

FILE



Legal Department

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July 23, 2009

Docketing Department  
Public Utilities Commission of Ohio  
180 E. Broad St.  
Columbus, Ohio 43266-0572

Re: Case No. 09-566-EL-CSS

To Docketing:

Please accept for filing an original and eleven copies of the Dayton Power and Light Company's Answer in this case. I would appreciate your time-stamping the extra copy and returning it in the enclosed self-addressed envelope.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward N. Rizer".

Edward N. Rizer

cc: Thomas M. Poulton  
391 Copper Beech Ct.  
Centerville, OH 45459

This is to certify that the images appearing are an  
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Technician AM Date Processed 7/24/09

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PUCD

Case No. 09-566-EL-CSS

The Dayton Power and Light Company (DP&L), in response to a complaint filed in this docket by Thomas M. Poulton, hereby files this answer.

1. DP&L is either without knowledge of, or denies, some or all of the facts and accusations reported by Mr. Poulton. Without waiving this denial, DP&L will respond as best it can to the elements of Mr. Poulton's complaint.
2. In October 2008 Mr. Poulton was notified that his account history showed consistent late payments and as a result he would be required to post a deposit.
3. Mr. Poulton argues that DP&L is not permitted to require a deposit in these circumstances, according to OAC 4901:1-10-14.
4. DP&L submits that a plain reading of OAC 4901:1-10-14, together with the settled interpretation of this rule and ORC 4933.17, establish clearly DP&L's right to a deposit.

5. DP&L records show, and Mr. Poulton admits, that at the time the deposit was requested, he was routinely paying his bill well after the due date.
6. OAC 4901:1-10-14(G)(2)(a) states that a deposit may be required if the customer has “not made payment or payment arrangements by the date on which the bill becomes past due for two consecutive months.” The intent of this rule is clear, despite Mr. Poulton’s confusing attempt to interpret it differently. Furthermore, should there be any doubt as to how OAC 4901:1-10-14(G)(2)(a) should be interpreted, ORC 4933.17 clarifies that a deposit may be required where the payment history supports it and that no rule can alter the statute:

No person, firm, or corporation engaged in the business of furnishing gas, natural gas, water, or electricity to consumers shall demand or require a consumer to deposit cash as security for the payment of any bills for such commodity to be furnished:

(A) If the proposed consumer is a freeholder who is financially responsible or a person who is able to give a reasonably safe guaranty in an amount sufficient to secure the payment of bills for sixty days’ supply;

(B) If the security is not demanded within thirty days of the initiation of service, except that this division does not apply where the account of a customer is in arrears.

. . .

The making of any rule or requirement in conflict with this section, is forbidden, and hereby declared to be unlawful.

(Emphasis added)

Thus any ambiguity Mr. Poulton finds in OAC 4901:1-10-14 must be read to be consistent with ORC 4933.17.

7. This situation is the result of Mr. Poulton’s failure to timely pay his monthly bill. DP&L has the right and the obligation to secure a deposit from customers who are in arrears.

Wherefore, DP&L moves the Commission to dismiss this Complaint or, in the alternative, DP&L requests the opportunity to mediate this Complaint with Mr. Poulton to reach an amicable resolution.

Respectfully submitted,



Edward N. Rizer

#0029567

The Dayton Power and Light Company

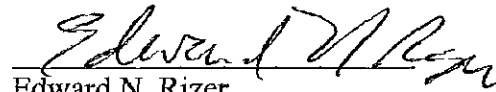
P.O. Box 8825

Dayton, Ohio 45401

(937) 259-7235

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been sent via ordinary U.S. Mail to Thomas M. Poulton, 391 Copper Beech Ct., Centerville, Ohio 45459 this 23<sup>rd</sup> day of July, 2009.



Edward N. Rizer

#0029567