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April 24, 2017

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Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4325

E-7 SUB 1140

RE: Complaint Against Duke Energy from Sit-In Movement, Inc., a Non-profit Corporation, Regarding Power Services to 134 South Elm Street, Greensboro, NC

Dear Sir or Madam:

This is a complaint against Duke Energy from Sit-In Movement, Inc., (Museum) a non-profit corporation which has electrical service at 134 South Elm Street, Greensboro, NC which is provided by Duke Energy..

Duke Energy has threatened to cut off the electrical service for customer Sit-In Movement, Inc., unless it posts a \$18,224.00 deposit in addition to paying the regular electric bill. The electric bill is fully current. We have attempted to resolve this matter through the public staff at the Utilities Commission who have been very helpful, but who have not been able to get any resolution from Duke Energy.

Sit-in Movement, Inc.'s utility service at 134 South Elm Street, Greensboro, NC is in jeopardy if the Museum does not pay the \$18,224.00 deposit, and we request of the Utility Commission that the service be ordered to remain on until the Commission can rule on this complaint in a final ruling and that no deposit be required until there are further orders of the Utility Commission.

FACTS

Sit-In Movement, Inc., has maintained the power connection at the above address for nearly twenty years and over these twenty years, it has paid hundreds of thousands of dollars in electric bills to Duke Energy and its predecessor company including \$829,675.00 in the immediately preceding seven years and three months. Sit-In Movement, Inc., owns the property located at 134 South Elm Street, Greensboro, NC and has owned it since 1996. The real property is valued at over \$10 million and has a less than 5% debt to equity ratio.

Sit-In Movement, Inc., is a national historic site. As of the end of 2016, it has successfully completed a tax credit program under the federal government related to

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historic properties as well as a companion tax credit program under the federal government for financially distressed areas as defined by their zip codes.

Duke Energy is well-aware that Sit-In Movement, Inc., has been under some temporary financial pressure due to financial charges associated with the successful completion of the tax credit programs. Duke Energy has worked with the Museum during this time. The Museum is now up-to-date and current on its power bill. The Museum informed Davis Montgomery that the Museum would have all past-due power bills caught up by the end of February and be completely current on its bill (which in fact was accomplished).

On January 25, 2017, Duke Energy sent a written notice to Sit-In Movement, Inc., that if the bill was not caught up by February 16, 2017, that power would be disconnected. The Sit-In Movement, Inc., put checks in the mail the week previous to the due date which checks should have cleared and did clear. In any event, Davis Montgomery who had acted as our Duke Energy liaison would customarily reach our director, John Swaine, on his cell phone and/or email to discuss any concerns.

On this occasion, however, Davis Montgomery made no contact whatsoever with the Museum Director, the Chairman of the Board, the Vice-Chair of the Board, or with me as the attorney for the Board, but instead Duke Energy at approximately 8:00 a.m. on February 16, 2017, cut off power to the Museum. At the time the power was cut off, checks for full payment were already in the possession of Duke Energy making the bill current, and there was no reason to cut off power. Our Director, John Swaine, on learning of the problem contacted Duke Energy who confirmed that they did have the checks; two hours later, Duke Energy cut the power back on without deposit or re-connection fees by reason that it was their error and not the Museum's.

In the meantime, a large group of eighty-one disadvantaged school children who had been bused in from Union County had to have their tour cancelled although they at least were able to see the Historic Lunch Counter in somewhat darkened conditions. The Museum refunded the \$765.00 that had been paid on their behalves. At the same time, a corporate client had also scheduled a conference at the Museum. That conference had to be moved across the street to a different conference center, and the Museum refunded \$800.00. All of this happened because Duke Energy varied from its usual routine and did not call the Director. If they had, they would have learned that they already had the checks. Additionally, a group from Durham also had to be cancelled (after they had already arrived) and \$253.00 was refunded to them.

