

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Eagle Hardwoods, Inc.,	)	
	)	
Complainant,	)	Case No. 14-1956-EL-CSS
	)	
v.	)	
	)	
Ohio Power Company,	)	
	)	
Respondent.	)	

**OHIO POWER COMPANY’S MOTION TO COMPEL DISCOVERY**

Pursuant to Ohio Administrative Code §§ 4901-1-16, 4901-1-19, 4901-1-20 and 4901-1-23 Ohio Power Company (d/b/a “AEP Ohio”) hereby makes a Motion to Compel Discovery. AEP Ohio, by filing this Motion, seeks complete and responsive answers to the interrogatories and the production of documents requested within Ohio Power Company’s First Set of Interrogatories and Request for Production of Documents. A Memorandum in Support is attached hereto.

Respectfully submitted,

/s/ Michael J. Benza  
Michael J. Benza  
*Counsel of Record*  
American Electric Power Service Corp.  
1 Riverside Plaza, 29th Floor  
Columbus, Ohio 43215  
(614) 716-716-2959  
mbenza@aep.com

*Attorney for Respondent*

## MEMORANDUM IN SUPPORT

AEP Ohio (the “Company”) files this Motion to Compel Discovery in order to obtain the relevant and important information sought within Ohio Power Company’s First Set of Interrogatories and Request for Production of Documents (the “Request”).<sup>1</sup> The Request was originally sent to Complainant’s Attorney via regular mail on December 9, 2015, to the address listed in a “Notice of Appearance” filing by the Complainant’s Attorney with the Public Utilities Commission of Ohio (the “PUCO”) under this case number.<sup>2</sup>

A response to the Request was never received, not within the applicable statutory time period and not after. AEP Ohio has exhausted all reasonable options to otherwise obtain a response from Complainant, including sending multiple letters and making multiple phone calls. AEP Ohio now thus resorts to filing a Motion to Compel with the Commission.

In support of AEP Ohio’s Motion to Compel Discovery, the Company sets forth several sections which explain why the PUCO should grant this Motion: (I) procedural background; (II) applicable law; (III) argument; and (IV) conclusion. In addition, please find attached a number of Exhibits in support of this Motion, as well as an Affidavit of Counsel.

### **I. PROCEDURAL BACKGROUND**

This case begins on November 5, 2014 when a complaint alleging failure to supply service, inadequate service, and discrimination was filed against the Company. The Company responded with an Answer and a Motion to Dismiss on November 25, 2014, denying all allegations and contending that the complaint should be dismissed because Complainant, a corporation, was not represented by counsel as required by law, and that the complaint had not stated reasonable grounds upon which relief can be granted since Complainant admitted that the

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<sup>1</sup> See Exhibit A.

<sup>2</sup> Id.

Company was in adherence with the law and no other claims were substantiated with specific facts to warrant a hearing.

A settlement conference was scheduled for February 12, 2015, but no settlement was reached. On July 17, 2015, Ajay K. Kumar withdrew as counsel for AEP Ohio and Steven T. Nourse continued to be the Counsel of Record for the Company. On November 4, 2015, Attorney Examiner Daniel E. Fullin entered an order that Complainant, as a corporation, must be represented by counsel and that such counsel shall file a Notice of Appearance no later than November 18, 2015.

On November 16, 2015, a Notice of Appearance was filed by David Schaffner on behalf of Complainant, whereby Mr. Schaffner assumed the role of counsel for Complainant. In this filing, Mr. Schaffner listed as his address: 132 Fair Avenue N.W., New Philadelphia, OH 44663; and he listed as his telephone number: 330-364-9070.

A hearing was subsequently scheduled for February 18, 2016. On December 2, 2015, a Notice of Appearance and Substitution of Counsel was filed on behalf of AEP Ohio stating that Michael J. Benza will now assume the role of Counsel of Record.

## **II. APPLICABLE LAW**

Ohio Administrative Code § 4901-1-16 states that the Commission rules of discovery are purposed to “encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings.”<sup>3</sup> Moreover, “these rules are [] intended to minimize commission intervention in the discovery process.”<sup>4</sup> The rules are similar to Ohio Civil Procedure Rule 26(B), which has been “liberally construed to allow for broad discovery of any unprivileged matter relevant to the subject matter

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<sup>3</sup> Ohio Administrative Code, *hereinafter* referred to as “OAC”, 4901-1-16(A).

