

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of Ron)	
Mosley,)	
)	
Complainant,)	
)	
v.)	Case No. 14-1191-EL-CSS
)	
The Dayton Power and Light Company,)	
)	
Respondent.)	

ENTRY

The Commission finds:

- (1) On July 7, 2014, Ron Mosley (Complainant) filed a complaint against the Dayton Power and Light Company (DP&L). Among general allegations relating to service and unlawful acts, Complainant alleges that DP&L, beginning in 1994, overcharged him for electric service, that DP&L has estimated his bills without providing an actual meter reading, that DP&L destroyed and replaced his meter, assessed late fees for timely payments, and endangered the health of his wife by terminating service. For relief, Complainant demands monetary damages.
- (2) DP&L filed an answer to the complaint on July 18, 2014, in which it denied the material allegations of the complaint.
- (3) Concurrently with its answer, DP&L filed a motion to dismiss. DP&L contends that the complaint is barred by res judicata and collateral estoppel. DP&L argues that the claims and issues in the instant complaint are the same as those that the Commission adjudicated in *In re Complaint of Ron Mosley v. The Dayton Power and Light Company*, Case No. 11-1494-EL-CSS (*Mosley I*), Opinion and Order (July 10, 2013), Supplemental Opinion and Order (April 2, 2014). DP&L states that, in *Mosley I*, Complainant challenged his billings beginning with January 2, 2004. In the alternative, DP&L regards the complaint as an untimely application for rehearing.

- (4) On October 15, 2014, a settlement conference was convened in this matter. At the settlement conference, Complainant stated that he had not received a copy of DP&L's July 18, 2014 motion to dismiss.
- (5) Per entry dated October 17, 2014, the attorney examiner directed the Commission's docketing department to serve a copy of DP&L's motion to dismiss on Complainant. The attorney examiner also directed Complainant to file a response to the motion to dismiss by November 3, 2014.
- (6) On October 30, 2014, Complainant filed a response to DP&L's motion to dismiss. In the response, Complainant states that he proved his complaint with regard to DP&L's estimating, lying about, and doing illegal things with his utility bills. Complainant requests that the Commission find against DP&L. Further, Complainant now states that he is not seeking monetary damages but is requesting that the Commission transfer this case to a general court so that he might file a lawsuit against DP&L.
- (7) On November 5, 2014, DP&L filed a reply memorandum to Complainant's October 30, 2014 response. In the reply memorandum, DP&L states that, as Complainant notes in his response, he clearly is attempting to re-litigate claims that he failed to prove in *Mosley I*. DP&L reiterates that, pursuant to the doctrines of res judicata and collateral estoppel, the complaint should be dismissed.
- (8) It is apparent that Complainant is attempting to re-litigate claims and issues that the Commission has fully adjudicated. Therefore, DP&L's motion to dismiss should be granted. Complainant alleges that DP&L has overcharged him for electric service. The Commission observes that hearings in *Mosley I* were convened on three days, September 22, 2011, February 12, 2013, and November 21, 2013. During the course of those hearings, DP&L supported its billing through witness testimony and a complete accounting of debits and credits to verify the amount owed by Complainant. Complainant, on the other hand, did not challenge DP&L's evidence, nor did he present evidence to support his allegation of inaccurate billing. With this complaint, Complainant seeks to challenge DP&L's billing as far back as 1994. The Commission decided past

billing and late fee issues in *Mosley I*. The Commission agrees with DP&L that res judicata and collateral estoppel bar reconsideration of these issues relating to improper billing. As in the first complaint, Complainant alleges that DP&L tampered with his meter. Although Complainant had the opportunity, he did not present evidence at the hearings in *Mosley I* to support the allegation. Complainant also makes reference in this complaint to his wife's medical condition and the need for electric service. The complaint in *Mosley I* also refers to Complainant's wife's medical condition. However, Complainant did not present evidence on the issue at the hearings.


- (9) The Commission finds no substantive distinction between the instant complaint and the complaint filed in *Mosley I*. Moreover, Complainant has had a full and fair opportunity to present the claims that he now seeks to reintroduce. Thus, as argued by DP&L, the complaint should be barred by res judicata and collateral estoppel. In addition, even if this filing was intended as a request for rehearing of *Mosley I*, the complaint should be dismissed as an untimely application for rehearing.

It is, therefore,

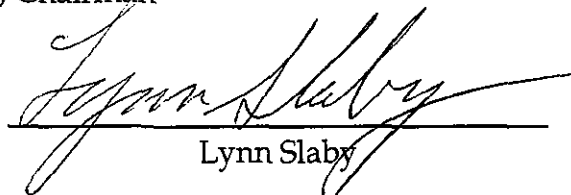
ORDERED, That the motion to dismiss filed by DP&L be granted. It is, further,

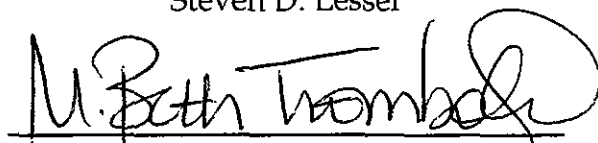
ORDERED, That a copies of this Entry be served on the parties and all interested persons of record.

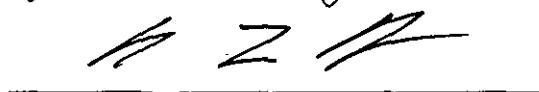
THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser


Lynn Slaby

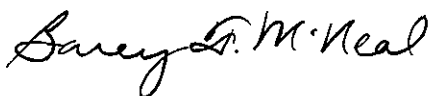

M. Beth Trombold


Asim Z. Haque

KKS/vrm

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Barcy F. McNeal
Secretary