

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Dustin Foster,)	
)	
Complainant,)	
)	
v.)	Case No. 11-5955-EL-CSS
)	
The Dayton Power and Light Company,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On December 14, 2011, Mr. Dustin Foster (complainant) filed a complaint against The Dayton Power and Light Company (DP&L). In his complaint, Mr. Foster alleges that a DP&L equipment failure led to the damage of his personal property.

More specifically, Mr. Foster explains that he purchased residential property that had been vacant for over a year. As a condition for supplying power to the property, DP&L required Mr. Foster to conduct an electrical inspection. Mr. Foster alleges that he complied with the inspection requirement. After being advised that the residence passed inspection, DP&L began providing power on June 17, 2011.

On August 10, 2011, Mr. Foster alleges that power was interrupted two times within an hour. Because lights were blown and some electrical devices no longer functioned, the main breaker was turned off. The next day, Mr. Foster notified DP&L. He alleges that the repairperson traced the problem to a broken lead wire. Mr. Foster adds that a county official explained to him that the loose wire caused a 220 volt electrical surge through his home.

In an effort to recoup his losses, Mr. Foster filed a claim with DP&L seeking damages in the amount of \$804.00. DP&L denied the claim. Because the property had been without service for more than a year, Mr. Foster believes that DP&L

should have inspected its equipment. He contends that DP&L's failure to inspect its facilities was negligent and constituted poor maintenance practices. As a remedy, Mr. Foster requests that the Commission order DP&L to reimburse him \$804.00 for damages.

- (2) On December 20, 2011, DP&L filed an answer in which it denied the material allegations of the complaint.
- (3) With its answer, and as a separate pleading, DP&L filed a motion to dismiss. The basis for DP&L's motion to dismiss is that the Commission lacks subject matter jurisdiction to hear the complaint. DP&L points out that the complainant's sole request for relief consists of monetary damages. Asserting that the Commission does not have authority to award monetary damages, DP&L concludes that the Commission should dismiss the complaint for lack subject matter jurisdiction.
- (4) At this time, the attorney examiner finds that this matter should be scheduled for a settlement conference. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution of this complaint in lieu of an evidentiary hearing. In accordance with Rule 4901-1-26, Ohio Administrative Code (O.A.C.), any statements made in an attempt to settle this matter without the need for an evidentiary hearing will not generally be admissible to prove liability or invalidity of a claim. An attorney examiner from the Commission's legal department will facilitate the settlement process. However, nothing prohibits either party from initiating settlement negotiations prior to the scheduled settlement conference.

Accordingly, a settlement conference shall be scheduled for March 1, 2012, at 10:00 a.m., in Hearing Room 1246 in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner will conduct a discussion of procedural issues. Procedural issues for discussion may include discovery dates, possible stipulations of facts, and potential hearing dates.

Pursuant to Rule 4901-1-26(F), O.A.C., the representatives of the public utility shall investigate the issues raised in the

complaint prior to the settlement conference, and all parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the requisite authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.


As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.*, 5 Ohio St. 2d 189 (1996).

It is, therefore,

ORDERED, That, in accordance with Finding (4), the parties appear for a settlement conference to be held on March 1, 2012, at 10:00 a.m. in Room 1246 in the offices of the Commission, 12th Floor, 180 East Broad Street, Columbus, Ohio 43215. It is, further,

ORDERED, That copies of this entry be served upon all parties and interested persons of record.

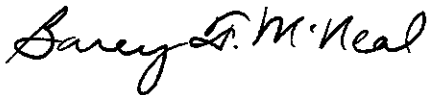
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: L. Douglas Jennings
Attorney Examiner


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Entered in the Journal

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Barcy F. McNeal
Secretary