

**BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO**

Office of the Ohio Consumers' Counsel,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 16-0782-EL-CSS
	)	
Ohio Power Company	)	
	)	
Respondent.	)	

**ANSWER OF OHIO POWER COMPANY**

Pursuant to Ohio Administrative Code ("OAC") Section 4901-9-01(B)-(D), Ohio Power Company ("AEP Ohio" or the "Company") submits this Answer to the complaint filed by the Office of the Ohio Consumers' Counsel ("OCC") on April 12, 2016 ("Complaint").

**RESPONSE TO ALLEGATIONS**

AEP Ohio responds to the specific paragraphs of the Complaint as follows:

1. Admitted.
2. AEP Ohio admits that OCC's duties are defined in part by Ohio Revised Code ("RC") 4911.02. AEP Ohio denies the remaining allegations.
3. AEP Ohio admits that it is organized under the laws of the State of Ohio and is authorized to conduct business in Ohio. AEP Ohio's offices are located at 850 Tech Center Drive, Gahanna, Ohio 43230.
4. Admitted.
5. Admitted insofar as the Complaint partially quotes a provision of the Revised Code.
6. Admitted insofar as the Complaint partially quotes a provision of the Revised Code.

7. Whether the Public Utilities Commission of Ohio (“Commission”) has jurisdiction over the Complaint is a legal conclusion not appropriate for admission or denial.

8. This is not a statement that can be admitted or denied.

9. Admitted.<sup>1</sup>

10. Admitted.

11. Whether “submetering entities or third-party agents (other than landlords)” are “public utilities” under Ohio law is a legal conclusion not appropriate for admission or denial. AEP Ohio further states that this issue is pending before the Commission in Case No. 15-1594-AU-COI, where AEP Ohio has submitted extensive comments on this issue.

12. Whether the services provided by submetering entities or third-party agents are “traditional functions of public utilities” is a legal conclusion not appropriate for admission or denial.

13. AEP Ohio lacks sufficient knowledge to admit or deny the precise extent to which all “submetering entities or third-party agents” disclose their “rates or formulas” to customers. Upon information and belief, AEP Ohio believes that many “submetering entities or third-party agents” fail to disclose to customers the rates and terms under which they provide electric and other utility service.

14. AEP Ohio lacks sufficient knowledge to admit or deny this allegation.

15. AEP Ohio admits that for submetered buildings, AEP Ohio provides electric service to a master meter, and then electric service is provided to individual tenants whose usage is measured through submeters not owned by AEP Ohio.

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<sup>1</sup> The Complaint includes a number of footnotes citing to – and sometimes quoting from – a variety of sources, such as newspaper articles, website, and Commission filings. These footnotes are not part of the allegations of the Complaint and are not appropriate for admission or denial.

16. AEP Ohio admits that it provides service to submetered buildings as described in paragraph 15 above. Whether the provision of electric service to individual tenants through submeters constitutes a “resale” is a legal conclusion not appropriate for admission or denial.

17. AEP Ohio lacks sufficient knowledge to admit or deny the precise charges that all “submetering entities or third-party agents” assess to persons residing in submetered buildings. Upon information and belief, AEP Ohio believes that many “submetering entities or third-party agents” assess markups. Further, AEP Ohio agrees that such markups are not subject to any regulatory oversight.

18. AEP Ohio admits that master-meter accounts at submetered buildings are typically not charged under AEP Ohio’s residential tariffs. AEP Ohio lacks sufficient knowledge to admit or deny the precise amounts that all “submetering entities or third-party agents” pay for generation supply, or charge to residents. Upon information and belief, AEP Ohio believes that many “submetering entities or third-party agents” profit from an arbitrage between the rates they pay for master-meter service and the rates they charge residents.

19. AEP Ohio admits that, for some submetered buildings, the master-meter customer purchases generation supply service from a competitive retail electric service provider.

20. AEP Ohio lacks sufficient knowledge to respond to this allegation.

21. Whether “submetering entities or third-party agents” are “authorized to engage in resale and redistribution of utility services” is a legal conclusion not appropriate for admission or denial.

22. Whether “submetering entities or third-party agents” are “consumers” of utility services is a legal conclusion not appropriate for admission or denial.

23. Admitted.

24. AEP Ohio lacks sufficient knowledge to admit or deny this allegation insofar as the allegation does not make clear what “taking advantage of” means in this context.

25. AEP Ohio admits that this is a quotation of Section 17 of the Terms and Conditions of its Open Access Distribution Tariff.

26. AEP Ohio admits that this is a quotation of Section 17 of the Terms and Conditions of its Standard Service Tariff.

27. AEP Ohio agrees that its current tariff provisions do not prohibit “submetering entities or third-party agents” from “reselling and redistributing electric utility services” to residents of submetering buildings.

28. Denied.

29. AEP Ohio lacks sufficient knowledge to admit or deny whether the Complaint has accurately quoted from other utilities’ tariffs.

### **Count 1**

30. This is not a statement that can be admitted or denied.

31. See response to paragraph 27.

32. Denied.

33. As stated in its comments in Case No. 15-1594-AU-COI, AEP Ohio believes that the Commission should take steps to eliminate the substantial harms caused by submetering in AEP Ohio’s service territory. Accordingly, AEP Ohio would support a tariff change to effectuate this end.

34. Denied.

35. Denied.

36. Denied.

### **Prayer for Relief**

37. AEP Ohio opposes the specific relief requested in Complaint paragraphs 37-45, though as stated above in paragraph 33, AEP Ohio would support a tariff change to address the harms caused by submetering in AEP Ohio's service territory.

### **DEFENSES**

#### **First Defense**

38. OCC has failed to set forth reasonable grounds for a complaint under RC 4905.26 and OAC 4901-9-01(C)(3).

#### **Second Defense**

39. The Commission does not have subject matter jurisdiction over the Complaint.

#### **Third Defense**

40. OCC lacks standing to bring the Complaint.

#### **Fourth Defense**

41. OCC is statutorily barred from bringing the Complaint.

42. AEP Ohio 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.

Respectfully submitted,

/s/ Steven T. Nourse

Steven T. Nourse  
American Electric Power Service Corporation  
1 Riverside Plaza, 29th Floor  
Columbus, Ohio 43215  
Telephone: 614-716-1608  
Fax: 614-716-2950  
stnourse@aep.com

*Counsel for Ohio Power Company*

## **CERTIFICATE OF SERVICE**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties.

In addition, I hereby certify that a service copy of the foregoing *Answer of Ohio Power Company* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 27th day of April 2016, via electronic transmission.

/s/ Steven T. Nourse

Steven T. Nourse

### **Email Service List:**

kyle.kern@occ.ohio.gov  
bojko@carpenterlipps.com

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Summary: Answer Answer of Ohio Power Company electronically filed by Mr. Steven T Nourse on behalf of Ohio Power Company