

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
PAULA SMOTHERMAN,**

COMPLAINANT,

v.

CASE NO. 18-379-EL-CSS

**THE DAYTON POWER AND LIGHT
COMPANY,**

RESPONDENT.

ENTRY

Entered in the Journal on April 16, 2018

{¶ 1} 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.

{¶ 2} Respondent, The Dayton Power and Light Company (DP&L or Company), is a public utility as defined in R.C. 4905.02. As such, DP&L is subject to the Commission's jurisdiction.

{¶ 3} On March 1, 2018, Paula Smotherman (Complainant) filed a complaint against DP&L alleging that the Company has been billing her for an amount already paid. Complainant requests, among other things, that the Commission resolve the billing problem.

{¶ 4} On April 13, 2018, DP&L filed a combined answer, motion to dismiss, and request for mediation. The Company's answer generally denies the allegations contained in the complaint and, instead, submits that DP&L has complied with all statutes, regulations, and approved tariffs, which bars Complainant's claims. As additional affirmative defenses, the Company also submits that the Complainant fails to set forth reasonable grounds for complaint, as required by R.C. 4905.26, and fails to state a claim

for which relief can be granted. In closing, DP&L requests that the Commission dismiss it from the complaint. Alternatively, DP&L asks for the opportunity to mediate the issue to determine whether a mutually acceptable resolution is possible.

{¶ 5} At this time, and notwithstanding the Company's motion to dismiss, 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 the complaint. As stated in Ohio Adm.Code 4901-1-26, any statement made in an attempt to settle this matter without the need for an evidentiary hearing is generally inadmissible 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.

{¶ 6} Accordingly, a settlement conference shall be scheduled for May 30, 2018, at 10:00 a.m., in Conference Room 1247 at the offices of the Commission, 180 East Broad Street, 12th Floor, Columbus, Ohio 43215. If a settlement is not reached at the conference, the attorney examiner may conduct a discussion of procedural issues including discovery deadlines, possible stipulations of fact, and potential hearing dates.

{¶ 7} Pursuant to Ohio Adm.Code 4901-1-26(F), the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference. 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, the parties shall bring with them relevant documents that are necessary to cultivate an understanding of the issues raised in the complaint and to facilitate settlement negotiations.

{¶ 8} 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, 214 N.E. 2d 666 (1966).

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That a settlement conference be held on May 30, 2018, at 10:00 a.m. in Conference Room 1247, as stated in Paragraph 6. It is, further,

{¶ 11} ORDERED, That a copy of this Entry be served upon each party and interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Patricia Schabo

By: Patricia A. Schabo
Attorney Examiner

JRJ/sc

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/16/2018 3:15:02 PM

in

Case No(s). 18-0379-EL-CSS

Summary: Attorney Examiner Entry scheduling settlement conference for 05/30/18 at 10:00 a. m. in accordance with Paragraph 6 electronically filed by Sandra Coffey on behalf of Patricia Schabo, Attorney Examiner, Public Utilities Commission of Ohio