

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Individual Complaints of)	Case Nos.	17-2126-EL-CSS
Joe Grossi, Fu Wong and Peony Lo, Melissa)		17-2170-EL-CSS
and Peter Broome, Melisa Kuhne, Jim and)		17-2173-EL-CSS
Laura Haid, Olga Staios, Shana Berge,)		17-2176-EL-CSS
Gregory Hoeting, Richard and Carol)		17-2181-EL-CSS
Tenenholtz, R. Allen Pancoast, Paul and Karen)		17-2182-EL-CSS
Smith, Jason Dimaculangan, John Gump,)		17-2183-EL-CSS
Melissa and Brian Weiss, Evelyn and Tom)		17-2184-EL-CSS
King, Anne Wymore, John and Sally Riester,)		17-2185-EL-CSS
Phillip Griggs, Sharon M. Felman, Anita Deye,)		17-2187-EL-CSS
Clifford Fauber, Nicole Menkhaus, James)		17-2188-EL-CSS
Wulker, Timothy Wilson, Sandra Nunn,)		17-2191-EL-CSS
Barbara and Sanford Casper, Mark and Calissa)		17-2192-EL-CSS
Thompson, Michael Priessler, Patricia McGill,)		17-2195-EL-CSS
Dana and Joy Steller, Marc Wahlquist, Gary)		17-2201-EL-CSS
Pauly, Steve and Nanci Schmidt, Kathleen)		17-2203-EL-CSS
Danner, and Randall J. Fick)		17-2205-EL-CSS
)		17-2206-EL-CSS
Complainants,)		17-2211-EL-CSS
)		17-2213-EL-CSS
v.)		17-2214-EL-CSS
)		17-2219-EL-CSS
Duke Energy Ohio, Inc.,)		17-2222-EL-CSS
)		17-2223-EL-CSS
Respondent)		17-2224-EL-CSS
)		17-2268-EL-CSS
)		17-2269-EL-CSS
)		17-2302-EL-CSS
)		17-2314-EL-CSS
)		17-2315-EL-CSS
)		17-2316-EL-CSS
)		17-2320-EL-CSS
)		17-2335-EL-CSS
)		17-2338-EL-CSS
)		17-2369-EL-CSS

MOTION TO DISMISS COMPLAINTS WITHOUT PREJUDICE

Pursuant to Ohio Adm. Code 4901-1-12, Complainants Joe Grossi, Fu Wong and Peony Lo, Melissa and Peter Broome, Melisa Kuhne, Jim and Laura Haid, Olga Staios, Shana Berge, Gregory Hoeting, Richard and Carol Tenenholtz, R. Allen Pancoast, Paul and Karen Smith, Jason Dimaculangan, John Gump, Melissa and Brian Weiss, Evelyn and Tom King, Anne Wymore, John and Sally Riester, Phillip Griggs, Sharon M. Felman, Anita Deye, Clifford Fauber, Nicole Menkhaus, James Wulker, Timothy Wilson, Sandra Nunn, Barbara and Sanford Casper, Mark and Calissa Thompson, Michael Priessler, Patricia McGill, Dana and Joy Steller, Marc Wahlquist, Gary Pauly, Steve and Nanci Schmidt, Kathleen Danner, Mr. and Mrs. Jeffrey R. Sims, and Randall J. Fick (collectively, individual complainants), hereby request to dismiss the respective complaints individually filed by each complainant against Duke in the above-captioned dockets without prejudice.

As set forth below in the accompanying memorandum in support, the individual complainants listed above, along with other complainants, moved the Public Utilities Commission of Ohio (Commission) to amend the joint complaint filed in Case No. 17-2344-EL-CSS to allow the individual complainants to join the joint Second Amended Complaint filed on January 5, 2018 and to include their claims against Duke Energy Ohio, Inc. (Duke) in that Complaint. The Commission granted that motion on January 25, 2018. Given that the individual complainants have joined the joint Second Amended Complaint, the individual complainants desire to pursue the legal claims raised in the Second Amended Complaint against Duke and to withdraw the individual complaints

filed in the above-captioned dockets without prejudice. Therefore, individual complainants hereby request that the Commission dismiss, without prejudice, the individual complaints filed against Duke in the above-captioned dockets.

Respectfully submitted,

/s/ Kimberly W. Bojko

Kimberly W. Bojko (0069402)

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Counsel for Citizens Against Clear Cutting

February 2, 2018

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Individual Complaints of)	Case Nos.	17-2126-EL-CSS
Joe Grossi, Fu Wong and Peony Lo, Melissa)		17-2170-EL-CSS
and Peter Broome, Melisa Kuhne, Jim and)		17-2173-EL-CSS
Laura Haid, Olga Staios, Shana Berge,)		17-2176-EL-CSS
Gregory Hoeting, Richard and Carol)		17-2181-EL-CSS
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)		17-2369-EL-CSS

MEMORANDUM IN SUPPORT

The individual complainants filed their respective complaints against Duke in the above-captioned cases between October and December 2017. Each complaint asserted claims related to Duke's decision to engage in clear cutting of trees and vegetation, as well as the use of herbicides on their property. On November 14, 2017, a number of individuals jointly filed a complaint against Duke in Case No. 17-2344-EL-CSS wherein they alleged similar claims against Duke.¹ A Motion to Amend the joint Complaint in that case was granted by Entry on November 28, 2017.²

On January 5, 2018, the complainants in Case No. 17-2344-EL-CSS moved to amend their joint Amended Complaint and to add additional complainants, including the individual complainants listed above.³ That motion was granted by Entry on January 25, 2018.⁴ As these Complainants have now joined the joint Second Amended Complaint filed in Case No. 17-2344-EL-CSS, individual complainants no longer believe it is necessary or efficient to pursue their individually filed complaints in the above-captioned dockets at this time. Therefore, the individual complainants hereby request that the

¹ See *In the Matter of the Complaint of Kim Wiethorn, et al. V. Duke Energy Ohio, Inc.*, Case No. 17-2344-EL-CSS, Complaint (November 14, 2017).

² See *In the Matter of the Complaint of Kim Wiethorn, et al. V. Duke Energy Ohio, Inc.*, Case No. 17-2344-EL-CSS, Entry (November 28, 2017).

³ See *In the Matter of the Complaint of Kim Wiethorn, et al. V. Duke Energy Ohio, Inc.*, Case No. 17-2344-EL-CSS, Motion to Amend the Amended Complaint and Expedited Request to Extend Stay (January 5, 2018).

⁴ See *In the Matter of the Complaint of Kim Wiethorn, et al. V. Duke Energy Ohio, Inc.*, Case No. 17-2344-EL-CSS, Entry (November 28, 2017).

Commission dismiss the individual complaints filed in their respective cases captioned above without prejudice.

Respectfully submitted,

/s/ Kimberly W. Bojko

Kimberly W. Bojko (0069402)

Brian W. Dressel (0097163)

Stephen E. Dutton (0096064)

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Counsel for Citizens Against Clear Cutting

February 2, 2018

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served on February 2, 2018 by electronic mail upon all parties of record.

/s/ Kimberly W. Bojko
Kimberly W. Bojko

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 17-2126-EL-CSS, 17-2170-EL-CSS, 17-2173-EL-CSS, 17-2176-EL-CSS, 17-2181-EL-CSS,

Summary: Motion To Dismiss Complaints Without Prejudice electronically filed by Mrs. Kimberly W. Bojko on behalf of Complainants