

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>Krista Wagner</b>	)	
<b>Matt Wagner</b>	)	
2514 Fairgrove Court	)	
Cincinnati, Ohio 45244	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 17-2518-EL-CSS
	)	
	)	
<b>Duke Energy Ohio, Inc.,</b>	)	
	)	
Respondent.	)	

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**ANSWER OF DUKE ENERGY OHIO, INC.**

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For its Answer to the Complaint of Krista Wagner and Matt Wagner (Complainants), Duke Energy Ohio, Inc., (Duke Energy Ohio or Respondent) states as follows:

1. The Complaint is not in a form allowing for specific admission or denial as to individual allegations. Accordingly, Duke Energy Ohio generally denies the allegations set out in the Complaint.

2. With regard to the allegation in paragraph 1 of the Complaint that a stop order be issued, Duke Energy Ohio states that the Commission is without jurisdiction to resolve issues of equity. Answering further, Duke Energy Ohio states that any vegetation management activities in which it may engage 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. All remaining allegations of this paragraph are denied.

3. In response to paragraph 2 of the Complaint, Duke Energy Ohio asserts that statements regarding the lack of objection to trimming trees are not allegations to which a response is required. However, to the extent a response is required, Duke Energy Ohio is without sufficient knowledge as to the truth of the opinions of complainants and thus denies the same. 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.

4. In response to paragraph 3 of the Complaint, Duke Energy Ohio asserts 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.

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

### **AFFIRMATIVE DEFENSES**

1. The Complainants do 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), Complainants have failed to set forth reasonable grounds for complaint.

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

4. Duke Energy Ohio states as an affirmative defense that Complainants lack standing to assert any claims against the Respondent in respect of property for which they are not the lawful property owner of record.

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

6. Duke Energy Ohio asserts that to the extent the Complainants are 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 Krista Wagner and Matt Wagner for failure to set forth reasonable grounds for the Complaint and to deny Complainants' request for relief, if any.

Respectfully submitted,

/s/ Elizabeth H. Watts

Amy B. Spiller (0047277) (Counsel of Record)

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Elizabeth H. Watts (0031092)

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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 29<sup>th</sup> day of December 2017, upon the following:

/s/ Elizabeth H. Watts

Elizabeth H. Watts

Krista Wagner  
Matt Wagner  
2514 Fairgrove Court  
Cincinnati, Ohio 45244

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

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**Case No(s). 17-2518-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.