<sup>4</sup> *Id.*

of the pending proceeding.”<sup>5</sup> Commission rules of discovery are thus designed for efficient and broad discovery between the parties without the need for intervention of the Commission.

There are a number of ways discovery may be obtained, including through interrogatories and requests for the production of documents.<sup>6</sup> Each interrogatory is to be “answered separately and fully...unless objected to, in which case the reason for the objection shall be stated in lieu of an answer.”<sup>7</sup> Moreover, “the party upon whom the interrogatories have been served shall serve a copy of the answers or objections upon the party submitting the interrogatories...within twenty days after the service thereof.”<sup>8</sup> And “the party submitting the interrogatories may move for an order” to compel discovery should the responding party object or fail to answer.<sup>9</sup> Evasive or incomplete answers are to be treated the same as failing to answer.<sup>10</sup>

Similar to interrogatories, a party may serve upon another party a written request to produce documents.<sup>11</sup> “The party upon whom the request is served shall serve a written response within twenty days after the service of the request,” and “the party submitting the request may move for an order” to compel discovery “with respect to any objection or other failure to respond to a request.”<sup>12</sup>

Interrogatories and requests for production of documents thus may be compelled by order of the Commission as long as the “party seeking discovery has exhausted all other reasonable means of resolving any differences with the party or person from whom discovery is sought.”<sup>13</sup>

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<sup>5</sup> See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 2006-Ohio-5789, 111 Ohio St. 3d 300, 320, ¶ 83 (2006) (citing *Moskovitz v. Mt. Sinai Med. Ctr.*, 69 Ohio St.3d 638, 661 (1994)); OAC 4901-1-16(B).

<sup>6</sup> OAC 4901-1-16(B).

<sup>7</sup> OAC 4901-1-19(A).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> OAC 4901-1-23(B).

<sup>11</sup> OAC 4901-1-20(A)(1).

<sup>12</sup> OAC 4901-1-20(C).

<sup>13</sup> OAC 4901-1-23(C). AEP Ohio has done this as exhibited by Section III(a) and the affidavit of counsel attached hereto. Affidavit of Michael J. Benza, *hereinafter* referred to as “Benza Aff.,” Exhibit D.

The memorandum in support shall set forth a number of statements, including “a brief explanation of how the information sought is relevant to the pending proceeding;”<sup>14</sup> “responses to any objections raised by the party or person from whom discovery is sought;”<sup>15</sup> “copies of any specific discovery requests which are subject of the motion to compel, and copies of any responses or objections thereto;”<sup>16</sup> and “an affidavit of counsel...setting forth the efforts which have been made to resolve any differences with the party or person whom discovery is sought.”<sup>17</sup>

### III. ARGUMENT

For two reasons, this Motion to Compel should be granted: (a) AEP Ohio took all reasonable measures to otherwise obtain this Request from Complainant and yet still no response has been received; and (b) the information AEP Ohio seeks in its Request is relevant to this proceeding.

- a. AEP Ohio took all reasonable measures to otherwise obtain this Request from Complainant and yet still no response has been received.*

On December 9, 2015, Ohio Power Company mailed to Complainant’s Attorney its First Set of Interrogatories and Request for Production of Documents (the “Request”).<sup>18</sup> The Request and all other mailed communications were sent to the address announced in Complainant’s Attorney’s Notice of Appearance filing on November 16, 2015, in which he listed 132 Fair Avenue N.W., New Philadelphia, OH 44663 as his address.<sup>19</sup>

After the twenty day statutory time period allotted for Complainant to appropriately respond expired, AEP Ohio sent to Complainant’s Attorney, on December 29, 2015, a letter by

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<sup>14</sup> OAC 4901-1-23(C)(1)(b). AEP Ohio has done this as exhibited by Section III(b).

<sup>15</sup> OAC 4901-1-23(C)(1)(c). Complainant has sent no response to discovery and thus this requirement is inapplicable.

<sup>16</sup> OAC 4901-1-23(C)(2). AEP Ohio has done this; this document is attached hereto as Exhibits A.

<sup>17</sup> OAC 4901-1-23(C)(3). AEP Ohio has done this; the affidavit of counsel is attached hereto. Benza Aff., Exhibit D.

<sup>18</sup> Exhibit A.

