

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

KAWS, INC. dba RB Tool & Mfg. Co.)	
2680 Civic Ctr. Drive)	
Cincinnati, OH 45231)	
Complainant,)	Case No. 13-0336-EL-CSS
)	
v.)	
)	
Duke Energy Ohio, Inc.)	
)	
Respondent.)	

ANSWER OF DUKE ENERGY OHIO, INC.

For its Answer to the Complaint of KAWS, Inc. dba RB Tool & Mfg. Co. (Complainant), Duke Energy Ohio, Inc. (Duke Energy Ohio or Company) states as follows:

1. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Complaint and, therefore, denies all such allegations.
2. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Complaint and, therefore, denies all such allegations.
3. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Complaint and, therefore, denies all such allegations. Further answering, Duke Energy Ohio admits that the Commission contacted the Company about an informal complaint by Complainant, to which Duke Energy Ohio fully responded.

4. Duke Energy Ohio admits that the Company provided a field report to the Commission on or about March 14, 2012, which report identified certain steps that the Company would take to further investigate the Complainant's alleged outages. Duke Energy Ohio denies the remaining allegations contained in paragraph 4 of the Complaint.
5. Duke Energy Ohio admits that it did, among other things, the pole by pole evaluation identified in the aforementioned field report. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 5 of the Complaint and, therefore, denies all such allegations.
6. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6 of the Complaint and, therefore, denies all such allegations.
7. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7 of the Complaint and, therefore, denies all such allegations.
8. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8 of the Complaint and, therefore, denies all such allegations.
9. Duke Energy Ohio denies the allegations contained in paragraph 9 of the Complaint.
10. Duke Energy Ohio denies the allegations contained in paragraph 10 of the Complaint.
11. Duke Energy Ohio denies all allegations of the Complaint not expressly admitted herein.

AFFIRMATIVE DEFENSES

12. The Complaint fails to state a claim against Duke Energy Ohio upon which relief may be granted.

13. 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.
14. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, Duke Energy Ohio has provided reasonable and adequate service and has billed the Complainant according to all applicable provisions of Title 49 of the Ohio Revised Code and regulations promulgated thereunder, and in accordance with all of Duke Energy Ohio's filed tariffs.
15. Duke Energy Ohio asserts as an affirmative defense that, pursuant to Ohio Revised Code Section 4905.26, the Commission lacks subject matter jurisdiction and authority to award money damages.
16. 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, Inc. respectfully moves this Commission to dismiss the Complaint of Complainant KAWS, Inc. dba RB Tool & Mfg. Co. with prejudice; deny Complainant's Request for Relief, if any; and grant the Company such other, further and different relief as the Commission deems just and appropriate.

Respectfully submitted,

/s/ Robert A. McMahon

Robert A. McMahon (0064319)

Counsel of Record

Eberly McMahon LLC

2321 Kemper Lane, Suite 100

Cincinnati, OH 45206

tel: (513) 533-3441

fax: (513) 533-3554

email: bcmahon@emh-law.com

Elizabeth H. Watts

Assistant General Counsel

Duke Energy Business Services Inc.

155 East Broad Street, 21st Floor

Columbus, OH 43215

tel: (614) 222-1331

fax: (614) 221-7556

email: elizabeth.watts@duke-energy.com

Attorneys for Duke Energy Ohio, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served via electronic mail on the undersigned counsel of record for Complainant on this 19th day of February, 2013:

Paul E. Balash, Esq.

13 E. Court Street, 2d Floor

Cincinnati, OH 45202

pebalash@fuse.net

/s/ Robert A. McMahon

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/19/2013 1:03:58 PM

in

Case No(s). 13-0336-EL-CSS

Summary: Answer Answer of Respondent Duke Energy Ohio, Inc. electronically filed by Mr. Robert A. McMahon on behalf of Duke Energy Ohio, Inc.