

FILE



RECEIVED-DOCKETING DIV

2007 APR 24 AM 10:35

PUCO

Anita M. Schafer
Senior Paralegal

DUKE ENERGY CORPORATION
139 East Fourth Street
P. O. Box 960
Cincinnati, OH 45202

513.287.3842

513-287-3810 fax

anita.schafer@duke-energy.com

VIA OVERNIGHT MAIL DELIVERY

April 23, 2007

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

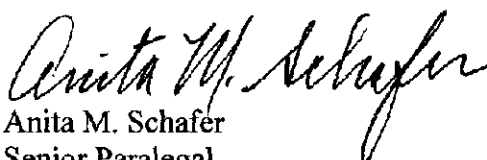
Re: Case No. 07-397-EL-CSS

Dear Docketing Division:

Enclose please find an original and twelve copies of the Answer of Duke Energy Ohio, Inc. Please date-stamp the two extra copies and return in the envelope provided.

Should you have any questions, please contact me at (513) 287-3842.

Very truly yours,


Anita M. Schafer
Senior Paralegal

Enclosures

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician ADJ Date Processed 4/24/07

www.duke-energy.com

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
David M. Wilder)	Case No. 07-397-EL-CSS
30 E. Central Parkway #802)	
Cincinnati, OH 45202)	
)	
Plaintiff,)	
)	
v.)	
)	
Duke Energy Ohio, Inc.,)	
)	
Respondent.)	

ANSWER OF RESPONDENT DUKE ENERGY OHIO, INC.

For its answer to the complaint of Plaintiff David M. Wilder (Complainant), Duke Energy Ohio, Inc., (DE-Ohio) states as follows:

FIRST DEFENSE

1. DE-Ohio admits that David M. Wilder is a consumer of DE-Ohio whose residence is 30 E. Central Parkway #802, Cincinnati OH 45202, also known as the American Building.
2. DE-Ohio is without sufficient information to either admit or deny that Complainant was the first resident to occupy the building. DE-Ohio is also without sufficient knowledge to either admit or deny that Complainant's "utilities have always been more costly than I expected, as compared to my previous residences." DE-Ohio admits that all residents of the building are currently being charged pursuant to Rate DM or DS rather than Rate RS. The building is wired for three phase electrical service (3 ph) and each tenant's meter receives 3 ph service. DE-Ohio's Residential Service Rate (Rate RS) only applies to

single phase service. DE-Ohio is without sufficient information to either admit or deny the remainder of the allegations in paragraph one (1) of the Complaint.

3. DE-Ohio denies that Complainant qualifies for Rate RS because Complainant receives 3 ph service. DE-Ohio denies that Complainant is entitled to any refund. DE-Ohio is without sufficient information to admit or deny the remainder of the allegations in paragraph two (2) of the Complaint.

AFFIRMATIVE DEFENSES

In addition to the foregoing specific answers to the allegations raised by Complainant, DE-Ohio raises the following defenses:

4. DE-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.
5. DE-Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, DE-Ohio has provided reasonable and adequate service under applicable tariffed rates to Complainant in accordance with all applicable provisions of Title 49 of the Ohio Revised Code and regulations promulgated thereunder, and in accordance with DE-Ohio's filed tariffs, and all applicable state and federal laws and industry standards.
6. DE-Ohio asserts as an affirmative defense that it does not have a Commission approved tariff for residential 3ph electric service. DE-Ohio charges rates for all consumers according to the appropriate tariff for the installed electrical service.
7. DE-Ohio asserts as an affirmative defense that it breached no legal duty owed to Complainant.
8. DE-Ohio asserts as an affirmative defense that to the extent that Respondent violated any applicable statute, regulation, industry standard, reliability guidelines or tariff provision,

which is expressly denied, such violation was not the proximate cause of any injury alleged by Complainant.

9. DE-Ohio asserts that the Complainant is requesting this Commission award monetary damages or adjusts bills back to the time of the purchase of the condominium, that service has been rendered and billed according to the metered service and that such a remedy is outside the jurisdiction of this Commission.
10. DE-Ohio asserts as an affirmative defense that the Company did not perform the actual wiring of the building. DE-Ohio did what it could to prevent the installation of 3ph service to the residential units. In October 2003 DE-Ohio was contacted concerning service availability for the subject address. DE-Ohio representatives met with the building owners and their consulting agent on June 14, 2004. DE-Ohio was provided load calculations, and a one line wiring diagram from the electrician which showed 3ph 4W meters being installed for the residential condominium units. DE-Ohio advised against this course. DE-Ohio met with the electrician who referred them to the consultant on the project to advise against installation of 3ph wiring. DE-Ohio's last conversation with consultants was in March 2005. It was expressed to DE-Ohio by the building consultant that they understood the cost difference and were still pursuing the installation of 3 ph metering due to the size of the units.
11. DE-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.

WHEREFORE, having fully answered, Duke Energy Ohio, Inc respectfully moves this Commission to dismiss the Complaint of David M. Wilder, for failure to set forth reasonable grounds for complaint and to deny Complainant's Requests for Relief.

Respectfully submitted,



Rocco D'Ascenzo (Trial Attorney)
Counsel

Paul A. Colbert

Associate General Counsel

Duke Energy Ohio, Inc.

139 East Fourth Street, Rm 25 AT II

Cincinnati, OH 45201-0960

Telephone: (513) 287-4326

Fax: (513) 287-3810

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer was sent via regular U.S. Mail,
postage prepaid to the following party of record this 23th day of April 2007.

David M. Wilder
30 E. Central Parkway #802
Cincinnati, OH 45202



Rocco O. D'Ascenzo
Counsel