<sup>19</sup> See Exhibits A, B and C; Benza Aff. ¶4, Exhibit D.

regular mail informing him that the Company never received Complainant's response to the Request and that an appropriate response was needed as soon as possible.<sup>20</sup> After again receiving no response, AEP Ohio mailed to Complainant's Attorney by Priority Express Mail a materially similar letter on January 7, 2016.<sup>21</sup>

No response came to AEP Ohio.<sup>22</sup> On January 12, 2016, then, the Company called Complainant's Attorney at the number he announced in his Notice of Appearance filing, 330-364-9070, leaving him a voice mail in which the Company again expressed that Complainant needed to appropriately respond to the Request as soon as possible.<sup>23</sup> On January 13, 2016, AEP Ohio once again called Complainant's Attorney, Mr. Schaffner, where a conversation took place between him and Michael J. Benza, the Counsel of Record for AEP Ohio.<sup>24</sup> In that conversation, Mr. Schaffner assured Mr. Benza that Complainant would fully respond to the Request by January 19, 2016.<sup>25</sup> AEP Ohio never received a response.<sup>26</sup>

Ohio Power Company thus sent its First Set of Interrogatories and Request for Production of Documents almost seven weeks ago, to which no response has been received. The Company made all reasonable attempts available to otherwise obtain this Request from Complainant, including mailing Complainant's Attorney multiple demands for responses, calling Complainant's Attorney several times, leaving him a voice message and speaking with him, all to no avail, and after which, the Company has still not received a response to its interrogatories or the production of documents requested. After five correspondences—the initial discovery

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<sup>20</sup> Exhibit B.

<sup>21</sup> See Exhibit C.

<sup>22</sup> Benza Aff. ¶7, Exhibit D.

<sup>23</sup> Id.

<sup>24</sup> Id. at ¶ 8.

<sup>25</sup> Id.

<sup>26</sup> Id.

request, two letters, and two phone calls, all of which is described in the foregoing—<sup>27</sup> the Company now resorts to a Motion to Compel Discovery filing, in which the Company requests that Complainant be ordered to completely and responsively answer the interrogatories in the Request and that the Complainant produce the documents requested.

*b. The information AEP Ohio seeks in its Request is relevant to the proceeding.*

AEP Ohio asks the commission to compel Complainant to fully respond, and produce the corresponding documents to, its First Set of Interrogatories and Request for Production of Documents.<sup>28</sup> The interrogatories and request for production of documents are relevant because each Request is designed to ascertain the Complainant’s representation of the facts in this case or how the Complainant plans to proceed at the hearing.<sup>29</sup> The interrogatories relate to the facilities on the property in question; the usage of those facilities by the Complainant and third parties; the intentions of the Complainant when speaking with AEP Ohio representatives; the actual discussions between Complainant and AEP Ohio; the actions taken by Complainant to disconnect electric service at the property in question, if any; the basis of the charges alleged against the Company; and who, if anyone, Complainant plans to call as a witness.<sup>30</sup>

As the Request asks for only relevant material, and no response has been received after the Company’s reasonable and diligent effort, the Commission should compel the Complainant to fully respond to AEP Ohio’s First Set of Interrogatories and Request for Production of Documents.

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<sup>27</sup> Id. ¶ 9.

<sup>28</sup> See Exhibit A.

<sup>29</sup> See id.

<sup>30</sup> See id.

#### IV. CONCLUSION

Having proven that the law requires Complainant to respond fully and completely to Ohio Power Company's First Set of Interrogatories and Request for Production of Documents, AEP Ohio hereby requests that the Commission grant our Motion to Compel Discovery pursuant to Ohio Administrative Code 4901-1-23.

Respectfully submitted,

/s/ Michael J. Benza  
Michael J. Benza  
*Counsel of Record*  
American Electric Power Service Corp.  
1 Riverside Plaza, 29th Floor  
Columbus, Ohio 43215  
(614) 716-716-2959  
mbenza@aep.com

*Attorney for Respondent*



**CERTIFICATE OF SERVICE**

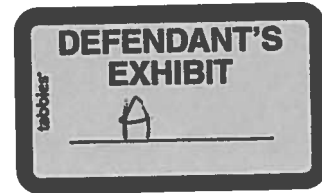
I hereby certify that a copy of the foregoing was served via regular mail upon  
Complainant at the addresses listed below on this 26<sup>th</sup> day of January, 2016.