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Thereafter, because the Sit-in Movement, Inc.'s power had been disconnected through no fault of its own, Duke Energy demanded an \$18,224.00 deposit and demanded that the Museum pay \$3,224.00 per month payments toward the \$18,224.00 or Duke Energy would cut off the power to the Museum if the payment was two days late which we believe is against the Utility Commission Rules. Given our experience of having the power cut off when Duke Energy already had the checks for the regular billing, especially when the Museum was paid in full and current was unacceptable to the Museum.

The Museum believes that Duke Energy has deviated from its usual basis in dealing with institutions of our approximate size and power usage especially considering the Museum's ownership of the building and the years of service. Other companies which used more power and had hundreds of thousands of dollars in electric bills overdue for months did not have the power cut off and did not have to provide a deposit.

The Museum believes further that Davis Montgomery, acting on behalf of Duke Energy, deviated from normal procedures in dealing with the Sit-Museum, Inc., in that he neither telephoned nor e-mailed our Director whom he had always emailed or telephoned in the past with any concerns or to clarify any confusion. Instead, he telephoned the City Manager of Greensboro. Neither the Mayor nor the City Manager has any authority or ability to issue checks on behalf of Sit-In Museum, Inc., or to deal with the Museum's power bill from Duke Energy. So Mr. Montgomery called people who could do nothing and failed to call people who could do something and with whom he had dealt with in the past.

Furthermore, Mr. Montgomery was well-aware that the *Greensboro News & Record* regularly monitored the City of Greensboro emails that involved Sit-In Museum, and that there certainly would be emails (and there were emails) detailing the power cut-off at the Museum if the City were contacted and it would have the affect of embarrassing the Museum, affecting donors to the Museum, and affecting general public confidence in the Museum toward the negative. Furthermore, Mr. Montgomery was well-aware that the Mayor of the City had in recent years led an effort to take over the Museum from the black majority Board of Directors and leadership of the Museum which is the largest black-run comparable entity in the City. It can only be interpreted that Mr. Montgomery intended to help those forces who wished to take over the Museum and indeed, Mr. Montgomery in the past had expressed concern that there had been too much change of leadership in the Museum and that the Museum needed stability.

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During 2016, Mr. Montgomery and another Duke executive had appeared in front of the Board and said "There is \$250,000.00 with your name on it (the Sit-In Museum) which we would like to give you if you will keep your power bill exactly current for six months." Thereafter, the Museum kept its bill current for six months, approached Duke Energy about the funds, and were then told that it really ought to be more like a year and that furthermore, Duke Energy was very concerned that there had been too many changes in directors at the Museum and that Duke wanted to see some stability before they put in the \$250,000.00 that they had promised.

Based upon the above, it appears that Duke Energy through the person of Davis Montgomery involved itself in the politics of Greensboro and particularly in the race relations in Greensboro and had injected itself into the situation to help put financial pressure on the Museum, embarrass the Museum, and to hurt fundraising with the end result that the black-run Civil Rights Museum in Greensboro would collapse and allow the City of Greensboro as they had attempted before.

Additionally, no notice was put on the building on the day the power was cut off saying that the power was cut off such that Director John Swain was initially unsure whether there had been a power failure at the Museum or in downtown Greensboro or what was going on. We believe that this, too, was an irregularity.

The Museum seeks from the Utility Commission a ruling that inasmuch as the Museum's month to month Duke Energy bill is current and that the cut off of power resulted from a mistake on Duke Energy's part when they actually had the checks in hand, that Duke Energy has abused its discretion in requiring a deposit in the amount of \$18,224.00.

The Museum's Duke Power bill is current and our request here is that until the Commission rules that Duke Power has abused its discretion due to the above-stated facts and is not entitled to impose a deposit on Sit-In Movement, Inc.'s building in Greensboro, North Carolina.

Respectfully submitted, this the 24th day of April, 2017.



Douglas S. Harris
Attorney for Sit-In Museum, Inc.