

**BEFORE  
THE PUBLIC UTILITY COMMISSION OF OHIO**

NGHIEM TRAN LLC/ABC GRILL	)	
1755 E. Dublin Granville Rd.	)	
Columbus, OH 43229	)	Case No. 14-0556-EL-CSS
	)	
Complainant	)	
	)	
v.	)	
	)	
OHIO POWER COMPANY/	)	
CHAMPION ENERGY SERVICES, LLC	)	
	)	
Respondent	)	

**CHAMPION ENERGY SERVICES, LLC'S  
ANSWER AND MOTION TO DISMISS**

Champion Energy Services, LLC (“Champion”) hereby responds to the formal complaint filed by Nghiem Tran LLC (“Tran”) in this proceeding on April 4, 2014. A notice from Barcy F. McNeal, Secretary, The Public Utilities Commission of Ohio (“Commission”), instructed Champion to file its response and any other appropriate motion within 20 days after April 7, 2014. This response is therefore timely filed.

**I. BACKGROUND**

Champion operates as a competitive retail electric supplier in the state of Ohio pursuant to Certificate No. 09-166E(3) issued in Case No. 09-0766-EL-CRS. Champion and Tran entered into a fixed-rate small commercial contract with a one-year term (June 2012 to July 2013). Under the terms of service for that contract, if Tran did not affirmatively consent to renewal of the agreement and remained a customer of Champion, he would continue on Champion’s default plan with a variable-rate product. When the contract expired in July 2013, Tran was placed on Champion’s default variable-rate plan, where he remained until February 2014, at which point he

was transferred back to the original fixed contract product by Champion until March 16, 2014, when he switched to another supplier.

In February 2014, Tran called Champion to dispute his latest consolidated invoice from Ohio Power Company d/b/a AEP Ohio (“OPCo”) (dated February 20, 2014). In the process of investigating the dispute, Champion discovered that although the terms of service provided that Champion would provide two written notices of the contract’s expiration prior to expiration, in accordance with the Commission’s rules, due to an internal classification error (which has since been resolved), those notices were not provided to Tran. As a result, Champion agreed to refund Tran the incremental costs attributable to being billed at a variable rate instead of the fixed contract rate from August 2013 until January 2014 (\$1,353.06). That refund was applied to Tran’s account on April 14, 2014, and Champion has offered to issue that amount either by check or by an automated clearing house (“ACH”) payment. Champion has also issued corrected invoices for February 2014 and March 2014 to reflect only the amounts Tran would have been charged under the fixed-rate contract (\$408.53). Due to the consolidated billing program, there may have been minor processing delays, but Tran’s April 2014 invoice from OPCo should reflect the corrected amounts for February and March 2014, and Champion has agreed to issue a refund check directly to Tran for the outstanding \$1,353.06, which will be processed on May 2, 2014.

Effective March 16, 2014, Tran switched to a different electric provider.

## **II. ANSWER TO ALLEGATIONS**

### ***A. First Bullet of Formal Complaint***

1. Champion admits that Tran was a customer from June 21, 2012 to March 16, 2014.
2. Champion denies that it failed to inform Tran that the contract expired effective July 2013. The completed enrollment form clearly states that it is a twelve month contract

with a June 2012 start date. Champion also informed Tran of the expiration date during a telephone conversation on May 22, 2013.

***B. Second Bullet of Formal Complaint***

3. Champion denies that it overcharged Tran with the PJM Network Integration Transmission, PJM Locational Reliability, and LMP Adder, or Generation charges after the expiration of the contract. Those charges were assessed under the then-effective variable-rate plan, which allowed Champion to pass through PJM ancillary services charges. Further, as described in the Background section above, Champion has refunded or is in the process of refunding those charges in an effort to resolve Tran's complaint.
4. Champion denies that it charged Tran a \$633 deposit. Champion has no record of requiring a deposit from Tran. It is Champion's understanding that the \$633 deposit is a deposit required by OPCo.

