

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Janice L. Guess,)	
)	
Complainant,)	Case No. 14-2313-EL-CSS
)	
v.)	
)	
American Electric Power Company,)	
)	
Respondent.)	

**RESPONDENT OHIO POWER COMPANY'S
MOTION TO DISMISS WITH PREJUDICE**

Ohio Power Company (d/b/a/ "AEP Ohio", named in the complaint as American Electric Power Company) hereby respectfully moves this Commission to dismiss this action with prejudice for failure to prosecute. The complaint was filed in 2014. A trial was set for February of 2016 when Complainant asked for a continuance less than a week before the trial. The trial was rescheduled for March 9, 2017. Complainant, without just cause or proper notification, failed to appear at the rescheduled trial. On the record Respondent made an oral motion to dismiss for failure to prosecute. For clarification and to create a record, Respondent respectfully asks that this motion to dismiss be granted with prejudice.

Respectfully submitted,

/s/ Michael J. Benza
Michael J. Benza (0093473)
American Electric Power Service Corp.
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Counsel for Ohio Power Company

MEMORANDUM IN SUPPORT

The complaint in this action, filed December 23, 2014, alleges that AEP Ohio wrongfully disconnected Complainant, among other things. AEP Ohio timely answered the complaint, denying all allegations. A settlement conference was scheduled for March 10, 2015. A trial was set for February 16, 2016 but was postponed after Complainant asked for a continuance less than a week before the trial. Prior to the February 2016 trial, AEP Ohio submitted direct testimony on the docket. The trial was rescheduled for March 9, 2017. Again AEP Ohio submitted direct testimony on the docket. Complainant, without just cause or proper notification, failed to appear at the rescheduled trial. AEP Ohio diligently prepared for both the original and rescheduled trials.

Pursuant to Ohio Rule of Civil Procedure 41(B)(1), an action may be dismissed if the Complainant fails to prosecute his/her case. Here, as shown above, Complainant has done just that; she has failed to prosecute her case. This complaint was filed in 2014. On two different occasions, AEP Ohio diligently prepared only to have the trial postponed or, as with the rescheduled trial, Complainant failed to appear. In light of these circumstances, AEP Ohio, on the record at the rescheduled trial, made an oral motion to dismiss this action for failure to prosecute. AEP Ohio hereby clarifies this motion by declaring it is a motion to dismiss with prejudice. Therefore, in consideration of the foregoing, AEP Ohio respectfully moves this Commission to grant its Motion To Dismiss With Prejudice.

Respectfully submitted,

/s/ Michael J. Benza
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Counsel for Ohio Power Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via regular mail upon
Complainant at the addresses listed below on this 10th day of March, 2017.

Janice L. Guess
804 Wager Street
Columbus, Ohio 43206

Janice L. Guess
P.O. Box 6160
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Complainant Pro Se

/s/ Michael J. Benza
Michael J. Benza (0093473)

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Summary: Motion - Respondent Ohio Power Company's Motion to Dismiss with Prejudice
electronically filed by Michael J Benza on behalf of Ohio Power Company