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**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

H.R. Billups,	)	
Complainant,	)	
	)	
v.	)	
	)	Case No. 10-515-EL-CSS
American Electric Power,	)	
	)	
Respondent.	)	
	)	

**PUCO**

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**ANSWER AND MOTION TO DISMISS OF  
AMERICAN ELECTRIC POWER COMPANY**

American Electric Power Company ("AEP" or "Respondent") responds to the Complaint filed in this proceeding by Mr. H.R. Billups ("Mr. Billups" or "Complainant") through its Answer and Motion to Dismiss.

**INTRODUCTION**

Mr. Billups made a decision to address vegetation growing in his yard asserted to be under power lines. His decision to remove those trees was a unilateral decision and not the responsibility of AEP. Mr. Billups admits an individual affiliated with AEP assessed the situation and determined the trees were not in need of vegetation management at the time Mr. Billups first brought the issue to AEP's attention. It was with that understanding from AEP that Mr. Billups exercised his right to remove vegetation on his property on his own, and that is where this story ends. There is no basis for a statutory complaint before the Public Utilities Commission of Ohio (Commission) and the instant matter should be dismissed as sought below.

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## ANSWER TO ALLEGATIONS

1. AEP denies that there was any indifference or lack of employee training that cost Complainant \$1,500.
2. AEP admits that it has a right-of-way on Complainant's property.
3. AEP denies that a number of trees in the right-of-way on Mr. Billups' property had grown into the distribution lines.
4. AEP admits that an individual affiliated with AEP visited the right-of-way and stated that the trees did not need trimming or removal.
5. AEP is without sufficient knowledge or information to form a belief as to the truth of the allegation that Complainant had 7 with pines removed by a local tree service, at his expense.
6. AEP admits that it notified Complainant of the need to address a tree on his property in December of 2009.
7. AEP denies that its crews cut down most of the trees in the rights-of-way in the east end of Athens.
8. AEP denies that it refused to deal with the trees on Complainants property. The trees were not at-risk trees at the time of Complainants request for vegetation management. When a tree was identified as needed attention Complainant was notified.
9. AEP denies that its actions in assessing the need to trim or remove Complainant's trees were unfair.
10. AEP admits that Complainant did interact with company personnel after being notified of the need to address a tree in the right-of-way.

11. AEP denies that Complainant was misinformed by AEP about the need to remove trees in the right-of-way at the time requested by Complainant.
12. AEP denies that Complainant is due reimbursement for the service he chose to perform on his property to his own landscaping.

### **AFFIRMATIVE DEFENSES**

1. AEP asserts as an affirmative defense that under R.C. 4905.26 and O.A.C. 4901:1-9-01(B)(3), Complainant has failed to set forth reasonable grounds for a Complaint.
2. AEP asserts as an affirmative defense that at all time relevant to Complainant's claims, AEP has provided reasonable and adequate service to the Complainant according to all applicable provisions of Title 49 of the Ohio Revised Code and regulations promulgated thereunder, and in accordance with all of AEP's filed tariffs.
3. AEP asserts as an affirmative defense that Complainant has not stated relief which can be granted by this Commission by requesting a reimbursement of \$1,500.
4. AEP 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.

### **MOTION TO DISMISS**

1. AEP breached no legal duty owed to Complainant, and Complainant failed to state reasonable grounds upon which relief may be granted.
2. Complainants have not identified any Commission rule or regulation that AEP has violated.

3. AEP operates its vegetation management programs under the jurisdiction of the Commission. Any concerns that it is not properly fulfilling those duties should be brought to the attention of the Commission before unilaterally addressing the issue as a customer. Trimming or removing trees determined by AEP to not need attention and then trying to hold AEP responsible for the costs after the fact is not appropriate grounds for a complaint. Complainant used its own independent judgment to determine the trees were dangerous over the opinion of a trained professional. Complainant was free to and did make an individual choice to remove trees from his property. That choice was not made or performed by AEP and the costs should not be borne by AEP.

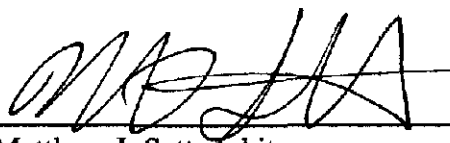
4. Even assuming the facts as presented by Complainant, dismissal is appropriate. Complainant admits that an individual affiliated with AEP determined that at the time of the initial request that the trees were not a threat to the distribution system. Complainant admits that he took it upon himself to remove the trees anyway. To the extent a tree months later needed vegetation management has no bearing on the fact that months before the trees presented to the AEP affiliated individual did not need attention. Whether the other trees would have needed vegetation management later in time is unknown and irrelevant to this case because Complainant had already made an independent decision to remove the vegetation planted in the AEP right-of-way. Accepting the facts as presented by Complainant supports the lack of any grounds for a complaint and provides the basis for dismissal.

WHEREFORE, Respondent, AEP, respectfully requests that the instant action be dismissed.

**CONCLUSION**

Having fully answered, AEP respectfully moves this Commission to dismiss the Complaint of Mr. H.R. Billups for failure to set forth reasonable grounds for the Complaint and to deny Complainant's request for relief.

Respectfully submitted,

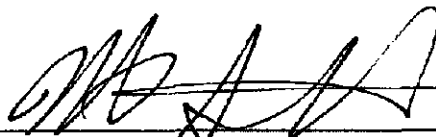
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Attorney for American Electric Power

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Answer and Motion to Dismiss of AEP Company was served by First-Class United States Mail, postage prepaid, upon Mr. H.R. Billups at the address listed below on this 6th day of May, 2010.

A handwritten signature in black ink, appearing to read 'M. J. Satterwhite', is written over a horizontal line.

Matthew J. Satterwhite

H.R. Billups  
53 Eden Place  
Athens, OH 45701