

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>Jack C. Daugherty</b>	)	
8669 Totempole Drive	)	
Cincinnati, Ohio 45249	)	
	)	
Complainant	)	Case No. 17-2330-EL-CSS
	)	
v.	)	
	)	
<b>Duke Energy Ohio, Inc.</b>	)	
	)	
Respondent	)	

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**ANSWER OF DUKE ENERGY OHIO, INC.**

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For its Answer to the Complaint of Jack C. Daugherty (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 third paragraph of the Complaint, Duke Energy Ohio submits that statements regarding requested relief are not allegations to which a response is required. However, to the extent a response is required, Duke Energy Ohio denies that it is using toxic herbicides on Complainant's property. 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 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.

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

### **AFFIRMATIVE DEFENSES**

1. The Complainant does not assert any allegations of fact that would give rise to a cognizable claim against Duke Energy Ohio.
2. 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.
3. Duke Energy Ohio asserts as an affirmative defense that Complainant has not stated any request for relief that can be granted by this Commission.
4. Duke Energy Ohio states as an affirmative defense that Complainant lacks standing to assert any claims against the Respondent in respect of property for which he is not the lawful property owner of record.
5. Duke Energy Ohio asserts that to the extent Complainant is seeking monetary damages, such relief is beyond the scope of the Commission's jurisdiction.
6. 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.

7. Duke Energy Ohio asserts that it has superior property rights, as confirmed by lawful grants of easement.
8. 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 Jack C. Daugherty 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 22<sup>nd</sup> day of November 2017, upon the following:

Jack C. Daugherty  
8669 Totempole Drive  
Cincinnati, OH 45249

/s/ Elizabeth H. Watts  
Elizabeth H. Watts