

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

HEATHER LEWIS)	
426 Wesley St.)	
Dayton, Ohio 45403)	Case No. 19-1983-EL-CSS
)	
Complainant,)	
v.)	
)	
The Dayton Power and Light Company)	
1065 Woodman Drive)	
Dayton, Ohio 45432)	
)	
Respondent.)	

**MOTION TO DISMISS OF THE DAYTON POWER AND LIGHT COMPANY
D/B/A AES OHIO**

Pursuant to Ohio Admin. Code 4901-1-12 , The Dayton Power and Light Company d/b/a AES Ohio (“AES Ohio” or “the Company”) moves to dismiss this matter for failure to state a claim upon which relieve can be granted. The reasons for granting this Motion are more fully explained in the attached Memorandum in Support.

Respectfully submitted,

/s/ Michael J. Schuler

Michael J. Schuler (0082390)

*Counsel of Record

AES Ohio

1065 Woodman Drive

Dayton, OH 45432

Telephone: (937) 259-7358

Email: michael.schuler@aes.com

Attorney for AES Ohio

(willing to accept electronic service)

MEMORANDUM IN SUPPORT

The Complainant, Heather Lewis, filed this complaint seeking to have service turned on at 426 Wesley Street, Dayton, Ohio 425403 (“426 Wesley St.”), and to be placed on the Percentage of Income Payment Plan.¹ (Compliant at p. 2); *see also*, Entry at ¶ 3 (Dec. 18, 2019). This stems from confusion regarding prior PIPP balances and enrollment related to a prior property located at 43 N. Garland Avenue, Dayton, Ohio 45403. Complainant sought assistance from Miami Valley Community Action Partnership (“MVCAP”) to help pay her outstanding DP&L account balance and enroll as a PIPP (percentage of income payment plan plus) customer for the property located at 43 N. Garland Avenue, Dayton, Ohio 45403. Entry at ¶ 3. Complainant further alleged that when she attempted to enroll in new service at 426 Wesley St., she was informed that she would have to pay an additional outstanding balance of PIPP arrearages. (Complaint at p.2); Entry at ¶ 4.

A real, justiciable controversy is a "genuine dispute between parties having adverse legal interests of sufficient immediacy and reality," not those which are “merely advisory in nature, or which answers a moot or abstract question.” *Holshuh v. Bank One*, 1997 Ohio Ap. LEXI 5150 at *7. In this matter, the parties were able to amicably resolve matters at the settlement conference that took place on January 16, 2020. As a result, AES Ohio took action on January 17, 2020 to initiate service in Ms. Lewis’ name at 426 Wesley St and place her back onto the PIPP Plus program. Because AES Ohio has satisfied the all requests for relief, the Complaint at issue in this case fails to state a claim upon which relief can be granted.

¹ Ms. Lewis further clarified that “we are not asking for them to pay anything.”

Based upon these circumstances and that allegations set forth in the Complaint at issue in this case, ASE Ohio respectfully requests that this matter be dismissed for failure to state a claim upon which relief can be granted.

Respectfully submitted,

/s/ Michael J. Schuler

Michael J. Schuler (0082390)

*Counsel of Record

AES Ohio

1065 Woodman Drive

Dayton, OH 45432

Telephone: (937) 259-7358

Email: michael.schuler@aes.com

Attorney for AES Ohio

(willing to accept electronic service)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent via ordinary mail, postage prepaid, this 2nd day of August, 2021 to the following:

Heather Lewis
426 Wesley St.
Dayton, Ohio 45403

/s/ Michael J. Schuler

Michael J. Schuler (0082390)

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/2/2021 12:56:12 PM

in

Case No(s). 19-1983-EL-CSS

Summary: Motion to Dismiss electronically filed by Mr. Michael J Schuler on behalf of The Dayton Power and Light Company d/b/a AES Ohio