, Estill Easterling, was a customer of record on the utility account for the property located at 11312 Orchard Avenue, Cincinnati, Ohio. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see response to PITZER-INT-01-014.

PERSON RESPONSIBLE: As to objection: Legal
As to response: Mitch Carmosino

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-016

REQUEST:

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

RESPONSE:

Objection. This Interrogatory is predicated upon the false premise that Duke Energy Ohio was obligated, under application Commission regulation, to notify decedents of an impending disconnection for non-pay. Neither Dorothy Easterling nor her son, Estill Easterling, was a customer of record on the utility account for the property located at 11312 Orchard Avenue, Cincinnati, Ohio. The Interrogatory thus further incorrectly infers that consumers, such as Dorothy Easterling and Estill Easterling IV, had any rights, under applicable Commission regulation, during the Winter Heating Season. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see response to PITZER-INT-01-014.

PERSON RESPONSIBLE: As to objection: Legal
As to response: Mitch Carmosino

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-017

REQUEST:

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

RESPONSE:

Objection. This Interrogatory is predicated upon the false premise that Duke Energy Ohio was obligated to notify the Hamilton County Department of Job and Family Services. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, no written request for such information was issued to Duke Energy Ohio and thus no notification required to be provided.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-018

REQUEST:

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

RESPONSE:

Objection. This Interrogatory seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible information. This Interrogatory fails to contain any reasonable time parameters pursuant to which it is to be answered, thereby rendering it overly broad, unduly burdensome, and vague. Furthermore, this Interrogatory seeks to elicit information that is of public record and thus readily available to and equally accessible to the complainant.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-019

REQUEST:

Identify each and every instance of a disconnection of utility services at any residence that you serve in the State of Ohio from January 1, 2011 to the present. In connection with your response, identify any and all notices that you provided to each utility customer, concerning such disconnection, both before and after the disconnection, and the method by which such notification was provided. You are not excused from responding to this Interrogatory based on the confidentiality of customer information. You are invited to identify the involved customer accounts by assigning them a confidential identifier that you select for purposes of fully responding to this Interrogatory. Your response should include all relevant dates.

RESPONSE:

Objection. This Interrogatory seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible information. Answering further, this Interrogatory is overly broad, unduly burdensome and vague and exposes Duke Energy Ohio to undue expense. This Interrogatory also impermissibly changes the law and Commission regulation insofar as discovery is concerned by claiming that a respondent must provide what is otherwise confidential and protected information.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-020

REQUEST:

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

RESPONSE:

Objection. This Interrogatory seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible information. Answering further, this Interrogatory is overly broad, unduly burdensome and vague and exposes Duke Energy Ohio to undue expense. This Interrogatory also impermissibly changes the law and Commission regulation insofar as discovery is concerned by claiming that a respondent must provide what is otherwise confidential and protected information.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015**

PITZER-INT-01-021

REQUEST:

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

RESPONSE:

Objection. This Interrogatory is overly broad, unduly burdensome and vague and exposes Duke Energy Ohio to undue expense. This Interrogatory also impermissibly seeks information in the possession of the complainant or otherwise equally accessible to him. Moreover, this Interrogatory seeks to elicit information that is protected by the attorney work product doctrine.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015

PITZER-INT-01-022

REQUEST:

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

RESPONSE:

See response to PITZER-INT-01-014.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set of Interrogatories
Date Received: May 4, 2015**

PITZER-INT-01-023

REQUEST:

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

RESPONSE:

Objection. This Interrogatory seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible information. Insurance coverage has no bearing on a claim before the PUCO.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015**

PITZER-POD-01-001

REQUEST:

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

RESPONSE:

Objection. This Document Request impermissibly seeks information protected by the work product doctrine. It further runs afoul of Commission regulation. See, *e.g.*, O.A.C. 4901-1-29, which sets forth the deadline for the submission of testimony in complaint proceedings.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-002

REQUEST:

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

RESPONSE:

Objection. This Document Request seeks to elicit information protected by the attorney work product doctrine or the attorney client privilege. Answering further, O.A.C. 4901-1-29 identifies the deadline for the filing of testimony in complaint proceedings. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, should Duke Energy Ohio decide to file testimony in this proceeding, it will do so consistent with the filing deadlines referenced herein.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-003

REQUEST:

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

RESPONSE:

Objection. This Document Request seeks to elicit information protected by the attorney work product doctrine or the attorney client privilege. Answering further, O.A.C. 4901-1-29 identifies the deadline for the filing of testimony in complaint proceedings. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, should Duke Energy Ohio decide to file testimony in this proceeding, it will do so consistent with the filing deadlines referenced herein.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-004

REQUEST:

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

RESPONSE:

Objection. This Document Request fails to contain any relevant time parameters pursuant to which it is to be answered, thereby rendering it overly broad, unduly burdensome, and vague. Answering further, this Document Request seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible evidence. Moreover, "correspondence" is susceptible to differing interpretations, thereby subjecting Duke Energy Ohio to speculation and guesswork as to the intending meaning of this Document request. Without waiving said objection, to the extent discoverable, in the spirit of discovery, and limiting this request to the time period relevant to the complaint, there are no documents constituting communication from the decedents as no such communication occurred. Reference is made to Duke Energy Ohio's response to PITZER-INT-01-014 as well as ATTACHMENT PITZER-POD-01-004.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-005

