

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF  
JAMES H. L. ALLEN,**

**COMPLAINANT,**

**V.**

**CASE NO. 17-1440-EL-CSS**

**THE DAYTON POWER & LIGHT COMPANY,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on December 13, 2017

**I. SUMMARY**

{¶ 1} The Commission dismisses this complaint, for Complainant's failure to prosecute the matter.

**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} Respondent, The Dayton Power & Light Company (DP&L), is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 4} On June 13, 2017, James H. L. Allen (Complainant) filed a complaint against DP&L alleging that Respondent refuses to provide him electric service despite his medical need.

{¶ 5} DP&L filed its answer on July 3, 2017. In its answer, DP&L acknowledges that the complaint relates to electricity services at a particular address identified in the complaint; but otherwise denies all allegations of the complaint and sets forth several affirmative defenses.

{¶ 6} By Entry dated July 19, 2017, a settlement conference was scheduled for August 16, 2017, at the offices of the Commission, in Conference Room 1247. On August 16, 2017, an attorney examiner from the Commission and counsel for DP&L were present in the conference room, but Complainant failed to attend the scheduled conference. Later, the attorney examiner tried, on three separate dates, to contact Complainant at the telephone number identified in the complaint. Each time, he was unable either to speak with anyone or to leave a voice message.

{¶ 7} By Entry issued October 10, 2017, the attorney examiner found that Complainant should be extended one more opportunity to participate in a settlement conference: the Entry scheduled a settlement teleconference for 10:00 a.m. on October 23, 2017. However, the attempt to serve on Complainant the October 10, 2017 Entry was unsuccessful. On November 6, 2017, the envelope containing that Entry, mailed to Complainant's address on file in this case, was returned to the Commission by the U.S. Post Office, marked "Return to Sender, Attempted - Not Known, Unable to Forward."

{¶ 8} Since June 13, 2017, when the complaint was initially filed, Complainant has never contacted the Commission for any purpose. He has never explained to the Commission why he did not attend the August 16, 2017 settlement conference. The Commission has tried, but now finds itself unable to reach him at the telephone number identified in the complaint or to serve mail upon Complainant at the address identified in the complaint. If Complainant has moved, he has provided no new contact information.

{¶ 9} In all complaint proceedings before the Commission, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.*, 5 Ohio St.2d 189, 214 N.E. 2d 666 (1966). Complainant has failed, over an extended period, to contact the

Commission regarding the disposition of this case. Accordingly, the Commission finds that this case should be dismissed and closed of record, for Complainant's failure to prosecute the matter.

### III. ORDER

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That this case be dismissed for Complainant's failure by to prosecute the matter. It is, further,

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


#### THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Asim Z. Haque, Chairman

  
M. Beth Trombold

  
Thomas W. Johnson

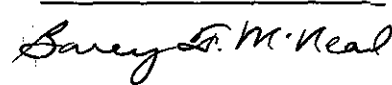
  
Lawrence K. Friedeman

  
Daniel R. Conway

DEF/sc

Entered in the Journal

DEC 13 2017

  
Barcy F. McNeal  
Secretary