

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Duke Energy Ohio, Inc.,)	
)	
Complainant,)	
)	
v.)	Case No. 22-0279-EL-CSS
)	
Nationwide Energy Partners, LLC)	
)	
Respondent.)	

**DUKE ENERGY OHIO, INC.'S ANSWER TO THE COUNTERCLAIM OF
NATIONWIDE ENERGY PARTNERS, LLC**

In accordance with Rule 4901-9-01(D), Ohio Administrative Code, Complainant Duke Energy Ohio, Inc. ("Duke Energy Ohio"), for its answers and defenses ("Answer") to the Counterclaim of Respondent Nationwide Energy Partners, LLC ("NEP") states as follows:

FIRST DEFENSE

1. Duke Energy Ohio admits that NEP is a Delaware corporation. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations as stated in Paragraph 1 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

2. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 2 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

3. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 3 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

4. Duke Energy Ohio admits the allegations as stated in Paragraph 4 of the Counterclaim.

5. Duke Energy Ohio admits the allegations as stated in Paragraph 5 of the Counterclaim.

6. The allegations in Paragraph 6 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

7. The allegations in Paragraph 7 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations. Further answering, the allegations in Paragraph 7 refer to writings whose content speaks for themselves. Insofar as the allegations mischaracterize the contents of the writings or provide an incomplete recitation of all relevant legal authorities, these allegations are denied.

8. The allegations in Paragraph 8 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations. Further answering, the allegations in Paragraph 8 refer to writings whose content speaks for themselves. Insofar as the allegations mischaracterize the contents of the writings or provide an incomplete recitation of all relevant legal authorities, these allegations are denied.

9. The allegations in Paragraph 9 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

10. Duke Energy Ohio denies the allegation in Paragraph 10 of the Counterclaim that apartment complex owners “use” on-site electrical infrastructure of Duke Energy Ohio. Further answering, to the extent the allegations in Paragraph 10 contain legal conclusions to which no

response is necessary, these allegations are denied. Duke Energy Ohio admits that there are different electrical configurations at various apartment complexes in its service territory, which are integrated components of the electricity grid owned and operated by Duke Energy Ohio. Duke Energy Ohio denies the remaining allegations in Paragraph 10.

11. Duke Energy Ohio admits the allegation in Paragraph 11 that master-metered electric service configurations occasionally involve a single point of delivery but not always. Further answering, master-metered premises that are submetered directly by landlord (not a third-party submetering company like NEP) are legally and operationally distinct from customer premises where a third-party submetering company provides retail services to tenants. To the extent the allegations in Paragraph 11 concern conclusions of law to which no response is necessary, Duke Energy Ohio denies the allegations. Duke Energy Ohio denies the remaining allegations in Paragraph 11.

12. Duke Energy Ohio denies the allegations as stated in Paragraph 12 of the Counterclaim.

13. The allegations in Paragraph 13 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

14. The allegations in Paragraph 14 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

15. The allegations in Paragraph 15 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

16. The allegations in Paragraph 16 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

17. The allegations in Paragraph 17 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations. Further answering, the allegations in Paragraph 17 refer to a writing whose content speaks for itself. Insofar as the allegations mischaracterize the contents of the writing, these allegations are denied.

18. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 18 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

19. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 19 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

20. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 20 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

21. Duke Energy Ohio admits that coordination between Duke Energy Ohio and a property owner is required but only where the master meter configuration conforms to the requirements of Duke Energy Ohio's Tariff ("Tariff") and any other legal requirements set forth in applicable statutes, administrative rules, and Commission orders.

22. Duke Energy Ohio admits that one or more onsite visits may occur during the process of reviewing engineering plans and resolving any outstanding issues; however, the

occurrence of an onsite visit(s) does not necessarily portend resolution of any outstanding issues, nor does it guarantee approval of any work orders. Duke Energy Ohio denies the remaining allegations in Paragraph 22 of the Counterclaim.

23. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 23 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

24. Duke Energy Ohio admits that it will coordinate with its customer to install and remove Duke Energy Ohio's equipment, but only after Duke Energy Ohio reviews and approves the customer's work order. To the extent the allegations in Paragraph 24 contain conclusions of law to which no response is necessary, Duke Energy Ohio denies the allegations. Duke Energy Ohio denies the remaining allegations in Paragraph 24 of the Counterclaim.

25. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 25 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations. Further answering, master-metered premises that are submetered directly by landlord (not a third-party submetering company like NEP) are legally and operationally distinct from customer premises where a third-party submetering company provides tenants with retail services.

26. Duke Energy Ohio denies the allegations in Paragraph 26 of the Counterclaim.

27. The allegations in Paragraph 26 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations. Further answering, Duke Energy Ohio denies that NEP does not become Duke Energy Ohio's customer for multi-family properties and denies that NEP does not distribute or supply electricity to customers. With respect to the remaining allegations in Paragraph 27 of the

Counterclaim, Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of such allegations; therefore, Duke Energy Ohio denies these allegations.

28. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 28 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations. Further answering, the allegations in Paragraph 28 refer to a writing whose content speaks for itself. Insofar as the allegations mischaracterize the contents of the writing, these allegations are denied.

29. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 29 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations. Further answering, the allegations in Paragraph 29 refer to a writing whose content speaks for itself. Insofar as the allegations mischaracterize the contents of the writing, these allegations are denied.

30. Duke Energy Ohio admits that in or around May 2021, NEP submitted or attempted to submit work orders for certain buildings in the Somerset complex. Duke Energy Ohio denies the remaining allegations in Paragraph 30.

31. Duke Energy Ohio denies the allegations in Paragraph 31 of the Counterclaim.

32. Duke Energy Ohio admits that it previously coordinated with NEP on the University Edge conversion and the new build projects at Boulevard at Oakley Station I and Boulevard at Oakley Station II and Mason Grand. Duke Energy Ohio denies that new build projects are similar to conversion projects and denies that the University Edge conversion was similar to the Somerset complex.

33. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 33 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

34. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 34 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

35. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 35 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations. Further answering, to the extent the allegations in Paragraph 35 of the Counterclaim contain conclusions of law to which no response is necessary, Duke Energy Ohio denies these allegations.

36. Duke Energy Ohio admits that nine buildings at the Somerset complex were converted to master-metered configurations. Duke Energy Ohio denies the remaining allegations in Paragraph 36 of the Counterclaim.

37. Duke Energy Ohio admits that certain buildings at the Somerset complex were converted to master-metered configurations and that certain tenants continued to receive a bill because neither the owner/landlord of Somerset, NEP, nor the affected tenants cancelled the established accounts that were improperly converted. Duke Energy Ohio denies the remaining allegations in Paragraph 37 of the Counterclaim.

38. Paragraph 38 of the Counterclaim refers to a writing, the contents of which speak for itself. Insofar as the allegations mischaracterize the content of the writing, Duke Energy Ohio denies the allegations in Paragraph 38.

39. Paragraph 39 of the Counterclaim refers to a writing, the contents of which speak for itself. Insofar as the allegations mischaracterize the content of the writing, Duke Energy Ohio denies the allegations in Paragraph 39.

40. Paragraph 40 of the Counterclaim refers to a writing, the contents of which speak for itself. Insofar as the allegations mischaracterize the content of the writing, Duke Energy Ohio denies the allegations in Paragraph 40.

41. Duke Energy Ohio denies the allegations in Paragraph 41 of the Counterclaim.

42. With respect to the allegations in Paragraph 42 of the Counterclaim, Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 42 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

43. Duke Energy Ohio denies the allegations in Paragraph 43 of the Counterclaim.

44. The allegations in Paragraph 44 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

45. The allegations in Paragraph 45 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

46. Duke Energy Ohio denies the allegations in Paragraph 46 of the Counterclaim. Further answering, the allegations in Paragraph 46 contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

47. Duke Energy Ohio denies the allegations in Paragraph 47 of the Counterclaim.

48. Duke Energy Ohio is without sufficient information or knowledge to form a belief as to the truth of the allegations as stated in Paragraph 48 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

49. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 49 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

50. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 50 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

51. Duke Energy Ohio is without sufficient knowledge or information to form a belief as to the truth of the allegations as stated in Paragraph 51 of the Counterclaim; therefore, Duke Energy Ohio denies these allegations.

52. Duke Energy Ohio denies the allegations in Paragraph 52 of the Counterclaim.

53. Duke Energy Ohio denies the allegations in Paragraph 53 of the Counterclaim.

54. Duke Energy Ohio admits the allegations in Paragraph 54 of the Counterclaim.

55. Duke Energy Ohio admits the allegations in Paragraph 55 of the Counterclaim.

Further answering, any such Commission investigation would be conducted under R.C. 4905.26, the same statute invoked by Duke Energy Ohio in its Complaint.

56. Duke Energy Ohio admits that Case No. 22-0279-EL-CSS is the only pending PUCO-complaint filed by Duke Energy Ohio concerning the practice of submetering. Duke Energy Ohio denies all remaining allegations in Paragraph 56 of the Counterclaim.

57. Duke Energy Ohio denies the allegations in Paragraph 57 of the Counterclaim.

58. Duke Energy Ohio denies the allegations in Paragraph 58 of the Counterclaim.

59. Duke Energy Ohio denies the allegations in Paragraph 59 of the Counterclaim.

60. Duke Energy Ohio incorporates by reference its responses to the foregoing paragraphs as though fully stated herein.

61. The allegations in Paragraph 61 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations. Further answering, the allegations in Paragraph 61 of the Counterclaim refer to a writing whose content speaks for itself. Insofar as the allegations mischaracterize the contents of the writing, these allegations are denied.