***C. Third Bullet of Formal Complaint***

5. Champion admits that it verbally agreed to issue a \$1353.06 refund for the service period from August 2013 to February 2014, though it has not yet been processed due to internal accounting procedures relating Tran's unpaid supplier charges of \$408.53 for February and March 2014. Champion has made a manual internal adjustment to allow this refund to be processed. Per an agreement made with Tran on April 25, 2014, a check will be processed on May 2, 2014.

***D. Fourth Bullet of Formal Complaint***

6. Champion denies that it blocked Tran's request to switch electric suppliers in July 2013. Champion is not capable of blocking enrollment transactions duly submitted by another supplier.

***E. Fifth and Sixth Bullets of Formal Complaint***

7. Champion admits that Tran was billed through Utility Consolidated Billing in accordance with Section 3 of the contract's terms of service and O.A.C. § 4901:1-21-18.
8. Champion has no knowledge of Tran's interactions with OPCo. Champion defers to OPCo in response to these claims.

***F. Seventh Bullet of Formal Complaint***

9. Champion denies that OPCo and Champion should have separate billing systems to the extent that claim suggests that OPCo and Champion were improperly employing Utility Consolidated Billing duly authorized by the Commission.

***G. Eighth Bullet of Formal Complaint***

10. Champion denies that any partnership exists between OPCo and Champion or that OPCo receives any benefits from Champion other than those provided for in OPCo's Service Provider Agreement for its retail access program and its Billing Addendum.

***H. All Remaining Allegations***

11. To the extent they relate to Champion, Champion denies any and all remaining allegations in the complaint.
12. Champion reserves the right to amend this answer to assert any additional defenses after further discovery and investigation.

**III. AFFIRMATIVE DEFENSES**

1. Tran fails to set forth reasonable grounds for the complaint or request any relief.
2. Champion has refunded or is in the process of refunding the full amount Tran claims was overcharged. As it relates to overbilling, the complaint is moot.

#### **IV. MOTION TO DISMISS**


Tran bears the burden of proof in this complaint. *Grossman v. Pub. Util. Comm'n*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1996). Tran must state reasonable grounds alleging any rate charged or practice affecting or relating to any service furnished unjust or unreasonable. *Brock v. Ohio Edison Co.*, Case No. 11-6805-EL-CSS, Opinion and Order at 2 (March 6, 2013). Further, Tran must provide a statement of the specific relief sought. O.A.C. § 4901-9-01(B).

Tran has not done so. Tran has not identified any statute, rule, order, or contractual provision that Champion has violated. The contract is clear as to its term and expiration date. The contract is also clear as to the result of a customer's failure to renew or terminate the contract. Nor has Tran requested any specific relief from Champion in this matter. Notwithstanding that, Champion has already refunded or is in the process of refunding the full amount Tran claims was overcharged. Champion has already adjusted invoices for February and March 2014, and is in the process of issuing a check for the \$1,353.06 mentioned in the complaint. In short, Tran has been made whole and there are no outstanding issues to be resolved between Tran and Champion, and it is unclear what further relief, if any, Tran expects from Champion.

#### **V. CONCLUSION AND PRAYER**

Champion therefore requests that Tran's claims be dismissed for failure to state a claim or request relief, or, in the alternative, on the ground that those claims are moot.

Respectfully submitted,



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April 28, 2014

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was served via First Class Mail, postage prepaid, on this 28th day of April, 2014, to the following:

NGHIEM TRAN LLC/ABC GRILL  
1755 E. Dublin Granville Rd.  
Columbus, OH 43229

OHIO POWER COMPANY D/B/A AEP OHIO  
Attn: Steven T. Nourse, Yazen Alami  
American Electric Power Service Corp.  
1 Riverside Plaza, 29th Floor  
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Jeffrey B. Stuart

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

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Summary: Answer Champion Energy Services, LLC's Answer and Motion to Dismiss electronically filed by Ms. Sarah K Merrick on behalf of Champion Energy Services, LLC