David K. Schaffner  
*Counsel for Eagle Hardwoods, Inc.*  
Schaffner Law Offices, CO., L.P.A.  
132 Fair Avenue N.W.  
New Philadelphia, OH 44663

/s/ Michael J. Benza  
Michael J. Benza



Legal Department



December 9, 2015

David K. Schaffner  
*Counsel for Eagle Hardwoods, Inc.*  
Schaffner Law Offices, CO., L.P.A.  
132 Fair Avenue N.W.  
New Philadelphia, Ohio 44663

**Michael J. Benza**  
Counsel  
Regulatory Services  
(614) 716-2959 (P)  
(614) 716-2950 (F)  
mbenza@aep.com

**Re: In the Matter of the Complaint of Eagle Hardwoods, Inc. vs. American Electric Power, PUCO Case No. 14-1956-EL-CSS**

Dear Mr. Schaffner,

Enclosed please find a copy of Ohio Power Company's First Set of Interrogatories and Request for Production of Documents to you regarding the above-referenced case. Your discovery responses must be served directly to Michael J. Benza by December 29, 2015. If you are serving the responses by U.S. Mail, please allow three (3) business days for delivery. You may also serve your responses by email to me at [mbenza@aep.com](mailto:mbenza@aep.com).

Sincerely,

/s/ Michael J. Benza

Michael J. Benza

*Counsel of Record*

American Electric Power Service Corporation

1 Riverside Plaza, 29<sup>th</sup> Floor

Columbus, Ohio 43215

Telephone: (614) 716-2959

Facsimile: (614) 716-2950

E-mail: [mbenza@aep.com](mailto:mbenza@aep.com)

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Eagle Hardwoods, Inc.,	)	
	)	
Complainant,	)	Case No. 14-1956-EL-CSS
	)	
v.	)	
	)	
Ohio Power Company,	)	
	)	
Respondent.	)	

**RESPONDENT’S FIRST SET OF INTERROGATORIES AND REQUEST FOR  
PRODUCTION OF DOCUMENTS TO COMPLAINANT**

Pursuant to Rules 4901-1-19 and 4901-1-20 of the Ohio Administrative Code, Respondent Ohio Power Company d/b/a AEP Ohio (hereinafter “Company” or “AEP Ohio”)<sup>1</sup> hereby serves this First Set of Interrogatories and Request for Production of Documents on Complainant. Complainant shall answer separately and fully, in writing, and under oath, the following Interrogatories, and should produce and make available for copying the requested documents at the legal department of Ohio Power Company located at 1 Riverside Plaza, 29<sup>th</sup> Floor, Columbus, Ohio 43215 within twenty (20) days as required by the Ohio Administrative Code, or at such other time and place as agreed by the parties.

**INSTRUCTIONS AND DEFINITIONS**

- a. These requests apply to all documents and information in the possession, knowledge, custody or control of Complainant, regardless of their location and regardless of whether such documents were created and/or are held by Complainant’s agents, employees, representatives, or attorneys, or by any other person.

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<sup>1</sup> The complaint names American Electric Power (“AEP”) as the relevant utility, but because Complainant is a customer of AEP subsidiary Ohio Power Company, this discovery request is filed on behalf of Ohio Power Company.

- b. Where any copy of any document, the production of which is requested, is not identical to any other copy thereof, by reason of any alterations, marginal notes, comments, or other materials contained therein or attached thereto, or otherwise, all such non-identical copies shall be produced separately.
- c. The singular shall be construed to include the plural, and the plural shall be construed to include the singular. The words “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the specific request all documents that might otherwise be construed to be outside of its scope. The words “all” and “each” shall be construed as all and each.
- d. Documents shall be retained in the order and manner in which they are maintained in the ordinary course of business, in the file where found. In producing documents, all documents that are physically attached to each other when located for production shall be left so attached. Documents which are segregated or separated from other documents, whether by inclusion in binders, files, subfiles, or by use of dividers, tabs, or any other method, shall be left so segregated or separated.
- e. If any document or any portion of any document requested herein is not produced, describe the basis for withholding the document or portion thereof, including any claim of privilege, in sufficient detail to permit the Commission to adjudicate the validity of the reasons for withholding of the document. Identify each document so withheld by providing at least the following information:
  - i. The place, date, and manner of preparation, creation, or other recordation of the document;
  - ii. The title and subject matter of the document;

