

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF  
HEATHER LEWIS,**

**COMPLAINANT,**

**v.**

**CASE NO. 19-1983-EL-CSS**

**THE DAYTON POWER AND LIGHT  
COMPANY,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on January 12, 2022

**I. SUMMARY**

{¶ 1} The Commission dismisses the case, as DP&L alleges that all issues in the complaint have been resolved.

**II. DISCUSSION**

{¶ 2} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice relating to any service furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory.

{¶ 3} The Dayton Power and Light Company (DP&L) is a public utility, pursuant to R.C. 4905.02, and is, therefore, subject to the jurisdiction of this Commission.

{¶ 4} On October 28, 2019, Heather Lewis (Complainant or Ms. Lewis) filed a complaint against DP&L alleging that DP&L is erroneously withholding electric service. Specifically, Complainant stated that, in December 2017, she sought assistance from the Miami Valley Community Action Partnership (MVCAP) to help pay her outstanding DP&L

account balance and enroll as a percentage of income payment plan plus (PIPP) customer for the property located at 43 N. Garland Avenue, Dayton, Ohio 45403 (Garland Property). Complainant alleged that she was informed her adjusted DP&L bill would be \$67 per month. Complainant subsequently found out that she was never enrolled as a PIPP customer.

{¶ 5} On July 30, 2019, Complainant met with MVCAP to enroll as a PIPP customer for a different property located at 426 Wesley Street, Dayton, Ohio 45403 (Wesley Property). Complainant stated that, in order to enroll her as a PIPP customer and turn on electric service at the Wesley Property, MVCAP asserted that she would need to pay \$633 in outstanding PIPP charges. Complainant alleged that she never successfully enrolled in PIPP at the Garland Property, and therefore, should not have outstanding PIPP charges due to DP&L. Complainant specifically requested that service to the Wesley Property be turned on and that she be placed on PIPP.

{¶ 6} On November 18, 2019, DP&L filed its answer to the complaint. DP&L admitted that in February 2018, the Company issued a bill in the amount of \$536.06 to Complainant for services located at the Garland Property. DP&L denied the remaining allegations. Additionally, DP&L raised several affirmative defenses, including, but not limited to, the following: Complainant fails to set forth reasonable grounds for complaint as required by R.C. 4905.26; Complainant fails to state a claim upon which relief can be granted; and DP&L has complied with all applicable rules, regulations, and orders of the Commission, and its tariffs.

{¶ 7} On December 18, 2019, the attorney examiner scheduled a settlement conference in this matter for January 16, 2020. Both parties participated in the settlement conference.

{¶ 8} On August 2, 2021, DP&L filed a motion to dismiss this case. In its motion, DP&L asserted that the parties were able to resolve matters at the settlement conference on

January 16, 2020. Specifically, DP&L stated that it initiated service in Complainant's name at the Wesley Property and placed her back on the PIPP Plus program on January 17, 2020. DP&L asserted that all issues and claims raised in the complaint have been resolved and that no further proceedings are necessary.

{¶ 9} The Commission initially notes that, in the event a settlement has been reached in a complaint case brought before us pursuant to R.C. 4905.26, the appropriate course to request dismissal is specifically enumerated in the Commission's rules.

{¶ 10} Under Ohio Adm.Code 4901-9-01(F), a filing by a utility that asserts that a complaint has been satisfied or that the case has been settled shall include a statement or be accompanied by another document that states that, pursuant to Commission rule, the complainant has 20 days within which to file a written response agreeing or disagreeing with the utility's assertions and that, if no response is filed, the Commission may presume that satisfaction or settlement has occurred and dismiss the complaint. DP&L's August 2, 2021 motion to dismiss failed to comply with this aspect of Ohio Adm.Code 4901- 9-01(F).

{¶ 11} Despite DP&L's failure to include the critical notification cited above, in order to avoid unnecessary delay in the event the issues had, indeed, been settled, the attorney examiner issued an Entry on October 4, 2021, construing DP&L's motion to dismiss as a motion pursuant to Ohio Adm.Code 4901-9-01(F) and directing Complainant to file a written response to DP&L's motion to dismiss within 20 days if Complainant disagrees with DP&L's assertion that the case is settled.

{¶ 12} We note that Ms. Lewis has filed no response to DP&L's motion to dismiss or to the October 4, 2021 Entry.

{¶ 13} Accordingly, the Commission finds that the case should be dismissed, as DP&L has asserted that the matter has been settled and the Complainant has not filed any response to the contrary. Finally, the Commission reminds DP&L, as well as other utilities subject to our jurisdiction, that motions to dismiss due to settlement should be filed

pursuant to Ohio Adm.Code 4901-9-01(F), which requires a statement that the complainant has 20 days within which to file a written response agreeing or disagreeing with the utility's assertions. Motions that lack the necessary language providing a complainant an opportunity to respond to the motion risk being denied as deficient. We would caution utilities from filing motions asserting separate grounds for dismissal when a settlement has been reached in order to encourage more productive settlement negotiations and maintain the legitimacy of the Commission's settlement process.

### III. ORDER

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That the case be dismissed and closed of record. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon each party of record.

COMMISSIONERS:

*Approving:*

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

JWS/JML/kck

**This foregoing document was electronically filed with the Public Utilities  
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**Case No(s). 19-1983-EL-CSS**

Summary: Entry dismissing the case, as DP&L alleges that all issues in the complaint have been resolved electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio