

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>Nghiem Tran LLC/ABC Grill,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Case No: 14-0556-EL-CSS</b>
	)	
<b>Ohio Power Company/</b>	)	
<b>Champion Energy Services Ohio,</b>	)	
	)	
<b>Respondents.</b>	)	

**ANSWER AND MOTION TO DISMISS OF OHIO POWER COMPANY**

Ohio Power Company d/b/a AEP Ohio (“OPCo”) hereby responds to the complaint filed in this proceeding by Nghiem Tran LLC/ABC Grill (“Complainant”) through this Answer and Motion to Dismiss.

**ANSWER TO ALLEGATIONS**

1. OPCo admits that it issues Complainant a consolidated electric bill that includes both electric utility and competitive retail electric service provider charges for electric services.
2. To the extent they relate to OPCo, OPCo denies any and all remaining allegations of the Complaint.

**AFFIRMATIVE DEFENSES**

1. OPCo asserts as an affirmative defense that Complainant has failed to set forth reasonable grounds for complaint against OPCo under §4905.26, Revised Code, and Rule 4901-9-01, Ohio Administrative Code.
2. OPCo asserts as an affirmative defense that at all relevant times to Complainant’s claims, OPCo has complied with applicable regulations and policies, including the requirements

for consolidated billing as set forth in the Ohio Administrative Code, has kept accurate records, and has provided reasonable and adequate service to the Complainant according to applicable provisions of Title 49 of the Ohio Revised Code and regulations promulgated thereunder and in accordance with OPCo's filed tariffs.

3. OPCo reserves the right to raise additional 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. Complainant bears the burden of proof in this proceeding. *Grossman v. Pub. Util. Comm'n*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1996). Complainant must state reasonable grounds alleging any rate charged or practice affecting or relating to any service furnished is unjust or unreasonable. *Brock v. Ohio Edison Co.*, Case No. 11-6805-EL-CSS, Opinion and Order at 2 (March 6, 2013).
2. Complainant has failed to state reasonable grounds upon which relief may be granted.
3. Complainant has not identified any Commission rule or regulation that OPCo has violated.
4. OPCo further submits that to the extent Complainant's requested relief is to receive the "refund" discussed in the Complaint, Complainant's most recent bill (dated April 21, 2014) reflects credits from Champion Energy Services Ohio.
5. Accordingly, dismissal is appropriate on the grounds that Complainant fails to state a claim against OPCo or, in the alternative, on the grounds that the basis for the Complaint against OPCo is moot given the Complainant's most recent bill (dated April 21, 2014) reflects credits from Champion Energy Services Ohio.

WHEREFORE, Ohio Power Company respectfully requests that the Complaint be dismissed.

### **CONCLUSION**

Having fully answered, OPCo respectfully moves this Commission to dismiss the Complaint for failure to set forth reasonable grounds for the Complaint against OPCo or, in the alternative, on the grounds that the basis for the Complaint is moot.

Respectfully submitted,

/s/ Yazen Alami  
Steven T. Nourse  
Yazen Alami  
American Electric Power Service Corp.  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215  
stnourse@aep.com  
yalami@aep.com

*Attorneys for Respondent Ohio Power  
Company*

### **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Answer and Motion to Dismiss of Ohio Power Company was served by regular mail upon Nghiem Tran LLC/ABC Grill at the address listed below, on this 28<sup>th</sup> day of April, 2014.

/s/ Yazen Alami  
Yazen Alami

Nghiem Tran LLC/ABC Grill  
1755 E. Dublin Granville Rd.  
Columbus, Ohio 43229

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

**Commission of Ohio Docketing Information System on**

**4/28/2014 4:00:29 PM**

**in**

**Case No(s). 14-0556-EL-CSS**

Summary: Answer and Motion to Dismiss electronically filed by Mr. Yazen Alami on behalf of Ohio Power Company