

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>Brandon Heipp,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Case No: 15-0388-EL-CSS</b>
	)	
<b>Ohio Power Company</b>	)	
	)	
<b>Respondent.</b>	)	

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

Ohio Power Company d/b/a AEP Ohio (“OPCo” or the “Company”) hereby responds to the complaint filed in this proceeding by Brandon Heipp (“Complainant”) on February 20, 2015 (“Complaint”) through this Answer and Motion to Dismiss.

**ANSWER TO ALLEGATIONS**

1. OPCo denies any and all allegations of the Complaint.

**AFFIRMATIVE DEFENSES**

1. OPCo asserts as an affirmative defense that under Ohio Revised Code §4905.26 and Ohio Administrative Code Rule §4901-9-01(C)(3), Complainant has failed to set forth reasonable grounds for a complaint.
2. OPCo 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**

It is axiomatic that the burden of proof in complaint proceedings is on the complainant. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966). Here, Complainant

has failed to carry that burden. OPCo breached no legal duty owed to Complainant, and Complainant has failed to state reasonable grounds upon which relief may be granted. Complainant has not identified any Commission rule or regulation that OPCo has violated.

Furthermore, under Rev. Code §4933.28, OPCo has the right to bill the customer for the amount of electricity that has been unmetered within the past 365 days due to a metering inaccuracy. This right is additionally delineated in the regulations of the Commission and OPCo's tariff as approved by the Commission. *See* Ohio Admin. Code. §4901:1-10-23; Ohio Power Company Terms and Conditions of Service, Original Sheet 103-19 (Jan. 2011). In billing the Complainant, OPCo has fully complied with all laws, regulations and tariffs. Accordingly, dismissal is appropriate on grounds that Complainant failed to state reasonable grounds upon which relief may be granted.

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

### **CONCLUSION**

Having fully answered, OPCo respectfully moves this Commission to dismiss the Complaint with prejudice for failure to set forth reasonable grounds for the Complaint.

Respectfully submitted,

/s/ Ajay K. Kumar  
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*Counsel for 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 Brandon Heipp at the address listed below, on this 6th day of March, 2015.

/s/ Ajay K. Kumar  
Ajay K. Kumar

Mr. Brandon Heipp  
1214 Lake Shore Drive, Apt. A  
Columbus, OH 43204

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

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Summary: Answer and Motion to Dismiss electronically filed by Mr. Ajay K Kumar on behalf of Ohio Power Company