

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

<b>Elizabeth F. White,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 21-1006-EL-CSS</b>
	)	
<b>Constellation NewEnergy, Inc.</b>	)	
	)	
<b>Respondent.</b>	)	

**ANSWER OF CONSTELLATION NEWENERGY, INC.**

Constellation NewEnergy, Inc. (“Constellation” or “the Respondent”) hereby answers the three-sentence formal complaint (the “Complaint”) of Elizabeth F. White (“Complainant”) filed in this case as follows:

**FIRST DEFENSE**

1. As to the first sentence of the Complaint, the statement is not an allegation or directed to Constellation, and therefore does not warrant a response.
2. As to the second sentence of the Complaint, Constellation is without sufficient knowledge or information to either admit or deny that Complainant had a “conversation several months back” with Ms. Patterson, or that Complainant “requested an investigation in reference to an old request I had made for my lights to be shut off since October 2018 and soon afterwards only 100.00 has been reduced from the total amount of 4,137.02” during any said conversation.
3. As to the third sentence of the Complaint, Constellation states that Complainant enrolled EFW, Inc. as a customer for electric supply and that Constellation billed EFW Inc. for electric supply under a dual billing program. Answering further, Constellation’s bills to

EFW, Inc. from December 2018 through August 2021 were not paid. Answering further, Constellation cancelled the supply contract with EFW, Inc. and there is an unpaid balance of \$5,060.93 owed to Constellation. Answering further, Constellation denies that the account holder is not responsible for the outstanding balance and denies that there was a “billing error.”

4. Constellation denies all remaining allegations in the Complaint.
5. Constellation operates as a competitive retail electric service supplier in the state of Ohio pursuant to Certificate No. 00-003E issued in Case Number 00-1717-EL-CRS.
6. Relevant to this matter, Constellation states that Complainant enrolled the business of EFW, Inc. as a commercial customer of the Respondent. Constellation began providing the electric supply in August 2014 to EFW, Inc., and in February 2018 Complainant, on behalf of EFW, Inc., entered into a 48-month renewal agreement. Constellation later received a drop transaction from the utility and, effective September 17, 2018, Constellation was no longer EFW, Inc.’s supplier. Constellation assessed an early termination fee pursuant to the terms of its supply contract with the customer. Complainant informally complained to the Commission in October 2018 asking for cancellation of the early termination fee and reinstatement of EFW, Inc.’s account. EFW, Inc.’s account was reinstated with Constellation on November 14, 2018, at the Complainant’s request and the early termination fee was waived.

Upon reinstatement, Constellation provided an electric supply to EFW, Inc. pursuant to the terms of the renewal contract and issued bills to EFW, Inc. under its dual billing program. Constellation received notice that Complainant informally complained to the Commission

again in May 2021 on behalf of EFW, Inc. questioning Constellation's billings. EFW, Inc. has not paid Constellation's bills since October 2018, and Constellation has terminated the enrollment, which was effective June 30, 2021 when EFW, Inc. was returned to the standard service of Ohio Power Company. EFW, Inc. remains responsible to Constellation for the balance of \$5,060.93.

## **SECOND DEFENSE**

7. The Commission does not have subject matter jurisdiction over the Complaint.

## **THIRD DEFENSE**

8. The Commission does not have personal jurisdiction over Constellation as to some or all of the claims in the Complaint.

## **FOURTH DEFENSE**

9. The Complainant lacks standing to bring the Complaint.

## **FIFTH DEFENSE**

10. The Complaint fails to set forth reasonable grounds for complaint as required by the Ohio Revised Code, including R.C. 4905.26.

## **SIXTH DEFENSE**

11. The Public Utilities Commission of Ohio is without jurisdiction to regulate Constellation's rates, fees and charges for electric supply, or award monetary damages.

## **SEVENTH DEFENSE**

12. The Complainant is not entitled to the relief requested because Complainant's enrollment of EFW, Inc. with Constellation was in accordance with applicable laws, rules and regulations.

#### **EIGHTH DEFENSE**

13. The Complainant is not entitled to the relief requested because Complainant and EFW, Inc. received the benefit of the bargain struck with Constellation.

#### **NINTH DEFENSE**

14. Any relief Complainant may seek under the contract is limited by the contract terms.

#### **TENTH DEFENSE**

15. Since the Complaint was filed, Constellation has attempted on multiple occasions to speak with Complainant about the Complaint but was not successful. Constellation is still willing to discuss the matter with Complainant and will keep the Commission informed of its attempt to resolve this matter amicably.

#### **ELEVENTH DEFENSE**

16. Constellation reserves the right to amend this Answer to raise other defenses as warranted by discovery and investigation in this proceeding.

WHEREFORE, Constellation respectfully requests that the Public Utilities Commission of Ohio dismiss the Complaint in its entirety with prejudice, and grant such other and further relief as the Commission may deem proper.

Respectfully submitted,

/s/ Gretchen L. Petrucci  
Gretchen L. Petrucci (0046608)  
VORYS, SATER, SEYMOUR & PEASE LLP  
52 East Gay Street, P.O. Box 1008  
Columbus, OH 43216-1008  
Telephone: (614) 464-5407  
Facsimile: (614) 719-4793  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)  
(Willing to accept service by e-mail)

*Counsel for Constellation NewEnergy, Inc.*

### **CERTIFICATE OF SERVICE**

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via regular U.S. mail) on the 18th day of October 2021 upon Ms. Elizabeth F. White, 431 Van Buren Street, Unit E1, Fort Myers, FL 33916.

/s/ Gretchen L. Petrucci

Gretchen L. Petrucci

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

**Commission of Ohio Docketing Information System on**

**10/18/2021 11:51:33 AM**

**in**

**Case No(s). 21-1006-EL-CSS**

Summary: Answer electronically filed by Mrs. Gretchen L. Petrucci on behalf of Constellation NewEnergy, Inc.