

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Michael and Linda Walker,)	
)	
Complainants,)	
)	
v.)	Case No: 15-0589-EL-CSS
)	
Ohio Power Company)	
)	
Respondent.)	

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 Michael and Linda Walker (“Complainants”) on March 25, 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), Complainants have 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 Complainants. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966). Under R.C. 4905.26, the Commission may hold a hearing on a complaint only “if it appears that reasonable grounds

for complaint are stated.” Here, Complainants have failed to carry that burden. OPCo breached no legal duty owed to Complainants, and Complainants have failed to state reasonable grounds upon which relief may be granted. Complainants have 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 Complainants, OPCo has fully complied with all laws, regulations and tariffs. Accordingly, dismissal is appropriate on grounds that Complainants 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 at the address listed below, on this 2nd day of April, 2015.

/s/ Ajay K. Kumar
Ajay K. Kumar

Michael and Linda Walker
425 Alton Road
Galloway, OH 43119

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Case No(s). 15-0589-EL-CSS

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