

Barry V. Corrado
7970 Kimbee Drive
Cincinnati, OH 45244

Case No. 18-0493-EL-CSS

Duke Energy Ohio, Inc.

Respondent

For its Answer to the Complaint of Barry V. Corrado (Complainant), 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. In response to the allegations contained in the third typed paragraph of the Complaint, Duke Energy Ohio admits that it has a right of way onto Complainant's property below two high-voltage transmission lines: Transmission Circuit 1883, which is a 138 kV line, and Transmission Circuit 4545, which is a 345 kV line governed by the National Electric Reliability Corporation (NERC). Further answering, Duke Energy Ohio denies that it is negatively impacting property values of Complainant's home or any other homes in Anderson Township, Cincinnati, Ohio. 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, pruning and removing vegetation within its easement and right-of-way. Such vegetation management activities 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 Anderson Township, Cincinnati, Ohio. All remaining allegations of this paragraph are denied.

3. Duke Energy Ohio denies the allegations contained in the fourth typed 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 fifth typed 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 Anderson Township, Cincinnati, Ohio. However, to the extent a response is required, 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 Anderson Township, Cincinnati, Ohio, 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. With regard to the allegation 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. Further answering, Duke Energy Ohio denies that its vegetation management practices are impacting the value of Complainant's property or that the Commission has jurisdiction to hear any such claims.

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

AFFIRMATIVE DEFENSES

1. Duke Energy Ohio asserts as an affirmative defense that its easement on the property owned by Complainant expressly confirms the rights of Duke Energy Ohio to engage in vegetation management activities with regard to the property on which such easement exists.

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

3. 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.

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

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

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

7. 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.

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

9. 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 Barry V. Corrado for failure to set forth reasonable grounds for the Complaint and to deny Complainant's request for relief, if any.

Respectfully submitted,

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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 16th day of April, 2018, upon the following:

Barry V. Corrado
7970 Kimbee Drive
Cincinnati, OH 45244

/s/ Elizabeth H. Watts

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Summary: Answer Barry v. Corrado v. Duke Energy Ohio, Inc. Answer and Motion to Dismiss of Duke Energy Ohio, Inc. electronically filed by Mrs. Debbie L Gates on behalf of Duke Energy Ohio Inc. and D'Ascenzo, Rocco O. Mr. and Watts, Elizabeth H