

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE COMPLAINT OF  
ANTHONY PEAGLER,**

**COMPLAINANT,**

**v.**

**CASE NO. 19-1614-EL-CSS**

**THE DAYTON POWER AND LIGHT  
COMPANY,**

**RESPONDENT.**

**ENTRY**

Entered in the Journal on March 5, 2021

{¶ 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 or Respondent) is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On August 22, 2019, Anthony Peagler (Complainant or Mr. Peagler) filed a complaint against the Respondent. The Complainant alleges that Respondent provided inadequate service in response to Complainant's request that Respondent restore power to his residence after it was cut due to an act of God. The Complainant further alleges that Respondent is placing an unreasonable financial burden on him by requiring him to pay for relocating the electric meter from the interior of his home to the exterior. Complainant also alleges that Respondent billed him for a service address at which he never resided.

{¶ 4} On August 22, 2019, the Commission's docketing division mailed a complaint response letter to the service address on record for the Complainant to inform Complainant that the Commission had received his complaint.

{¶ 5} On September 5, 2019, the Commission received the complaint response letter returned in the mail by the United States Postal Service with the message, “Return to Sender, Vacant, Unable to Forward.”

{¶ 6} On September 18, 2019, Respondent’s niece, Tonja Johnson (Ms. Johnson), contacted the attorney examiner and provided a new address at which Complainant may be served correspondence related to this proceeding: 449 Fountain Avenue, Dayton, Ohio 45405.

{¶ 7} On September 23, 2019, the attorney examiner issued an Entry ordering the Commission’s docketing division to update the Complainant’s service address, to resend the letter confirming receipt of the complaint to the Complainant, and to serve a copy of the complaint service letter on DP&L. The Entry also ordered DP&L to file its answer within 20 days of the Entry being filed.

{¶ 8} On October 15, 2019, DP&L filed its answer to the complaint. In its answer, DP&L stated that it denies or is without sufficient knowledge to ascertain the veracity of the allegations made in the complaint and, therefore, denies the same. Additionally, DP&L sets forth several affirmative defenses as well as claims that DP&L complied with all relevant statutes, regulations, and approved tariffs in this case. DP&L also requests the opportunity to mediate with the Complainant to determine whether a mutually acceptable resolution is possible.

{¶ 9} On October 16, 2019, Ms. Johnson contacted the attorney examiner and indicated she was interested in speaking on Mr. Peagler’s behalf at a settlement conference.

{¶ 10} By Entry issued October 25, 2019, the attorney examiner scheduled a settlement conference for November 20, 2019. Additionally, in order to allow Ms. Johnson to represent Mr. Peagler during settlement discussions, the attorney examiner directed Ms. Johnson to file a document, such as a formal power of attorney or an affidavit signed by Mr. Peagler, on or before November 20, 2019, that provides evidence that Mr. Peagler has

authorized Ms. Johnson to settle the issues at stake in this case, in accordance with Ohio Adm.Code 4901-1-08(D). See *In re Complaint of Dorothy Greene vs. Interstate Gas Supply, Inc.*, Case No. 18-1301-EL-CSS, Entry (November 16, 2018) at ¶ 13.

{¶ 11} On November 20, 2019, a settlement conference was held in an attempt to informally resolve this matter. During the settlement conference, the parties agreed to continue further settlement discussions after the conference.

{¶ 12} On February 2, 2021, the attorney examiner issued an entry noting the protracted nature of the settlement discussions and directing the parties to file a report with the Commission regarding the status of the proceeding by March 2, 2021, specifically indicating whether settlement negotiations are still ongoing or the parties are ready to proceed to hearing. The Entry also noted that, to this date, Ms. Johnson has not filed the documentation required by the October 25, 2019 Entry. The attorney examiner renewed the October 25, 2019 Entry's directive that Ms. Johnson file a formal power of attorney or affidavit signed by Mr. Peagler, on or before March 2, 2021, that provides evidence that Mr. Peagler has authorized Ms. Johnson to settle the issues at stake in this case, in accordance with Ohio Adm.Code 4901-1-08(D).

{¶ 13} On March 2, 2021, DP&L, now doing business as AES Ohio (AES Ohio), filed correspondence stating that, due to the pandemic, the parties have not engaged in further settlement discussions; however, counsel notes that AES Ohio remains interested in exploring settlement to determine whether circumstances have changed since the parties last met. If Ms. Johnson files proof of legal authority to act on behalf of Mr. Peagler, AES Ohio is willing to participate in another settlement conference mediated by an attorney examiner. If no settlement conference is scheduled or a settlement cannot be reached, AES Ohio states that it plans to file a dispositive motion.

{¶ 14} Ms. Johnson did not file a statement providing the status of the proceeding nor did she file a formal power of attorney or affidavit, as directed in the February 2, 2021 Entry.

{¶ 15} Considering AES Ohio's willingness to further discuss settlement of the issues at hand, the attorney examiner will afford Ms. Johnson one more opportunity to file the a formal power of attorney or affidavit signed by Mr. Peagler, on or before March 22, 2021, that provides evidence that Mr. Peagler has authorized Ms. Johnson to settle the issues at stake in this case, in accordance with Ohio Adm.Code 4901-1-08(D). If such documentation is not filed by the above date, the attorney examiner will recommend to the Commission that this case be dismissed.

{¶ 16} 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).

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That, Ms. Johnson file, on or before March 22, 2021, evidence of her authority to settle the issues at stake in this case on behalf of Mr. Peagler, as further described in Paragraph 15. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Matthew Sandor

By: Matthew Sandor  
Attorney Examiner

MJA/kck

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

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**in**

**Case No(s). 19-1614-EL-CSS**

Summary: Attorney Examiner Entry ordering that Ms. Johnson file, on or before March 22, 2021, evidence of her authority to settle the issues at stake in this case on behalf of Mr. Peagler, as further described in Paragraph 15. electronically filed by Kelli C. King on behalf of Matthew Sandor, Attorney Examiner, Public Utilities Commission of Ohio