

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

RB Tool & Mfg. Co.	)	
2680 Civic Ctr. Drive	)	
Cincinnati, OH 45231	)	
	)	
Complainant,	)	Case No. 15-1012-EL-CSS
	)	
v.	)	
	)	
Duke Energy Ohio, Inc.	)	
	)	
Respondent.	)	

---

**RESPONDENT DUKE ENERGY OHIO'S ANSWER  
TO AMENDED COMPLAINT OF KAWS, INC. dba RB TOOL & MFG. CO.**

---

For its Answer to the Amended 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 admits the allegations of paragraph 1 of the Amended Complaint.
2. Duke Energy Ohio admits the allegations of paragraph 2 of the Amended Complaint.
3. Duke Energy Ohio lacks knowledge or information to admit or deny the allegation of paragraph 3 of the Amended Complaint and, therefore, denies such allegations.
4. Duke Energy Ohio denies that the Company's delivery of electricity to Complainant has not been dependable. Duke Energy Ohio lacks knowledge or information to admit or deny the remaining allegations of paragraph 4 of the Amended Complaint and, therefore, denies such allegations.
5. In response to the list of alleged "interruptions in the delivery of electricity" set forth in paragraph 5 of the Amended Complaint, Duke Energy Ohio states as follows:

- a. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding an interruption in Complainant's electrical service on July 21, 2014, and, therefore, denies such allegations. Further answering, Duke Energy Ohio states that it does not have information about any outages or interruptions in Complainant's service on that day;
- b. Duke Energy Ohio admits there was a momentary interruption in Complainant's electrical service on July 22, 2014, when a bird came into contact with the Company's Fairfield 56 feeder, thereby causing a voltage sag and momentary interruption in Complainant's electrical service. Further answering, Duke Energy Ohio states that the Company's equipment and distribution system promptly self-corrected and restored service to Complainant and other customers in the area;
- c. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding interruptions in Complainant's electrical service on October 6 and 7, 2014, and, therefore, denies all such allegations. Further answering, Duke Energy Ohio states that it does not have information about any outages or interruptions in Complainant's service on those days but does have information about adverse weather conditions and storms in the area on those days;
- d. Duke Energy Ohio admits there was an interruption in Complainant's electrical service on October 16, 2014, due to an automobile accident on the Company's New Burlington feeder. Further answering, Duke Energy Ohio states that the Company promptly responded to that accident and restored service to the area as quickly as possible;

- e. Duke Energy Ohio admits there was an interruption in Complainant's electrical service on November 24, 2014, due to adverse weather conditions and a storm that caused a tree limb to come into contact with a power line on the Company's New Burlington feeder. Further answering, Duke Energy Ohio states that the Company promptly responded to that incident and restored service to the area as quickly as possible;
- f. Duke Energy Ohio admits there was an interruption in Complainant's electrical service on December 2, 2014, because an animal came into contact with the Company's power line. Further answering, Duke Energy Ohio states that the Company promptly responded to that incident and restored service to the area as quickly as possible;
- g. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding interruptions in Complainant's electrical service on December 16, 17 and 18, 2014, and, therefore, denies all such allegations. Further answering, Duke Energy Ohio states that it does not have information about any outages or interruptions in Complainant's service on those days;
- h. Duke Energy Ohio admits there was an interruption in Complainant's electrical service on January 12, 2015, because an animal (squirrel) came into contact with the Company's power line. Further answering, Duke Energy Ohio states that the Company promptly responded to that incident and restored service to the area as quickly as possible;

- i. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding an interruption in Complainant's electrical service on January 24, 2015, and, therefore, denies such allegations. Further answering, Duke Energy Ohio states that it does not have information about any outages or interruptions in Complainant's service on that day;
- j. Duke Energy Ohio admits there was a momentary and unexplained interruption on the Company's New Burlington feeder on January 30, 2015, most likely due to a voltage sag, which caused a momentary interruption in Complainant's electrical service. Further answering, Duke Energy Ohio states that the Company's equipment and distribution system promptly self-corrected and restored service to Complainant and other customers in the area;
- k. Duke Energy Ohio admits there was a momentary interruption in Complainant's electrical service on March 3, 2015, when a tree limb came into contact with a power line on the Company's Fairfield 56 feeder, thereby causing a voltage sag and momentary interruption in Complainant's electrical service. Further answering, Duke Energy Ohio states that the Company's equipment and distribution system promptly self-corrected and restored service to Complainant and other customers in the area;
- l. Duke Energy Ohio admits there was a momentary interruption in Complainant's electrical service on March 23, 2015, when adverse weather conditions and storms caused a voltage sag on the Company's Fairfield 56 feeder and a momentary interruption in Complainant's electrical service. Further answering, Duke Energy Ohio states that the Company's equipment and distribution system