62. Duke Energy Ohio denies the allegations in Paragraph 62 of the Counterclaim.

63. Duke Energy Ohio admits that it provides master-meter service to certain buildings in its service territory where such service is established in accordance with the Tariff and all applicable statutes, administrative rules, and Commission orders. Duke Energy Ohio denies all remaining allegations in Paragraph 63 of the Counterclaim.

64. Duke Energy Ohio denies the allegations in Paragraph 64 of the Counterclaim.

65. Duke Energy Ohio denies the allegations in Paragraph 65 of the Counterclaim.

66. Duke Energy Ohio denies the allegations in Paragraph 66 of the Counterclaim.

67. Duke Energy Ohio denies the allegations in Paragraph 67 of the Counterclaim.

68. Duke Energy Ohio denies the allegations in Paragraph 68 of the Counterclaim.

69. Duke Energy Ohio denies the allegations in Paragraph 69 of the Counterclaim.

70. Duke Energy Ohio denies the allegations in Paragraph 70 of the Counterclaim.

71. Duke Energy Ohio denies the allegations in Paragraph 71 of the Counterclaim.

72. Duke Energy Ohio incorporates by reference its responses to the foregoing paragraphs as though fully stated herein.

73. The allegations in Paragraph 73 of the Counterclaim contain conclusions of law to which no response is necessary in this Answer; therefore, Duke Energy Ohio denies these allegations.

74. Duke Energy Ohio admits that it has refused to abandon its existing customers at Somerset by converting them to master-meter service at the request of NEP. Duke Energy Ohio denies all remaining allegations in Paragraph 74 of the Counterclaim.

75. Duke Energy Ohio admits that it is currently serving nine master-metered buildings at Somerset. Further answering, Duke Energy Ohio admits that it serves other master-metered buildings in its service territory where such service is established in accordance with the Tariff and all applicable statutes, administrative rules, and Commission orders. Duke Energy Ohio denies all remaining allegations in Paragraph 75 of the Counterclaim.

76. Duke Energy Ohio denies the allegations in Paragraph 76 of the Counterclaim.

77. Duke Energy Ohio denies the allegations in Paragraph 77 of the Counterclaim.

78. Duke Energy Ohio admits that it has not requested the Commission reopen Case No. 15-1594-AU-COI (except with respect to Duke Energy Ohio's prior requests for rehearing in that proceeding). Duke Energy Ohio denies all remaining allegations in Paragraph 78 of the Counterclaim.

79. Duke Energy Ohio denies the allegations in Paragraph 79 of the Counterclaim.

80. In response to NEP's Prayer for Relief, Duke Energy Ohio denies all allegations contained in the Prayer for Relief and denies that any relief requested by NEP is warranted.

81. Duke Energy Ohio denies each and every allegation contained in the Counterclaim not expressly admitted herein to be true.

AFFIRMATIVE DEFENSES

In addition to the above responses, Duke Energy Ohio further asserts the following affirmative defenses:

SECOND DEFENSE

82. The Counterclaim fails to set forth reasonable grounds for complaint, as required by Section 4905.26 of the Revised Code.

THIRD DEFENSE

83. The Counterclaim fails to state a claim upon which relief can be granted.

FOURTH DEFENSE

84. Duke Energy Ohio at all times acted in good faith and complied with its Tariff, Ohio Revised Code Title 49, the applicable rules, regulations, and orders of the Commission. These statutes, rules, regulations, orders, and Tariff provisions bar NEP's Counterclaim.

FIFTH DEFENSE

85. Duke Energy Ohio reserves the right to assert further defenses as warranted by discovery in this matter.

SIXTH DEFENSE

86. NEP is not a real party in interest pursuant to Ohio Civil Rule 17(A) and lacks standing to assert the claims raised in the Counterclaim.

SEVENTH DEFENSE

87. The Counterclaim is barred by the doctrine of unclean hands.

EIGHTH DEFENSE

88. Duke Energy Ohio breached no obligation or duty owed to NEP as a matter of contract, tort, statute, regulation, or otherwise.

NINTH DEFENSE

89. The relief sought in the Counterclaims should be denied to the extent that any of NEP's claims are barred, in whole or in part, by NEP's own actions and/or inactions.

TENTH DEFENSE

90. NEP's alleged damages were proximately caused by NEP's own negligent conduct.

ELEVENTH DEFENSE

91. The Counterclaim fails to state discrimination with particularity.

WHEREFORE, Duke Energy Ohio respectfully requests that the Counterclaim be dismissed with prejudice, and that Duke Energy Ohio be granted the relief requested in its Complaint, and any other relief that this Commission may deem just and reasonable.

Respectfully submitted,

/s/ N. Trevor Alexander

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Answer of Duke Energy Ohio has been served on the following this 9th day of June, 2022:

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Case No(s). 22-0279-EL-CSS

Summary: Answer to the Counterclaim of Nationwide Energy Partners, LLC
electronically filed by Mark T. Keaney on behalf of Duke Energy Ohio, Inc.