

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
HEATHER LEWIS,**

COMPLAINANT,

v.

CASE NO. 19-1983-EL-CSS

**THE DAYTON POWER AND LIGHT
COMPANY,**

RESPONDENT.

ENTRY

Entered in the Journal on October 4, 2021

{¶ 1} In this Entry, the attorney examiner orders complainant Heather Lewis to file a written response to the pending motion to dismiss within 20 days or the complaint may be dismissed.

{¶ 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} The Dayton Power and Light Company (DP&L or Company) is a public utility, pursuant to R.C. 4905.02, and is, therefore, subject to the jurisdiction of this Commission.

{¶ 4} On October 28, 2019, Heather Lewis (Complainant) filed a complaint against DP&L alleging that DP&L is erroneously withholding electric service. Specifically, Complainant states that, in December 2017, she sought assistance from the 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 (Garland Property).

Complainant alleges that she was informed her adjusted DP&L bill would be \$67 per month. Complainant subsequently found out that she was never enrolled as a PIPP customer.

{¶ 5} On July 30, 2019, Complainant met with MVCAP to enroll as a PIPP customer for a different property located at 426 Wesley Street, Dayton, Ohio 45403 (Wesley Property). Complainant states that, in order to enroll her as a PIPP customer and turn on electric service at the Wesley Property, MVCAP asserted that she would need to pay \$633 in outstanding PIPP charges. Complainant alleges that she never successfully enrolled in PIPP at the Garland Property, and therefore, should not have outstanding PIPP charges due to DP&L. Complainant specifically requests that service to the Wesley Property be turned on and that she be placed on PIPP.

{¶ 6} On November 18, 2019, DP&L filed its answer to the complaint, denying many of the allegations contained therein. DP&L admits that in February 2018, the Company issued a bill in the amount of \$536.06 to Complainant for services located at the Garland Property. DP&L denies the remaining allegations. Additionally, DP&L raises several affirmative defenses, including, but not limited to, the following: Complainant fails to set forth reasonable grounds for complaint as required by R.C. 4905.26; Complainant fails to state a claim upon which relief can be granted; and DP&L has complied with all applicable rules, regulations, and orders of the Commission, and its tariffs.

{¶ 7} On December 18, 2019, the attorney examiner scheduled a settlement conference in this matter for January 16, 2020. Both parties participated in the settlement conference.

{¶ 8} On August 2, 2021, DP&L filed a motion to dismiss this case for failure to state a claim upon which relief can be granted. In its motion, DP&L asserts that the parties were able to resolve matters at the settlement conference on January 16, 2020. Specifically, DP&L states that it initiated service in Complainant's name at the Wesley Property and placed her back on the PIPP Plus program on January 17, 2020. DP&L asserts that all issues and claims raised in the complaint have been resolved and that no further proceedings are necessary.

{¶ 9} The Commission initially notes that, in the event a settlement has been reached in a complaint case brought before us pursuant to R.C. 4905.26, the appropriate course to request dismissal is specifically enumerated in the Commission's rules.

{¶ 10} The attorney examiner construes DP&L's August 2, 2021 motion to dismiss as a motion pursuant to Ohio Adm.Code 4901-9-01(F).

{¶ 11} Under Ohio Adm.Code 4901-9-01(F), a filing by a utility that asserts that a complaint has been satisfied or that the case has been settled shall include a statement or be accompanied by another document that states that, pursuant to Commission rule, the complainant has 20 days within which to file a written response agreeing or disagreeing with the utility's assertions and that, if no response is filed, the Commission may presume that satisfaction or settlement has occurred and dismiss the complaint. DP&L's August 2, 2021 motion to dismiss failed to comply with this aspect of Ohio Adm.Code 4901-9-01(F).

{¶ 12} Complainant shall have 20 days from the date of this Entry to file a written response to DP&L's motion to dismiss, indicating whether Complainant agrees or disagrees with DP&L's assertion that the case is settled and whether Complainant wishes to pursue her complaint. If no response is filed within 20 days of the date of this Entry, the Commission may presume that satisfaction or settlement has occurred and dismiss the complaint.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That Complainant shall, within 20 days of the date of this Entry, file a written response as outlined in Paragraph 12. Otherwise, the Commission may dismiss the complaint in this case. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Jacky Werman St. John

By: Jacky Werman St. John
Attorney Examiner

JRJ/mef

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in

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

Summary: Attorney Examiner Entry ordering complainant to file a written response within 20 days as detailed herein electronically filed by Ms. Mary E. Fischer on behalf of Jacky Werman St. John, Attorney Examiner, Public Utilities Commission of Ohio