REQUEST:

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

RESPONSE:

Objection. This Document Request fails to contain any relevant time parameters pursuant to which it is to be answered, thereby rendering it overly broad, unduly burdensome, and vague. Additionally, the information requested herein is public record and thus equally accessible to plaintiff. Answering further, Duke Energy Ohio states that this Document Request fails to indentify the utility account at issue in this proceeding, thereby further adding to its overly broad and irrelevant nature. Without waiving said objection, to the extent discoverable, in the spirit of discovery, and with regard to the account at issue in this proceeding and activity thereon prior to November 20, 2011, neither decedent was a customer of Duke Energy Ohio and, as such, no contract or agreement with either of them existed.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015**

PITZER-POD-01-006

REQUEST:

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

RESPONSE:

Objection. This Document Request is not reasonably calculated to lead to the discovery of relevant or admissible evidence given the inclusion of time periods that are immaterial to the allegations in the complaint. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see ATTACHMENT PITZER-POD-01-004.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-007 PUBLIC

REQUEST:

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

RESPONSE:

The Attachment will be produced to parties to this proceeding upon the execution of an confidentiality agreement acceptable to Duke Energy Ohio.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015**

PITZER-POD-01-008

REQUEST:

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

RESPONSE:

Objection. This Document Request is overly broad and unduly burdensome. Furthermore, it seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Answer further, the phrase "any way relate to your Response" is susceptible to differing interpretations, thereby subjecting Duke Energy Ohio to impermissible speculation and guesswork. Moreover, seeks documents that are business proprietary and confidential.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015**

PITZER-POD-01-009

REQUEST:

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

RESPONSE:

Objection. This Document Request fails to contain any reasonable time parameters pursuant to which it is to be answered, thereby rendering it overly broad, unduly burdensome, and vague. Furthermore, this Document Request seeks to elicit information that is irrelevant or otherwise reasonably calculated to lead to the discovery of admissible evidence. Moreover, the Request as written, exposes Duke Energy Ohio to undue expense. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, reference CMS records for this account in response to PITZER-INT-01-014.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-010

REQUEST:

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

RESPONSE:

See response to PITZER-INT-01-014.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015**

PITZER-POD-01-011

REQUEST:

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

RESPONSE:

See response to PITZER-INT-01-014.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-012

REQUEST:

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

RESPONSE:

See response to PITZER-INT-01-014.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-013

REQUEST:

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

RESPONSE:

Objection. This Document Request is predicated upon the false premise that Duke Energy Ohio was obligated to notify the Hamilton County Department of Job and Family Services.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015**

PITZER-POD-01-014

REQUEST:

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

RESPONSE:

Objection. This Document Request seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible information. This Document Request fails to contain any reasonable time parameters pursuant to which it is to be answered, thereby rendering it overly broad, unduly burdensome, and vague. Furthermore, this Document Request seeks to elicit information that is of public record and thus readily available to and equally accessible to the complainant.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015**

PITZER-POD-01-015

REQUEST:

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

RESPONSE:

Objection. This Document Request seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible information. Answering further, this Document Request is overly broad, unduly burdensome and vague and exposes Duke Energy Ohio to undue expense. This Document Request also impermissibly changes the law and Commission regulation insofar as discovery is concerned by claiming that a respondent must provide what is otherwise confidential and protected information.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-016

REQUEST:

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

RESPONSE:

Objection. This Document Request seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible information. Answering further, this Document Request is overly broad, unduly burdensome and vague and exposes Duke Energy Ohio to undue expense. This Document Request also impermissibly changes the law and Commission regulation insofar as discovery is concerned by claiming that a respondent must provide what is otherwise confidential and protected information.

PERSON RESPONSIBLE: Legal

Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015

PITZER-POD-01-017

REQUEST:

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

RESPONSE:

Objection. This Document Request is overly broad and unduly burdensome and further seeks to elicit information protected by the attorney client privilege and/or work product doctrine. Answering further, the phrase “otherwise relate to any Response provided to the foregoing Interrogatories” is susceptible to differing interpretations, thereby subjecting Duke Energy Ohio to impermissible speculation and guesswork. Without waiving said objection, to the extent discoverable, and in the spirit of discovery, see documents produced by Duke Energy Ohio to this first set of discovery from complainant.

PERSON RESPONSIBLE: Legal

**Duke Energy Ohio
Case No. 15-298-GE-CSS
PITZER First Set Production of Documents
Date Received: May 4, 2015**

PITZER-POD-01-018

REQUEST:

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

RESPONSE:

Objection. This Document Request seeks to elicit information that is irrelevant or otherwise not reasonably calculated to lead to the discovery of admissible information. Insurance coverage has no bearing on a claim before the PUCO.

PERSON RESPONSIBLE: Legal

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

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in

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

Summary: Memorandum Duke Energy Ohio, Inc.'s Memorandum in Opposition to Complainant Jeffrey Pitzer's Fourth Motion to Compel electronically filed by Ms. E Minna Rolfes on behalf of Robert A. McMahon and Amy B. Spiller and Duke Energy Ohio, Inc.