- iii. The identity and position of the author, the addressee, and all recipients of the document; and
  - iv. A statement of (i) the nature of the legal privilege claimed or other reason for withholding the document and (ii) the factual basis for that claim of privilege or other reason for withholding, including the facts establishing any claim of privilege, the facts showing that the privilege has not been waived, the status of the person claiming the privilege, and a statement as to whether the contents of the document are limited to legal advice or contain other subject matter.
- f. Identify and produce each portion of any document withheld in part pursuant to Paragraph e as to which the basis for withholding other portions of the document does not apply.
  - g. Subject to Rule 4901-1-16 of the Ohio Administrative Code, Complainant is under a continuing duty to seasonably supplement its responses should it or its attorneys obtain additional information between now and the evidentiary hearing of this matter.
  - h. "Document(s)" is synonymous in meaning and equal in scope to the usage of the term in Ohio Civ. R. 34(A) and includes, but is not limited to, information recorded on computers and/or stored magnetically, electronically or otherwise (even if not printed out), drafts, originals, identical copies, and non-identical copies (whether different from the originals by reason of any notation made on such copies or otherwise) of any kind of written, typewritten, printed, handwritten or stenographic notes, letters, communications, intra-corporate communications, memoranda, correspondence, e-mails, facsimiles, telecopies, telegrams, cover sheets, publications, pamphlets, promotional materials, brochures, books, periodicals, records, studies, surveys, microfilms, microfiches, x-rays, articles, telephone call memoranda or notes, telephone records, summaries or records of personal conversations, personal or

business calendars, diaries, datebooks, appointment books, records of meetings, notices, agendas, minutes and materials distributed prior to or after any such meetings, transcripts, reports, statistical statements, analyses, journals, tables, charts, drawings, graphs, spreadsheets, ledgers, schedules, photographs, films voice recordings, video recordings, affidavits, agreements, leases, data compilations, bank records, tax records, contracts, contract files, work assignments, checks, bills, invoices, bank drafts, money orders, financial statements, financial documents, purchase orders, vouchers, bills of sale, bills of lading, credit and/or billing statements, receipts, manuals, circulars, bulletins, instructions, sketches, diagrams prints, computer programs, printouts, punch cards, tabulations, logs, computer data, tapes, and disks. A draft of non-identical copy is a separate document within the meaning of this term.

- i. "Complaint" shall mean the complaint filed by the Complainant in this case on November 5, 2014.
- j. "You" and "Your" mean Complainant, its present and former agent(s), representative(s), attorney(s), and all other persons acting or purporting to act on its behalf.
- k. "Communication" means any oral statement, dialogue, colloquy, discussion, or conversation, and also means any transfer of thoughts or ideas between persons by means of documents, and includes any transfer of data from one location to another by electronic or similar means.
- l. "Subject Property" shall mean the real and personal property owned, leased, and/or operated by Complainant where Complainant received the electric service that forms the basis of the Complaint.
- m. "Incident" shall mean the dispute regarding Complainant's electric service as described in the Complaint.

n. "Customer" shall mean the Complainant.

**INTERROGATORIES**

1. Describe the facilities—number and type of buildings—AEP Ohio served at the Subject Property for the time period of November 2008 to September 2014.

**ANSWER:**

2. Describe in detail, month-to-month, Your use of the Subject Property served by AEP Ohio during the time period of November 2008 to September 2014.

**ANSWER:**

3. Describe if You leased any of the Subject Property to a third party during the time period of November 2008 to September 2014.

**ANSWER:**

4. Describe any third party use at the Subject Property during the time period between November 2008 and September 2014.

**ANSWER:**

5. Please explain in detail whether, during the time period of November 2008 to September 2014, it was Your intention to turn off power to the entire Subject Property, or if it was Your intention to allow for some small usage to remain, i.e. lighting, security lighting, or if You intended for full usage to remain just at a lower cost.

**ANSWER:**

6. Explain in detail, and by date, any and all methods or requests made to AEP Ohio by which You allegedly tried to disconnect electric service at the Subject Property.

**ANSWER:**



7. Describe in detail the methodology You used to calculate that You allegedly paid an extra \$117,663.00 to AEP Ohio for electric service You never used.

**ANSWER:**

8. Describe in detail any and all alternatives discussed with AEP Ohio regarding electric service at the Subject Property besides disconnecting service, and articulate why You discussed these alternatives.

