

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

Monique Maisenhalter)	
154 Junefield Avenue)	
Cincinnati, OH 45218)	
)	
Complainant,)	Case No. 21-0816-EL-CSS
)	
v.)	
)	
Duke Energy Ohio, Inc.)	
)	
Respondent.)	

AMENDED ANSWER OF DUKE ENERGY OHIO, INC.

For its Amended Answer¹ to the Complaint of Monique Maisenhalter (Complainant), Duke Energy Ohio, Inc. (Duke Energy Ohio or Company) 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. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding Complainant's disability, the definition of electromagnetic sensitivity, and whether that condition qualifies as a disability under various state and federal laws or regulations and, therefore, denies such allegations.
3. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding a complaint which Complainant allegedly submitted to the

¹ Duke Energy Ohio, Inc. files this Amended Answer to correct a typographical error in paragraph 7 regarding the lawful fees and charges authorized by the Company's opt out tariff (PUCO Electric No. 19, Sheet No. 127).

Commission in 2015 regarding the Company's "AMI/AMR Smart Meters that had been installed on [her] home" and, therefore, denies such allegations.

4. Duke Energy Ohio denies that its electric meters at Complainant's property have caused her any disabling health effects.

5. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations about information provided to Complainant by her physician and, therefore, denies such allegations.

6. Duke Energy Ohio admits that Complainant started service at this address in August 2016. Duke Energy Ohio further admits that Complainant has been on the AMI opt out program as set forth in the Company's opt out tariff (PUCO Electric No. 19, Sheet No. 127), which was approved by the Commission in Case No. 14-1160-EL-UNC. Further answering, Duke Energy Ohio states that the Commission's approval of the Company's opt out tariff (PUCO Electric No. 19, Sheet No. 127) demonstrates that the tariff is neither unjust nor unreasonable.

7. Duke Energy Ohio denies that any fees or charges authorized by the Company's opt out tariff (PUCO Electric No. 19, Sheet No. 127) are unlawful under any state or federal law or regulation.

8. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations about actions taken by Greater Cincinnati Water Works on its water meter at Complainant's property and, therefore, denies such allegations.

9. The lengthy paragraph at the top of page 2 of 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 that paragraph. Further answering, Duke Energy Ohio states that it has arranged with Complainant to test the electric meter at her property on

November 1, 2021, as provided in Ohio Administrative Code, Chapter 4901:1-10-05 and, if that meter fails the test, to replace the meter with the requested analog meter.

10. Duke Energy Ohio lacks knowledge or information sufficient to form a belief as to the truth of the allegations about “certified building biologist, Bill Bathgate” and, therefore, denies such allegations.

11. Statements regarding requested relief are not allegations to which a response is required.

12. Duke Energy Ohio denies that Complainant is entitled to be reimbursed for any opt-out fees paid by Complainant or charged to Complainant under the Company’s opt out tariff (PUCO Electric No. 19, Sheet No. 127), as approved by the Commission.

13. Duke Energy Ohio denies that Complainant is entitled to “engineering schematics” of any meters owned by the Company or installed at her property.

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

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim against Duke Energy Ohio upon which relief may be granted.

2. The Complaint does not assert any allegations of fact that would give rise to a cognizable claim against Duke Energy Ohio, nor does the Complaint allege that Duke Energy Ohio did or failed to do something in violation of applicable Ohio law.

3. Duke Energy Ohio asserts as an affirmative defense that pursuant to R.C. 4905.26 and O.A.C. 4901-9-01-(C)(3), Complainant has failed to set forth reasonable grounds for complaint.

4. Duke Energy Ohio asserts as an affirmative defense that, to the extent Complainant seeks reimbursement for Riders approved by the Commission, his Complaint fails to set forth reasonable grounds for complaint as a matter of law.

5. Duke Energy Ohio asserts as an affirmative defense that, pursuant to R.C. 4905.26, the Company furnished electric services to its customer of record on the account at issue in this Complaint that were adequate, just and reasonable, and that all charges made or demanded for the Company's services were just, reasonable and not more than allowed by law, the Company's filed tariffs, or by order of the Commission.

6. Duke Energy Ohio asserts as an affirmative defense that, at all times relevant to Complainant's claims, Duke Energy Ohio has provided reasonable and adequate service and has billed its customer of record according to all applicable provisions of Title 49 of the Ohio Revised Code and regulations promulgated thereunder, and in accordance with all of Duke Energy Ohio's filed tariffs.

7. Duke Energy Ohio asserts as an affirmative defense that, at all times relevant to Complainant's claims, the Company acted in conformance with O.A.C. 4901:1-10-22-23 and R.C. 4933.28 with respect to the Company's billings on Complainant's account.

8. Duke Energy Ohio asserts as an affirmative defense that, at all times relevant to Complainant's claims, the Company acted in conformance with O.A.C. 4901:1-13-4 with respect to reading the meter on Complainant's account.

9. Duke Energy Ohio asserts as an affirmative defense that, at all times relevant to Complainant's claims, the Company acted in conformance with O.A.C. 4901:1-10-05 with respect to the meters installed at the Property.

10. Duke Energy Ohio asserts as an affirmative defense that Complainant has not stated any request for relief, including relief which may be granted by this Commission.

11. Duke Energy Ohio asserts as an affirmative defense that there are no medical exclusions in the opt out tariff (PUCO Electric No. 19, Sheet No. 127), which has been approved by the Commission. Therefore, Complainant fails to state any request for relief, including relief which may be granted by this Commission, that would entitle Complainant to an exemption from the Company's approved opt out tariff and Rider AMO rate referenced in that tariff.

12. Duke Energy Ohio asserts that to the extent Complainant is seeking monetary damages or injunctive relief, such relief is beyond the scope of the jurisdiction of this Commission.

13. 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, Inc. respectfully moves this Commission to dismiss the Complaint of Monique Maisenhalter for failure to set forth reasonable grounds for the Complaint and to deny Complainant's Request for Relief, if any.

Respectfully submitted,

/s/ Robert A. McMahon
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Attorneys for Duke Energy Ohio, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served via regular US Mail, postage prepaid, on this 20th day of September, 2021, upon the following:

Monique Maisenhalter
154 Junefield Avenue
Cincinnati, OH 45218

/s/ Robert A. McMahon

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Case No(s). 21-0816-EL-CSS

Summary: Answer Amended Answer of Duke Energy Ohio, Inc. electronically filed by Mr. Robert A. McMahon on behalf of Duke Energy Ohio, Inc.