

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

Planning A Lifetime LLC)	
4365 Brookdale Dr.)	
Cincinnati, OH 45211)	
)	
Complainant,)	Case No. 14-0147-EL-CSS
)	
v.)	
)	
Duke Energy Ohio, Inc.)	
)	
Respondent.)	

**RESPONDENT DUKE ENERGY OHIO, INC.'S
MOTION TO DISMISS COMPLAINT**

The Commission should dismiss this case because Complainant is not represented by counsel and the Complaint is not signed by an attorney licensed to practice law in the State of Ohio, and because the Complaint not set forth reasonable grounds for complaint against Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company).

Respectfully submitted,

/s/ Robert A. McMahon
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MEMORANDUM OF LAW

It is clear that Complainant and its owner Allyssa Holder are trying to perpetrate a fraud on both Duke Energy Ohio and the Commission. Ms. Holder is not entitled to new residential service at 4365 Brookdale Drive based on her failure to pay for her gas and electric services at other residential properties and accounts in her name and her history of tendering multiple payments to the Company which have been returned for insufficient funds. Ms. Holder was well aware of that fact, especially in light of her personal formal complaint case pending before the Commission (Case No. 13-1552-EL-CSS). Accordingly, Ms. Holder decided to bypass Duke Energy Ohio's filed tariffs by using a false name to apply for and get residential service in her company's name at a home where her family lives. When Duke Energy Ohio discovered this fraudulent activity the following month, the Company promptly investigated the unlawful actions and then delivered notice to Complainant that the Company intended to disconnect the gas and electric services due to fraud. In response, Ms. Holder decided to play the victim game once again and caused her company to file a formal Complaint against Duke Energy Ohio. For the reasons set forth below, the Commission should dismiss that Complaint.

Complainant is a limited liability company formed under the laws of the State of Ohio. As alleged in the Complaint, the commercial gas and electric account at issue (Account #9290-0289-22-9) is and always has been in Complainant's name. As provided by law and practice and procedure before the Commission, corporations and limited liability companies must be

represented by attorneys in proceedings before the Commission. See, Rule 4901-1-08, Ohio Administrative Code. Allyssa Holder is not a licensed attorney in this State.¹ As such, Ms. Holder was not qualified to sign and file a Complaint on behalf of her limited liability company, nor is she competent to prosecute this action on the company's behalf. Therefore, the Commission should dismiss the Complaint filed by Complainant Planning A Lifetime LLC.

In addition, the Complaint also should be dismissed because Complainant has not set forth reasonable grounds for complaint against Duke Energy Ohio. It is apparent on the face of the Complaint that Complainant and its owner Allyssa Holder have violated the law and Duke Energy Ohio's filed tariffs. First, Complainant's owner gave a false name ("Ally Holders") when she applied online for service in Complainant's name so that Duke Energy Ohio could not connect her to other accounts where she tendered fraudulent payments which were returned for insufficient funds. Second, Complainant's owner applied for and received residential service in her limited liability company's name without disclosing to Duke Energy Ohio that her family lived at the property and that the property was not zoned for business use. In addition, Complainant has never demonstrated to Duke Energy Ohio that Complainant is authorized or licensed to transact business at the subject property. Third, Complainant's owner falsely represented to the Company that Complainant had legal possession of the subject real property and further had a lease in its name when, in fact, Duke Energy Ohio has never received any such lease and does not believe such a lease exists. Fourth, during the course of the Company's investigation of Complainant's conduct, Complainant's owner fraudulently tendered additional payments to the Company which have been returned for insufficient funds, thereby further exacerbating Ms. Holder's fraudulent conduct.

¹ As alleged in the Complaint, Ms. Holder supposedly "alerted [her] attorney to" the issues and "was told" by her attorney that "we (presumably Ms. Holder and her company) may be seeking suit." Complaint, p. 2

WHEREFORE, Respondent Duke Energy Ohio, Inc. respectfully moves this Commission to dismiss the Complaint of Planning A Lifetime LLC with prejudice; and to grant Respondent such other, further and different relief as the Commission deems just and proper.

Respectfully submitted,

/s/ Robert A. McMahon

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Counsel of Record

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Attorneys for Respondent

Duke Energy Ohio, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served via regular US Mail, postage prepaid, this 19th day of February, 2014, upon the following:

Planning A Lifetime LLC

4365 Brookdale Drive

Cincinnati, OH 45211

/s/ Robert A. McMahon

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Case No(s). 14-0147-EL-CSS

Summary: Motion to Dismiss electronically filed by Mr. Robert A. McMahon on behalf of Duke Energy Ohio, Inc.