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BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

NLW Properties Business Development Inc.	)	
Complainant,	)	
	)	
vs.	)	Case No. 09-0094-EL-CSS
	)	
Ohio Edison Company	)	
Respondent.	)	

**ANSWER AND MOTION TO DISMISS OF  
OHIO EDISON COMPANY**

Comes now Respondent, Ohio Edison Company, by counsel, and for its Answer and Motion to Dismiss to the above-captioned complaint filed in the instant action says that:

1. Ohio Edison Company ("Ohio Edison" or the "Company") is a public utility, as defined by §4905.03(A)(4), O.R.C. and is duly organized and existing under the laws of the State of Ohio.

2. On or about February 9, 2009 Complainant filed a Formal Complaint which was docketed as Case No. 09-0094-EL-CSS (the "Complaint").

3. Through an administrative error on the part of Ohio Edison this Complaint comes to the Company's attention on March 10, 2009. Ohio Edison hereby requests that the filing of its Answer and Motion to Dismiss on March 10, 2009 be deemed timely filed.

4. The Complaint consists of thirteen (13) number paragraphs followed by a prayer for the Commission to (i) issue an order against Ohio Edison, (ii) award compensatory damages to Complainant in an amount no less than \$7,975.00 for any and all "non-statutory violations", and (iii) treble damages for all statutory violations (the "Prayer"). Ohio Edison will

specifically answer the numbered paragraphs and the Prayer set forth in the Complaint. Ohio Edison generally denies all allegations set forth in the Complaint not otherwise specifically addressed.

5. With respect to Paragraph 1, Ohio Edison denies that Complainant was the customer of record at 2597-2607 Market Street, Youngstown, Ohio 44507<sup>1</sup> (the "Premise") of Ohio Edison during the applicable time period referenced in the Complaint. Ohio Edison's records demonstrate that Complainant contacted the Company on October 24, 2008 to initiate service. Ohio Edison admits that Complainant is currently a customer of Ohio Edison.

6. With respect to Paragraph 2, Ohio Edison lacks knowledge or information sufficient to form a belief as to the truth of the claim that at all relevant times, Complainant was and is the owner of the Premise. Ohio Edison denies the claim that at all relevant times said electric service remained in "customer's" name. Ohio Edison admits that the Company supplied electric service to the Premise for a period on and before August 24, 2007.

7. With respect to Paragraph 3, Ohio Edison will not confirm or deny the allegations set forth therein that relate to a customer not a party to this proceeding.

8. With respect to Paragraph 4, Ohio Edison will not confirm or deny the allegations set forth therein that relate to a customer not a party to this proceeding.

9. With respect to Paragraph 5, Ohio Edison lacks knowledge or information sufficient to form a belief as to the truth of the allegation.

10. With respect to Paragraph 6, Ohio Edison lacks knowledge or information sufficient to form a belief as to the truth of the allegation.

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<sup>1</sup> Ohio Edison has the premise of record to be 2597 Market Street. However, for the purposes of this Answer and Motion to Dismiss, 2597 Market Street and 2597-2607 Market Street shall be deemed to be the same real property.

11. With respect to Paragraph 7, Ohio Edison denies the allegation that Complainant notified Ohio Edison of any “discoveries” or made a claim for damages.

12. With respect to Paragraph 8, it is not entirely clear what “claim” Complainant is referring, but Ohio Edison admits that it is not liable for any alleged damages described in Complainant’s Complaint.

13. With respect to Paragraph 9, Ohio Edison denies the allegation that any acts or omissions of Ohio Edison constitute negligence and/or intentional tort and/or willful and wanton misconduct and/or gross negligence, breach of contract, and statutory violations. Moreover, Ohio Edison denies it violated any laws.

14. With respect to Paragraph 10, Ohio Edison denies the allegation that it failed to follow any rules or regulations on file with the Commission.

15. With respect to Paragraph 11, Ohio Edison denies the alleged acts and omissions of Ohio Edison referenced in the Complaint. Ohio Edison further denies the allegation that a service or practice of Ohio Edison was performed in a manner that was unjust and unreasonable.

16. With respect to Paragraph 12, Ohio Edison denies the alleged acts and omissions of Ohio Edison referenced in the Complaint. Ohio Edison further denies the allegation that Ohio Edison provided inadequate service.

17. With respect to Paragraph 13, Ohio Edison denies the alleged acts and omissions of Ohio Edison referenced in the Complaint. Ohio Edison further denies the allegation that Ohio Edison caused Complainant to incur costs and expenses for the renovation and repair of the Premise, to date in an amount no less than \$4,555.00. Ohio Edison lacks knowledge or information sufficient to form a belief as to the truth of the allegation that

Complainant is reasonably expected to incur future costs and expenses in an amount no less than \$3,420.00 for additional renovation and repairs.

**For its affirmative defenses, the Company further avers that:**

18. The Complainant, NLW Properties Business Development Inc. was not a customer of Ohio Edison for the time period referenced in its Complaint and thus lacks standing to bring its Complaint.

19. Complainant's request that the Commission issue and order against Ohio Edison and award compensatory damages to Complainant in an amount no less than \$7,975.00 for any and all "*non-statutory*" (emphasis added) violations is unfounded, unsupported and should be denied.

20. Complainant's request that the Commission award treble damages for all statutory violations is unfounded, unsupported and should be denied.

21. Ohio Edison cannot address and set forth any facts for the time period in question because it relates to another customer and is thus confidential.

22. Ohio Edison has at all times acted in accordance with its Tariff, PUCO No. 11, on file with the Public Utilities Commission of Ohio, as well as all rules and regulations as promulgated by the Public Utilities Commission of Ohio, the laws existing in the State of Ohio, and accepted standards and practices in the electric utility industry, and Ohio Edison denies that its practices or services are unjust or unreasonable.

**For its Motion to Dismiss, the Company states:**

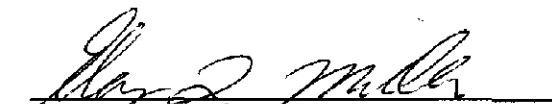
23. Complainant lacks standing to bring its Complaint.

24. Ohio Edison breached no legal duty owed to Complainant, and Complainant failed to state reasonable grounds upon which relief may be granted.

25. Complainant has not identified any Commission rule or regulation that it believes Ohio Edison has violated.

WHEREFORE, having fully answered the Complaint, Respondent, Ohio Edison Company, respectfully requests that the instant action be dismissed, and that it be granted any other relief that this Commission may deem just and reasonable.

Respectfully submitted,

  
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Ebony Miller (0077063)

Attorney

FirstEnergy Service Company

76 South Main Street

Akron, Ohio 44308

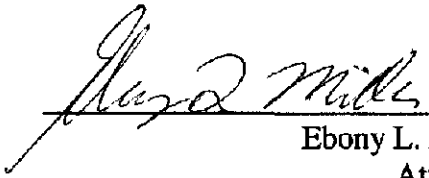
Phone: 330-384-5969

Fax: 330-384-3875

On behalf of Ohio Edison Company

**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY that a copy of the foregoing Answer was served by regular U.S. Mail, postage prepaid, upon NLW Properties Business Development, Inc., 114 Javit Court, Youngstown, Ohio 44141; and David M. Moore, 19 East Front Street, Youngstown, Ohio 44503 this 10<sup>th</sup> day of March, 2009.

  
Ebony L. Miller  
Attorney