

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of)	
Larry Sturgill and Patricia Gilgenbach,)	
)	
Complainants,)	
)	Case No. 17-2127-GA-CSS
v.)	
)	
Northeast Ohio Public Energy Council,)	
)	
Respondent.)	

**ANSWER OF THE
NORTHEAST OHIO PUBLIC ENERGY COUNCIL**

Pursuant to Ohio Administrative Code (“O.A.C.”) 4901-9-01, the Northeast Ohio Public Energy Council (“NOPEC”) hereby submits its Answer to the Complaint filed by Larry Sturgill and Patricia Gilgenbach (“Complainants”) on October 16, 2017 with the Public Utilities Commission of Ohio (the “Commission”).

ANSWER

NOPEC generally denies the allegations set forth in the Complaint. For the sake of clarity, each sentence or group of sentences of the Complaint is set forth below, with its attendant answer. Each sentence of the Complaint is written verbatim as it appears in the Complaint and will not include the designation “[sic]” where otherwise appropriate.

1. Complainants states: “*NOPEC alleges that they sent me a letter.*”
2. NOPEC’s response: NOPEC admits that it mailed opt-out materials for NOPEC’s natural gas governmental aggregation program to Complainant Larry Sturgill (LDC Account No. 187415840010) on or about January 13, 2014. NOPEC also admits that it mailed opt-out

materials to Complainant Patricia Gilgenbach (LDC Account No. 201672090015) on or about July 25, 2017. NOPEC otherwise denies this statement for lack of knowledge and information sufficient to form a belief as to the truth of the allegations.

3. Complainants state: *“They claim they use the opt in and opt out method and they are required to send me this letter every 2 years.”*

4. NOPEC’s response: NOPEC admits that it is certified by the Commission to provide natural gas governmental aggregation services (Renewal Certificate No. 02-012G(8)) and is authorized to provide opt-out natural gas aggregation programs pursuant to R.C. 4929.26. NOPEC also admits that R.C. 4929.26(D) and O.A.C. 4901:1-28-04(A)(7) require NOPEC to provide eligible customers with notice of their opportunity to opt-out of NOPEC’s natural gas aggregation programs without charge at least every two (2) years. NOPEC denies the remaining allegations within this statement.

5. Complainants state: *“I have lived here 7 years in the same house and I have not ever received this letter.”*

6. NOPEC’s response: NOPEC denies this statement in the entirety.

7. Complaint state: *“They claim that since I did not return the card they never sent they have some right to change my gas supplier and what ever costs are in penalties I become responsible for them for my contract for the next two years is now broken.”*

8. NOPEC’s response: NOPEC denies this statement in the entirety.

9. Complainants state: *“My first awareness that they had pulled this stunt was when I was informed that my contract was broken.”*

10. NOPEC’s response: NOPEC denies this statement in the entirety.

11. Complainants state:

1345.18 Consumer's prior, verified consent required to switch natural gas or public telecommunications service provider.

The "if you didn't return the card method of slamming customers violates the above consumer protection law for there is no verification." They were not my supplier and yet they supposedly sent this letter to steal my account. They have claimed that I returned a card. Nonsense I never received the letter to begin with. I originated this complaint with the AG and it was referred to your informal complaint system with your people describing this as acceptable sales technique since it is a "government "system. It is not government-operated they are a for profit company using illegal methods to slam customers and you should be ashamed for allowing this business practice.

12. NOPEC's response: NOPEC denies this statement in the entirety.

13. Complainants state:

Example. Last month I sent you a letter to opt out, opt in a donation of one million dollars so now you should pay up. If you do not then I will sue you in court. When the court tells you I am a government agency therefore this is legal you would be as distressed with the courts in the same way I am with PUCO and the clown that explained to me that PUCO believes this is legal under the consumer protection act.

14. NOPEC's response: This is not a statement of fact or averment that NOPEC can either admit or deny. To the extent a response is required, NOPEC denies this statement in the entirety.

15. Complainants state:

If you truly believe that you have the right to subvert the law as PUCO and some business that claims government authority to violate the law because the leaders of my community agreed to allow them to do business in this town then I ask that you formally request that the AG take this case back since they have the ability to prosecute using county prosecutors under this law they and you are breaking.

16. NOPEC's response: This is not a statement of fact or averment that NOPEC can either admit or deny. To the extent a response is required, NOPEC denies this statement in the entirety.

17. NOPEC denies the remaining allegations and statements of the Complaint.

FIRST DEFENSE

18. Complainants have failed to set forth reasonable grounds for a complaint as required by the Ohio Revised Code, including Section 4905.26.

SECOND DEFENSE

19. NOPEC has, at all times, acted in accordance with all applicable statutes, administrative rules and regulations, and orders of the Commission.

THIRD DEFENSE

20. NOPEC has breached no legal duty or contractual obligation owed to Complainants.

FOURTH DEFENSE

21. The Commission lacks jurisdiction over the subject matter of the Complaint.

FIFTH DEFENSE

22. The Complainants lacks standing to bring the Complaint.

SIXTH DEFENSE

23. NOPEC reserves the right to raise additional defenses as warranted by discovery in this matter.

WHEREFORE, having fully responded to the allegations set forth in the Complaint, NOPEC respectfully requests that the Commission dismiss the Complaint with prejudice.

Respectfully submitted,



Glenn S. Krassen (007610)
BRICKER & ECKLER LLP
1001 Lakeside Avenue East, Suite 1350
Cleveland, Ohio 44114
Telephone: (216) 523-5405
Facsimile: (216) 523-7071
E-mail: gkrassen@bricker.com

Devin D. Parram (0082507)
BRICKER & ECKLER, LLP
100 South Third Street
Columbus, OH 43215
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
Email: dparram@bricker.com

*Attorneys for the Northeast Ohio Public Energy
Council*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer of NOPEC was served upon Complainants Larry Sturgill and Patricia Gilgenbach at the below address *via* regular U.S. mail on November 6, 2017.



Devin D. Parram

Larry Sturgill
814 Lake Breeze Road
Sheffield Lake, OH 44054

Patricia Gilgenbach
814 Lake Breeze Road
Sheffield Lake, OH 44054

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/6/2017 3:18:43 PM

in

Case No(s). 17-2127-GA-CSS

Summary: Answer of Northeast Ohio Public Energy Council electronically filed by Teresa Orahod on behalf of Glenn S. Krassen