**ANSWER:**

9. Please describe all facts supporting Your claim that AEP Ohio allegedly discriminated against You.

**ANSWER:**

10. Please describe all facts supporting Your claim that AEP Ohio allegedly provided You with inadequate service.

**ANSWER:**

11. Please describe all facts supporting Your claim that how AEP Ohio allegedly failed to provide You with electric service at the Subject Property.

**ANSWER:**

12. Identify, by full name, current address, and telephone number, each and every person who was involved with or in any way assisted with preparing the responses to these discovery requests.

**ANSWER:**

13. Identify, by full name, current address, and telephone number, each person who you believe was in any way involved in negotiating or communicating with AEP Ohio on your behalf regarding the electric service received at the Subject Property that forms the basis of the Complaint.

**ANSWER:**

14. Identify, by full name, current address, and telephone number, each person who you intend to call as a witness at the evidentiary hearing and the substance of each witness's testimony.

**ANSWER:**

**REQUEST FOR PRODUCTION OF DOCUMENTS**

1. Please provide all Documents identified or relied upon in responding to Interrogatory Nos. 1 through 14 above.
2. Provide all monthly billing statements You received from AEP Ohio for the time period of November 2008 to September 2014 for the Subject Property.

Respectfully submitted,

/s/ Michael J. Benza

Michael J. Benza

*Counsel of Record*

Steven T. Nourse

American Electric Power Service Corp.

1 Riverside Plaza, 29th Floor

Columbus, Ohio 43215

(614) 716-2959

[mbenza@aep.com](mailto:mbenza@aep.com)

[stnourse@aep.com](mailto:stnourse@aep.com)

*Attorneys for Respondent*



**CERTIFICATE OF SERVICE**

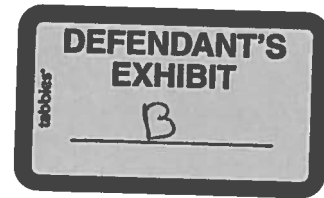
I hereby certify that a copy of the foregoing was served via regular mail upon  
Complainant at the address listed below on this 9<sup>th</sup> day of December, 2015.

David K. Schaffner  
*Counsel for Eagle Hardwoods, Inc.*  
Schaffner Law Offices, CO., L.P.A.  
132 Fair Avenue N.W.  
New Philadelphia, Ohio 44663

/s/ Michael J. Benza  
Michael J. Benza



Legal Department



December 29, 2015

David K. Schaffner  
*Counsel for Eagle Hardwoods, Inc.*  
Schaffner Law Offices, CO., L.P.A.  
132 Fair Avenue N.W.  
New Philadelphia, OH 44663

**RE: In the Matter of the Complaint of Eagle Hardwoods, Inc. vs. American Electric Power,  
PUCO Case No. 14-1956-EL-CSS**

Dear Mr. Schaffner,

Pursuant to Rules 4901-1-19 and 4901-1-20 of the Ohio Administrative Code, Ohio Power Company (the "Company") sent its First Set of Interrogatories and Request for Production of Documents (the "Request") on December 9<sup>th</sup>, 2015, by regular mail to 132 Fair Avenue N.W., New Philadelphia, OH 44663. Pursuant to the Rules, you were supposed to respond appropriately to the Request within twenty days of service. The Company never received your response. The Company, via this letter, now again asks that you appropriately respond to the Request as soon as possible. The Request has been attached to this letter. The Company will accept your response by mail or email per the addresses listed below.

Sincerely,

/s/ Michael J. Benza  
Michael J. Benza  
American Electric Power Service Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215  
Phone: 614-716-2959  
Email: mbenza@aep.com  
*Counsel of Record*

**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 29<sup>st</sup> day of December, 2015.

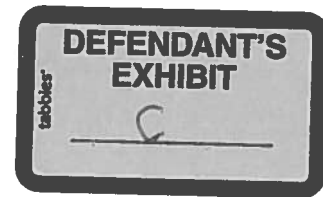
David K. Schaffner  
*Counsel for Eagle Hardwoods, Inc.*  
Schaffner Law Offices, CO., L.P.A.  
132 Fair Avenue N.W.  
New Philadelphia, OH 44663

/s/ Michael J. Benza  
Michael J. Benza





Legal Department



January 7, 2016

David K. Schaffner  
*Counsel for Eagle Hardwoods, Inc.*  
Schaffner Law Offices, CO., L.P.A.  
132 Fair Avenue N.W.  
New Philadelphia, OH 44663

