

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
Ned Bushong,)	
)	
Complainant,)	
)	
v.)	Case No. 18-1828-EL-CSS
)	
Ohio Power Company,)	
)	
Respondent.)	

REPLY BRIEF OF OHIO POWER COMPANY

I. INTRODUCTION

As set forth in Ohio Power Company’s (“AEP Ohio” or the “Company”) Initial Brief, Complainant Ned Bushong has failed to carry his burden of showing that AEP Ohio provided inadequate, unjust, or unreasonable service to him with respect to Complainant’s desire to opt out of the installation of an Advanced Metering Infrastructure (“AMI”) meter at his residence. The arguments that Complainant advances in his post-hearing brief also fail to satisfy his burden. Contrary to Complainant’s assertions, the overwhelming evidence demonstrates that the Company acted reasonably and in conformance with its tariff. Accordingly, for the reasons set forth herein, and those contained in the Company’s Initial Brief, the Public Utilities Commission of Ohio (the “Commission”) should decide this case in AEP Ohio’s favor and dismiss the Complaint with prejudice.

II. COMPLAINANT’S LEGAL ARGUMENTS LACK MERIT

Complainant first claims that the Company is attempting to rescind his “contract” with the Company by providing opt-out service pursuant to Paragraph 16 of the Terms and Conditions of Service in the Company’s Commission-approved tariff. Complainant Brief at 3. As the

Commission knows, however, the Company's tariff is the contract between the Company and its customers, which the Commission reviews and approves. By allowing the Complainant to opt-out of the AMI meter by paying the monthly opt-out fee, the Company is upholding its end of the contract rather than "attempting to rescind" the contract as the Complainant claims.

Complainant also incorrectly states that he presented evidence that smart meters cause health problems, that he and his wife have special medical conditions, and smart meters cause house fires. *Id.* at 3. Complainant's assertions on brief lack any basis in the record before the Commission. At hearing, the Attorney Examiner denied admission of the majority of Complainant's evidence regarding these issues on relevancy and hearsay grounds. The only exhibits admitted were a World Health Organization article, Complainant Exhibit A, and Complainant's pre-filed correspondence, Complainant Exhibit K. But neither of the admitted documents supports Complainant's health and safety claims.

As the Company explained in its Initial Brief, the World Health Organization article is not relevant to this Complaint because the article deals specifically with cell phones, not AMI technology. *See* AEP Ohio Brief at 11; Complainant Exhibit A. Further, the document is not relevant because, as Complainant admits, the Company is willing to allow Complainant to retain the analog meter currently installed at his residence as part of his request for opt-out service. *Tr.* at 34:5-7; AEP Ohio Exhibit 1 at 5:3-8. The Commission should similarly give no weight to Complainant Exhibit K. That document includes opinions that Complainant admits he is unqualified to give and contains references to inadmissible evidence intended to support Complainant's claims. *See Tr.* at 32:12-33:5; *Tr.* at 14:18-15:7; 16:25-17:13; 19:23-21:3; 21:4-15; 21:25-22:18; 23:8-25; 24:19-25:18; 28:1-29:8; Complainant Exhibit K. As such, the document contains no credible evidence to support any claim that the Company's actions toward

Complainant with regard to Complainant's request for opt-out service were in any way inadequate, unjust, or unreasonable. Finally, to the extent Complainant Exhibit K references documents that were excluded at hearing, it is not appropriate to consider those documents in deciding this Complaint. As such, the Commission should not give Complainant Exhibit A or K any weight when deciding this Complaint.

Finally, as outlined in its Initial Brief, the Company has offered and remains willing to provide Complainant with opt-out service via the analog meter currently installed at his residence, which is the relief Complainant has requested. AEP Ohio Initial Brief at 7-8 (citing Tr. at 33:8-11; AEP Ohio Exhibit 1 at 5:3-8).

III. CONCLUSION

The Company has proven that it has properly attempted to provide Complainant with opt-out service pursuant to Paragraph 16 of the Terms and Conditions of Service in the Company's Commission-approved tariff. Complainant has not presented any credible evidence to support a finding that Company's actions in attempting to provide him with opt-out service have been inadequate, unjust, or unreasonable. For these reasons, Complainant has failed to carry his burden of proof, and the Commission should decide this case in the Company's favor and dismiss the Complaint with prejudice.

Respectfully submitted,

/s/ Tanner S. Wolfram

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Counsel for Respondent Ohio Power Company

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served by regular mail upon the address listed
below, on this 17th day of ~~September~~,September 2019.

/s/ Tanner S. Wolffram
Tanner S. Wolffram

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Complainant

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Summary: Reply Reply Brief electronically filed by Tanner Wolfram on behalf of Ohio Power Company