BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

Jeffrey Deaton 5814 Timber Rail Lane Mason, OH 45040	)	
Complainant	)	Case No. 17-2458-EL-CSS
v.	)	
Duke Energy Ohio, Inc.	)	
Respondent	)	

ANSWER OF DUKE ENERGY OHIO, INC.

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

1. The Complaint is not in a form allowing for specific admission or denial as to individual allegations. Accordingly, Duke Energy Ohio generally denies the allegations set out in the Complaint.

2. In response to the allegations contained in the second paragraph of the Complaint, Duke Energy Ohio denies that it is negatively impacting property values in Symmes Township, Deerfield Township and the City of Montgomery, Ohio. Duke Energy Ohio admits that it is exercising its lawful right, pursuant to grants of easement, to engage in vegetation management activities that include, but are not limited to, removing vegetation within its easement and right-of-way. Such removal is necessary to enable the continued safe and reliable operation of high-voltage power lines used in the provision of service to Duke Energy Ohio's customers, including those located in Symmes Township, Deerfield

Township and the City of Montgomery. All remaining allegations of this paragraph are denied.

3. Duke Energy Ohio denies the allegations contained in the third paragraph of the Complaint. Answering further, Duke Energy Ohio states that its actions are consistent with its express grants of easement and with its Programs for Inspection, Maintenance, Repair and Replacement of Distribution and Transmission Lines, Section (f), as approved on June 13, 2016. All remaining allegations of this paragraph are denied.

4. In response to the allegations contained in the fourth paragraph of the Complaint, Duke Energy Ohio submits that statements regarding requested relief are not allegations to which a response is required. Duke Energy Ohio further submits that Complainant lacks standing to assert relief on behalf of other citizens of Symmes Township, Deerfield Township and the City of Montgomery. However, to the extent a response is required, Duke Energy Ohio denies that it is using toxic herbicides on properties in Symmes Township, Deerfield Township and the City of Montgomery. Answering further, Duke Energy Ohio states that its actions are necessary to enable the continued safe and reliable operation of high-voltage power lines used in the provision of service to Duke Energy Ohio's customers, including those located in Symmes Township, Deerfield Township and the City of Montgomery, and are consistent with its express grants of easement and with its Programs for Inspection, Maintenance, Repair and Replacement of Distribution and Transmission Lines, Section (f), as approved on June 13, 2016. Duke Energy Ohio further states that the Public Utilities Commission of Ohio (Commission) is without jurisdiction to issue equitable relief, including the relief requested herein. All remaining allegations of this paragraph are denied.

5. With regard to the documents attached to the Complaint, Duke Energy Ohio states that the memorandum and letter do not contain allegations to which a response is required. However, to the extent a response is required, Duke Energy Ohio states that its easement on Complainant's property provides it with the unambiguous right to remove trees and other obstructions in the easement and right-of-way. Duke Energy Ohio further states that the terms of its lawfully obtained easement speaks for itself and further denies that its Programs for Inspection, Maintenance, Repair and Replacement of Distribution and Transmission Lines, Section (f), as docketed under Case No. 16-915-EL-ESS, has not been approved. Said request was approved pursuant to O.A.C. 4901:1-10-27(F)(2) on June 13, 2016. Duke Energy Ohio further states that it has engaged in extensive community outreach, interacting with individual property owners on whose property the Company possesses easement rights and will be working. All remaining allegations, as inferred or implied by the documents attached to the Complaint, are denied.

6. With regard to the allegation that an emergency stop order be issued, Duke Energy Ohio states that the Commission is without jurisdiction to resolve issues of equity. Answering further, Duke Energy Ohio states that any vegetation management activities in which it may engage are permissible under express grants of easement and consistent with its Programs for Inspection, Maintenance, Repair and Replacement of Distribution and Transmission Lines, Section (f), as approved on June 13, 2016. Further answering, Duke Energy Ohio denies that it is using toxic herbicides on Complainant's property and that its vegetation management practices are impacting the value of Complainant's property.

7. Duke Energy Ohio denies each and every allegation of fact and conclusion of law not expressly admitted herein.

AFFIRMATIVE DEFENSES

1. Duke Energy Ohio asserts as an affirmative defense that its easement on the property owned by Complainant expressly confirms the rights of Duke Energy Ohio to engage in vegetation management activities with regard to the property on which such easement exists.

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

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

4. Duke Energy Ohio asserts as an affirmative defense that Complainant has not stated any request for relief that can be granted by this Commission.

5. Duke Energy Ohio states as an affirmative defense that Complainant lacks standing to assert any claims against the Company in respect of property for which he is not the lawful property owner of record.

6. Duke Energy Ohio asserts that to the extent Complainant is seeking monetary damages, such relief is beyond the scope of the Commission's jurisdiction.

7. Duke Energy Ohio asserts that, to the extent the Complainant is seeking equitable relief, such relief is beyond the scope of the Commission's jurisdiction.

8. Duke Energy Ohio asserts that it has superior property rights, as confirmed by lawful grants of easement.

9. 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 respectfully requests that the Commission dismiss the Complaint of Jeffrey Deaton for failure to set forth reasonable grounds for the Complaint and to deny Complainant's request for relief, if any.

Respectfully submitted,

/s/ *Elizabeth H. Watts*
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Attorneys for Respondent Duke Energy Ohio, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer of Duke Energy Ohio, Inc., was served via regular US Mail postage prepaid, or by electronic mail service, this 6th day of December, 2017, upon the following:

Jeffrey Deaton
5814 Timber Rail Lane
Mason, OH 45040

/s/ *Elizabeth H. Watts*
Elizabeth H. Watts