

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

THE FURNACE MAN HEATING)	
AND COOLING, LLC)	
3900 Indian Ripple Rd.)	Case No. 21-966-EL-CSS
Beavercreek, Ohio 45440)	
)	
Complainant,)	
v.)	
)	
THE DAYTON POWER AND LIGHT)	
COMPANY D/B/A AES OHIO)	
1065 Woodman Drive)	
Dayton, Ohio 45432)	
)	
Respondent.)	

**ANSWER, MOTION TO DISMISS, AND REQUEST FOR MEDIATION OF THE
DAYTON POWER AND LIGHT COMPANY D/B/A AES OHIO**

Now comes the Dayton Power and Light Company d/b/a/ AES Ohio (“AES Ohio” or “Respondent” or “the Company”), by and through counsel, and for its answer to the Complaint filed in this docket by The Furnace Man Heating and Cooling, LLC (“Complainant”), hereby states as follows:

1. On or about September 20, 2021, the Public Utilities Commission of Ohio accepted for filing a Complaint by the Complainant related to allegedly damaged underground facilities associated with the property located at 3900 Indian Ripple Rd., Beavercreek, Ohio 45440.
2. The Respondent denies or is without sufficient knowledge to ascertain the veracity of the remaining allegations as described in the Complaint, which concern the alleged acts and/or omissions of a third party, and, therefore, denies the same. At all pertinent times, AES Ohio has complied with all relevant statutes, regulations, and approved tariffs.

FIRST AFFIRMATIVE DEFENSE

3. Complainant fails to set forth reasonable grounds for complaint, as required by Section 4905.26, Revised Code.

SECOND AFFIRMATIVE DEFENSE

4. Complainant fails to state a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

5. At all pertinent times, AES Ohio has complied with all relevant statutes, regulations, and approved tariffs. These statutes, rules, regulations, orders, and tariff provisions bar Complainant's claims.

FOURTH AFFIRMATIVE DEFENSE

6. Complainant lacks standing to bring this action.

FIFTH AFFIRMATIVE DEFENSE

7. Failure to perfect proper service of Complaint.

SIXTH AFFIRMATIVE DEFENSE

8. Complainant's claims are time-barred.

SEVENTH AFFIRMATIVE DEFENSE

9. The Public Utilities Commission of Ohio lacks jurisdiction over this dispute.

EIGHTH AFFIRMATIVE DEFENSE

10. The Complainant lacks legal representation in this matter, in violation of Ohio Adm.Code 4901-01-08(A).

NINTH AFFIRMATIVE DEFENSE

11. AES Ohio reserves the right to raise any additional affirmative defenses as warranted by discovery in this matter.

WHEREFORE, Respondent respectfully requests that the Commission dismiss the Complaint. To the extent that the Commission denies such motion, Respondent hereby requests the opportunity to mediate this issue with the Complainant to determine whether a mutually acceptable resolution is possible.

Respectfully submitted,

/s/ Christopher C. Hollon

Christopher C. Hollon (0086480)

AES Ohio

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Dayton, Ohio 45432

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Counsel for AES Ohio

(willing to accept service by e-mail)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent via ordinary mail, postage prepaid, this 31st day of January, 2021 to the following:

The Furnace Man Heating and Cooling, LLC
3900 Indian Ripple Rd.
Beavercreek, Ohio 45440

/s/ Christopher C. