

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>James Wulker</b>	)	
9493 Stonecrest Court	)	
Cincinnati, Ohio 45249	)	
	)	
Complainant	)	Case No. 17-2222-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 James Wulker (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 of the Complaint, Duke Energy Ohio denies that it is negatively impacting property values in the neighborhood in which Complainant's property is located. Further answering, Duke Energy Ohio submits that statements regarding requested relief are not allegations to which a response is required and that Complainant lacks standing to assert relief on behalf of other residents in Complainant's neighborhood. However, to the extent a response is required, 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 Complainant, 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 it has engaged in extensive community outreach, interacting with individual property owners on whose property the Company possesses easement rights and will be working. Answering further, Duke Energy Ohio 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 the Complaint are denied.

3. Statements regarding the lack of objection to trimming trees are not allegations to which a response is required. However, to the extent a response is required, Duke Energy Ohio is without sufficient knowledge as to the truth of the opinions of Complainant and thus denies the same. Answering further, Duke Energy Ohio states that its practices 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.

4. 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 James Wulker 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 15<sup>th</sup> day of November 2017, upon the following:

James Wolker  
9493 Stonecrest Court  
Cincinnati, Ohio 45249

/s/ Elizabeth H. Watts

Elizabeth H. Watts