**RE: In the Matter of the Complaint of Eagle Hardwoods, Inc. vs. American Electric Power,  
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Sincerely,

/s/ Michael J. Benza

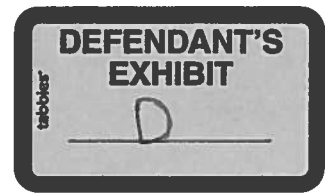
Michael J. Benza  
American Electric Power Service Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215  
Phone: 614-716-2959  
Email: mbenza@aep.com  
*Counsel of Record*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served via Priority Mail Express upon  
Complainant at the addresses listed below on this 7<sup>th</sup> day of January, 2016.

David K. Schaffner  
*Counsel for Eagle Hardwoods, Inc.*  
Schaffner Law Offices, CO., L.P.A.  
132 Fair Avenue N.W.  
New Philadelphia, OH 44663

/s/ Michael J. Benza  
Michael J. Benza



**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Eagle Hardwoods, Inc.,	)	
	)	
Complainant,	)	Case No. 14-1956-EL-CSS
	)	
v.	)	<b><u>Affidavit of Counsel</u></b>
	)	
Ohio Power Company,	)	
	)	
Respondent.	)	

Michael J. Benza, upon his oath, deposes and states:

1. I am the Counsel of Record for Ohio Power Company (d/b/a "AEP Ohio") in the above-referenced litigation filed by Complainant, Eagle Hardwoods, Inc.
2. There is a hearing currently scheduled for February 18, 2016.
3. In preparation for the hearing scheduled, I had sent to Complainant's Attorney, on December 9, 2015, Ohio Power Company's First Set of Interrogatories and Request for Production of Documents (the "Request"). A true and accurate copy is attached to Ohio Power Company's Motion to Compel Discovery as Exhibit A.
4. The Request and all other mailed communications were sent to the address announced in Complainant's Attorney's Notice of Appearance filing on November 16, 2015, in which he listed 132 Fair Avenue N.W., New Philadelphia, OH 44663 as his address.
5. After the twenty day statutory time period allotted for Complainant to appropriately respond expired, AEP Ohio sent to Complainant's Attorney, on December 29, 2015, a letter by regular mail informing him that the Company never received Complainant's response to the Request and that an appropriate response was needed as soon as possible. A true and accurate copy is attached to Ohio Power Company's Motion to Compel Discovery as Exhibit B.

6. After again receiving no response, AEP Ohio mailed to Complainant's Attorney by Priority Express Mail a materially similar letter on January 7, 2016. A true and accurate copy is attached to Ohio Power Company's Motion to Compel Discovery as Exhibit C.

7. No response came to AEP Ohio. On January 12, 2016, then, the Company called Complainant's Attorney at the number he announced in his Notice of Appearance filing, 330-364-9070, leaving him a voice mail, in which the Company again expressed that Complainant needed to appropriately respond to the Request as soon as possible.

8. On January 13, 2016, AEP Ohio once again called Complainant's Attorney, Mr. Schaffner. A conversation took place that day between him and I in which Mr. Schaffner assured me that Complainant would fully respond to the Request by January 19, 2016. AEP Ohio is yet to receive a response.

9. Ohio Power Company sent its First Set of Interrogatories and Request for Production of Documents almost seven weeks ago, to which no response has been received. Five correspondences in all were sent—the initial discovery request, two demand letters, and two phone calls which resulted in one voice mail and one conversation, all of which is described in the foregoing.

[The remainder of this page was intentionally left blank. Please find on the next page Affiant's signature and proper notarization.]

Further the Affiant sayeth nothing more.

Dated: 1/25/2016

*Michael J. Benza*  
Michael J. Benza

STATE OF OHIO            )  
  ) SS:  
COUNTY OF FRANKLIN )

Michael J. Benza appeared before me, a Notary Public in and for this County and State,  
and swore that the foregoing statements are true to the best of his knowledge.

*Ann Dawn Clark*  
Printed

*Ann Dawn Clark*  
Signature



**ANN DAWN CLARK**  
Notary Public, State of Ohio  
My Commission Expires 12-03-2020

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

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**Case No(s). 14-1956-EL-CSS**

Summary: Motion -Ohio Power Company's Motion to Compel Discovery electronically filed by Michael J Benza on behalf of Ohio Power Company