

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of the City of Carlisle, <i>et al.</i>)	
)	
)	
Complainants,)	
)	
v.)	Case No. 18-780-EL-CSS
)	
Duke Energy Ohio, Inc.)	
)	
Respondent.)	

ANSWER OF DUKE ENERGY OHIO, INC.

For its answer to the complaint of the City of Carlisle, *et al.*, Duke Energy Ohio (Duke Energy Ohio or Company) states as follows:

FIRST DEFENSE

1. Duke Energy Ohio admits that the Complainants have been customers of the Company for many years. Duke Energy Ohio denies the remainder of the allegations in paragraph 1 of the Complaint.
2. Duke Energy Ohio denies that it is an electric service company as defined by R.C. 4905.03(A)(4), as there is no such section, but admits that it is an electric light company under R.C. 4905.03(C). Duke Energy Ohio also denies that it has a 3,000 square mile serving area, as "serving area" is not a known term. To the extent not denied, Duke Energy Ohio admits the remainder of the allegations in paragraph 2 of the Complaint.
3. Duke Energy Ohio admits that the Public Utilities Commission of Ohio (Commission) has jurisdiction over complaints as to service, pursuant to R.C. 4905.26. Duke Energy Ohio also admits that R.C. 4905.37 and R.C. 4909.28 provide the Commission with

authority, in certain circumstances, to alter tariffs or rates of jurisdictional utilities. Duke Energy Ohio denies the remainder of the allegations in paragraph 3 of the Complaint.

4. Duke Energy Ohio is unable to admit or deny the Complainants' apology as it has no knowledge of their intent. Duke Energy Ohio denies the remainder of the allegations in paragraph 4 of the Complaint.
5. Duke Energy Ohio admits that its tariff contains many pages, many rates, and many riders. Duke Energy Ohio is unable to admit or deny the reason for the Commission's approval of Section VI(2) of the Company's Service Regulations, as it cannot speak to the Commission intent. Duke Energy Ohio denies the Complainants' reading of Section VI(2) of the Company's Service Regulations and denies the remainder of the allegations in paragraph 5 of the Complaint.
6. Duke Energy Ohio admits that its tariff includes the quoted language. Duke Energy Ohio denies the remainder of the allegations in paragraph 6 of the Complaint.
7. Duke Energy Ohio denies the allegations in paragraph 7 of the Complaint.
8. Duke Energy Ohio denies the allegations in paragraph 8 of the Complaint.
9. Duke Energy Ohio denies the allegations in paragraph 9 of the Complaint.
10. Duke Energy Ohio admits that it referred to Section IV(3) of its Service Regulations. Duke Energy Ohio is unable to admit or deny the consistency of "the Company's rules" with "the Commission's view" as Duke Energy Ohio cannot speak to the Commission's view. Duke Energy Ohio denies the remainder of the allegations in paragraph 10 of the Complaint.
11. Duke Energy Ohio admits the allegations in paragraph 11 of the Complaint.

12. Duke Energy Ohio is unable to admit or deny the allegations in paragraph 12 of the Complaint, for lack of direct knowledge of same.
13. Duke Energy Ohio is unable to admit or deny the current applicability of Rate EH as it is not aware of the current configuration of the customers' facilities. Duke Energy Ohio also is unable to admit or deny the authenticity, accuracy, or substance of Attachment B to the Complaint as it is illegible and no specific source is identified or apparent. Duke Energy Ohio denies the remainder of the allegations in paragraph 13 of the Complaint.
14. Duke Energy Ohio denies that allegations in paragraph 14 of the Complaint.
15. Duke Energy Ohio is unable to admit or deny the statements in paragraph 15 of the Complaint.
16. Duke Energy Ohio admits that Attachments C and D to the Complaint appear to reflect accurate reproductions of the tariff pages identified thereon.

AFFIRMATIVE DEFENSES

17. Duke Energy Ohio asserts as an affirmative defense that the Complaint fails to state reasonable grounds for complaint.
18. Duke Energy Ohio asserts as an affirmative defense that the entity that filed the Complaint has no apparent relationship with the named Complainants.
19. Duke Energy Ohio asserts as an affirmative defense that the individual who signed the Complaint, as president of the entity that filed the Complaint, is not an attorney in the state of Ohio.
20. Duke Energy Ohio asserts as an affirmative defense that the Complaint was filed in direct violation of O.A.C. 4901-1-08.

21. Duke Energy Ohio asserts as an affirmative defense that the Complainants' claims are barred by the doctrines of waiver and collateral estoppel.
22. Duke Energy Ohio asserts as an affirmative defense that the Complainants have failed to mitigate damages.
23. Duke Energy Ohio asserts as an affirmative defense that, at all times relevant to Complainants' claims, Duke Energy Ohio has provided reasonable and adequate service to Complainants in accordance with all applicable provisions of Title 49 of the Ohio Revised Code and regulations promulgated thereunder, and in accordance with the Company's filed tariffs.
24. 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 moves this Commission to dismiss the Complaint of the City of Carlisle, *et al.*, for failure to set forth reasonable grounds for complaint and to deny Complainants' requests for relief.

Respectfully submitted,

/s/ Jeanne W. Kingery

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the following parties via ordinary mail delivery, postage prepaid, and/or electronic mail delivery on this 21st day of May, 2018.

/s/ Jeanne W. Kingery

Jeanne W. Kingery

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Case No(s). 18-0780-EL-CSS

Summary: Answer Answer of Duke Energy Ohio, Inc. to the complaint of he City of Carlisle, et al electronically filed by Mrs. Debbie L Gates on behalf of Duke Energy Ohio Inc. and D'Ascenzo, Rocco O. Mr. and Watts, Elizabeth H and Kingery, Jeanne W