

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
CHRISTINE D'AMICO,**

CASE NO. 20-1415-EL-CSS

COMPLAINANT,

v.

DAYTON POWER AND LIGHT COMPANY,

RESPONDENT.

ENTRY

Entered in the Journal on November 16, 2020

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

{¶ 3} On August 21, 2020, Christine D'Amico (Complainant) initiated a complaint against DP&L alleging that a dispute exists between Complainant and DP&L pertaining to tree-trimming activity that DP&L is proposing to undertake on Complainant's property, ostensibly in order maintain proper clearance to its power line.

{¶ 4} DP&L failed to file its answer within the 20 days prescribed by Ohio Adm.Code 4901-9-01(B).

{¶ 5} On October 30, 2020, DP&L filed a motion for leave to file its answer out of time, along with a memorandum in support of the motion. As outlined in the memorandum, DP&L states that a combination of factors, including the fact that the complaint was initially sent to an incorrect address for DP&L, recent developments related to the Declaration of a State of Emergency in the State of Ohio due to COVID-19, and an

oversight on its part, together resulted in its failure to timely file its answer. DP&L further argues that its motion for leave to file its answer out of time would not prejudice Complainant, nor prolong the proceeding.

{¶ 6} Simultaneous with the motion, DP&L filed its proposed answer. In the answer, DP&L denies or is without sufficient knowledge to ascertain the veracity of the allegations of the Complaint, and sets forth several affirmative defenses.

{¶ 7} By Entry dated September 15, 2020, the attorney examiner, prior to review of DP&L's motion for leave to file its answer out of time, directed DP&L to file its answer or other responsive pleadings within 20 days after receipt of that Entry.

{¶ 8} Upon review, the attorney examiner finds DP&L's October 30, 2020 motion to be reasonable and that it should be granted. Further, the attorney examiner accepts DP&L's answer that it filed simultaneously with the motion.

{¶ 9} The attorney examiner finds that this matter should be scheduled for a settlement teleconference. The purpose of the settlement conference will be to explore the parties' willingness to negotiate a resolution in lieu of an evidentiary hearing. In accordance with Ohio Adm.Code 4901-1-26, 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 any party from initiating settlement negotiations prior to the scheduled settlement teleconference.

{¶ 10} Accordingly, a telephone settlement conference call shall be scheduled for December 4, 2020, at 10:00 a.m. To participate in the teleconference, the parties shall dial (614) 721-2972 and conference code 972 100 151#.

{¶ 11} 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

teleconference, and all parties participating the teleconference shall be prepared to discuss settlement of the issues raised and shall have authority to settle those issues.

{¶ 12} As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Pub. Util. Comm.* 5 Ohio St.2d 189, 214 N. E. 2d 666 (1966).

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That DP&L's motion for leave to file its answer out of time be granted. It is further,

{¶ 15} ORDERED, That a settlement teleconference be scheduled for December 4, 2020, at 10:00 a.m., as indicated in Paragraph 10. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Daniel E. Fullin

By: Daniel E. Fullin
Attorney Examiner

JRJ/mef

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 20-1415-EL-CSS

Summary: Attorney Examiner Entry granting motion and scheduling a settlement conference for 12/4/20 at 10:00 am electronically filed by Ms. Mary E Fischer on behalf of Daniel E. Fullin, Attorney Examiner, Public Utilities Commission of Ohio