promptly self-corrected and restored service to Complainant and other customers in the area; and

m. Duke Energy Ohio admits there was a momentary interruption in Complainant's electrical service on June 8, 2015, when adverse weather conditions caused a voltage sag on the Company's New Burlington feeder. Further answering, Duke Energy Ohio states that the Company's equipment and distribution system promptly self-corrected and restored service to Complainant and other customers in the area.

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 Amended 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 Amended 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 Amended Complaint and, therefore, denies all such allegations. Further answering, Duke Energy Ohio denies that the Commission has jurisdiction to award monetary damages or relief.
9. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9 of the Amended Complaint and, therefore, denies all such allegations. Further answering, Duke Energy Ohio denies that the Commission has jurisdiction to award monetary damages or relief.

10. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10 of the Amended Complaint and, therefore, denies all such allegations. Further answering, Duke Energy Ohio denies that the Commission has jurisdiction to award monetary damages or relief.
11. Duke Energy Ohio admits that Complainant has contacted the Company at various times regarding certain interruptions in electrical service. Duke Energy Ohio denies the remaining allegations of paragraph 11 of the Amended Complaint.
12. Duke Energy Ohio denies the allegations of paragraph 12 of the Amended Complaint. Further answering, Duke Energy Ohio restates its answer to paragraph 5 of the Amended Complaint with respect to the dates on which Complainant allegedly had interruptions of its electrical service.
13. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13 of the Amended Complaint and, therefore, denies all such allegations. Further answering, Duke Energy Ohio denies that the Commission has jurisdiction to award monetary damages or relief.
14. To the extent Complainant alleges in the Amended Complaint that any interruptions in its electrical service were caused by Duke Energy Ohio's failure to provide reasonable and adequate service, Duke Energy Ohio denies all such allegations.
15. Duke Energy Ohio denies all allegations of the Amended Complaint not expressly admitted herein.

#### **AFFIRMATIVE DEFENSES**

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

17. 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.
18. 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.
19. Duke Energy Ohio asserts as an affirmative defense that at all times relevant to Complainant's claims, Duke Energy Ohio has recommended on several occasions that Complainant install surge suppression and related equipment at Complainant's plant to mitigate interruptions in service caused by issues such as voltage sags which are outside the control of Duke Energy Ohio, and that Complainant has independently made the business decision not to install any recommended mitigation equipment at its facility.
20. 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.
21. 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 Amended Complaint of Complainant 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 Copetas LLC  
2321 Kemper Lane, Suite 100  
Cincinnati, OH 45206  
Tell: (513) 533-3441  
Fax: (513) 533-3554  
Email: [bcmahon@emclawyers.com](mailto:bcmahon@emclawyers.com)

Elizabeth H. Watts  
Assistant General Counsel  
Duke Energy Business Services Inc.  
155 East Broad Street, 21<sup>st</sup> Floor  
Columbus, OH 43215  
Tel: (614) 222-1331  
Fax: (614) 221-7556  
Email: [elizabeth.watts@duke-energy.com](mailto: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 regular U.S. Mail on the undersigned on this 20<sup>th</sup> day of August, 2015:

Robert W. Burns, Esq.  
817 Main Street, 8<sup>th</sup> Floor  
Cincinnati, OH 45202

/s/ Robert A. McMahon



**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**8/20/2015 3:34:45 PM**

**in**

**Case No(s). 15-1012-EL-CSS**

Summary: Answer Respondent Duke Energy Ohio's Answer To Amended Complaint of KAWS, Inc. dba RB Tool & Mfg. Co. electronically filed by Mr. Robert A. McMahon on behalf of Duke Energy Ohio, Inc.