

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Charles S. Johnson,)	
)	
Complainant,)	Case No. 17-0187-EL-CSS
)	
v.)	
)	
AEP of Ohio,)	
)	
Respondent.)	

ANSWER AND MOTION TO DISMISS OF AEP OF OHIO

Respondent Ohio Power Company (d/b/a/ “AEP Ohio” and named in the Complaint as AEP of Ohio) hereby responds to the complaint filed in this proceeding by Charles S. Johnson (“Complainant”) on January 18, 2017 (“Complaint”) through this Answer.

ANSWER TO ALLEGATIONS

1. The Complaint consists of several unnumbered paragraphs and an unauthenticated attachment. Respondent Ohio Power Company (hereinafter “AEP Ohio”) has endeavored to answer each allegation; to the extent AEP Ohio fails to do so, it is denied.
2. AEP Ohio admits on information and belief that Complainant is a customer of AEP Ohio.
3. AEP Ohio denies for lack of knowledge or information sufficient to form a belief the amount of money Complainant has paid to AEP Ohio over the years.
4. AEP Ohio admits on information and belief that Complainant was charged a deposit, to be paid over a three month period. AEP Ohio avers that Complainant was charged this deposit because he was late paying his bill in seven out of the last twelve months.
5. AEP Ohio denies that it discriminated against Complainant.
6. AEP Ohio denies that Complainant is “red flagged”.

7. AEP Ohio denies for lack of knowledge or information sufficient to form a belief Complainant's claimed incomes or his billing practices.
8. AEP Ohio denies that Complainant was unfairly, unjustly, or wrongfully billed.
9. AEP Ohio denies for lack of knowledge or information sufficient to form a belief whether Complainant qualifies for assistance with his electric utility bills.
10. AEP Ohio denies each and every allegation not specifically admitted.

AFFIRMATIVE DEFENSES

1. AEP Ohio 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 in the Complaint, in whole or in part, reasonable grounds upon which relief may be granted.
2. AEP Ohio, in connection with the claims advanced by complainant, complied with Ohio Revised Code Title 49; Commission rules, regulations and orders; and the applicable Tariff.
3. AEP Ohio reserves the right to assert additional defenses.

WHEREFORE, AEP Ohio respectfully requests that the Commission deny this Complaint in its entirety.

MOTION TO DISMISS WITH PREJUDICE

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). Under Ohio Revised Code 4905.26, the Commission may hold a hearing on a complaint only “if it appears that reasonable grounds for complaint are stated.” Complainant has failed to carry that burden.

Complainant was charged for electricity used. Complainant was also charged a deposit because he had been late in paying his electric bill seven out of the last twelve months. It is lawful and justified to charge a deposit in order to “reestablish creditworthiness for tariffed service based on the customer’s credit history on that account with that electric utility.” Ohio Administrative Code § 4901-1-14(G)(1) – (2).

Complainant is on the “Budget Plan”. Under this plan, Complaint is billed the same amount each month for most of the year. On an annual or semi-annual basis, a “true-up” bill is sent. Complainant’s bill will go up or down depending upon actual usage. For more information about the Budget Plan, please see AEP Ohio’s website at:

<https://www.aepohio.com/account/bills/HighBills/onthesBudgetPlan.aspx>.

AEP Ohio breached no legal duty owed to Complainant, has violated no Commission rule, regulation or order, and Complainant has failed to state reasonable grounds upon which relief may be granted. Dismissal with prejudice of this Complaint is appropriate.

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

CONCLUSION

AEP Ohio has fully answered the Complaint and asks that it be denied in its entirety.

AEP Ohio also respectfully moves this Commission to dismiss this Complaint with prejudice.

Respectfully submitted,

/s/ Michael J. Benza

Michael J. Benza

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Counsel for Ohio Power Company

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Answer and Motion to Dismiss of AEP of Ohio* was served by regular mail upon Complainant at the address listed below on this 7th day of February, 2017.

Charles S. Johnson
121 Private Drive
Ironton, Ohio 45638

/s/ Michael J. Benza
Michael J. Benza

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 17-0187-EL-CSS

Summary: Answer and Motion to Dismiss of American Electric Power electronically filed by Michael J Benza on behalf of Ohio Power Company