

Nicole Menkaus)
8939 Terwilliger's Trail)
Montgomery, Ohio 45249)
)
Complainant)
)
v.) Case No. 17-2219-EL-CSS
)
Duke Energy Ohio, Inc.)
)
Respondent)

For its Answer to the Complaint of Nicole Menkaus (Complainant), Duke Energy Ohio, Inc., (Duke Energy Ohio or Respondent) states as follows:

2. In response to the allegations contained in the second paragraph of the Complaint, Duke Energy Ohio denies that it is negatively impacting property values in Symmes Township and the city of Montgomery. Duke Energy Ohio admits that it is exercising its lawful right, pursuant to grants of easement, to engage in vegetation management activities that include, but are not limited to, removing vegetation within its easement and right-of-way. Such removal is necessary to enable the continued safe and reliable operation of high-voltage power lines used in the provision of service to Duke Energy Ohio's customers, including those located in Symmes Township and the city of Montgomery. All remaining allegations of this paragraph are denied.

3. Duke Energy Ohio denies the allegations contained in the third paragraph of the Complaint. Answering further, Duke Energy Ohio states that its actions are consistent with its express grants of easement and with its Programs for Inspection, Maintenance, Repair and Replacement of Distribution and Transmission Lines, Section (f), as approved on June 13, 2016. All remaining allegations of this paragraph are denied.

4. In response to the allegations contained in the fourth paragraph of the Complaint, Duke Energy Ohio submits that statements regarding requested relief are not allegations to which a response is required. Duke Energy Ohio further submits that Complainant lacks standing to assert relief on behalf of other citizens of Symmes Township and the City of Montgomery. However, to the extent a response is required, Duke Energy Ohio denies that it is using toxic herbicides on Complainant's property. Answering further, Duke Energy Ohio states that its actions are necessary to enable the continued safe and reliable operation of high-voltage power lines used in the provision of service to Duke Energy Ohio's customers, including those located in Symmes Township and the city of Montgomery and are consistent with its express grants of easement and with its Programs for Inspection, Maintenance, Repair and Replacement of Distribution and Transmission Lines, Section (f), as approved on June 13, 2016. Duke Energy Ohio further states that the Public Utilities Commission of Ohio (Commission) is without jurisdiction to issue equitable relief, including the relief requested herein. All remaining allegations of this paragraph are denied.

5. In response to the allegations contained in the fifth paragraph of the Complaint, Duke Energy Ohio submits that statements regarding the date on which activities may commence are not allegations to which a response is required. However, to the extent a response is required, Duke Energy Ohio states that the Commission is without jurisdiction to resolve issues of equity,

as inferred by such statement. Answering further, Duke Energy Ohio states that its practices are permissible under express grants of easement and consistent with its Programs for Inspection, Maintenance, Repair and Replacement of Distribution and Transmission Lines, Section (f), as approved on June 13, 2016 and, as such, it cannot be deprived of its right to engage in permissible and lawful activities.

6. Duke Energy Ohio denies each and every allegation of fact and conclusion of law not expressly admitted herein.

AFFIRMATIVE DEFENSES

1. The Complainant does not assert any allegations of fact that would give rise to a cognizable claim against Duke Energy Ohio.

2. 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.

3. Duke Energy Ohio asserts as an affirmative defense that Complainant has not stated any request for relief that can be granted by this Commission.

4. Duke Energy Ohio states as an affirmative defense that Complainant lacks standing to assert any claims against the Respondent in respect of property for which she is not the lawful property owner of record.

5. Duke Energy Ohio asserts that to the extent Complainant is seeking monetary damages, such relief is beyond the scope of the Commission's jurisdiction.

6. Duke Energy Ohio asserts that to the extent the Complainant is seeking equitable relief, such relief is beyond the scope of the Commission's jurisdiction.

7. Duke Energy Ohio asserts that it has superior property rights, as confirmed by lawful grants of easement.

8. 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 respectfully requests that the Commission dismiss the Complaint of Nicole Menkaus for failure to set forth reasonable grounds for the Complaint and to deny Complainant's request for relief, if any.

Respectfully submitted,

/s/ Elizabeth H. Watts
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Attorneys for Respondent Duke Energy Ohio, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer of Duke Energy Ohio, Inc., was served via regular US Mail postage prepaid, or by electronic mail service, this 15th day of November 2017, upon the following:

Nicole Menkaus
8939 Terwilliger's Trail
Montgomery, Ohio 45249

/s/ Elizabeth H. Watts
Elizabeth H. Watts

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Case No(s). 17-2219-EL-CSS

Summary: Answer of Duke Energy Ohio, Inc. electronically filed by Ms. Emily Olive on behalf of Duke Energy Ohio and Spiller, Amy B. Ms. and Watts, Elizabeth H. Ms. and McMahon, Robert A. Mr.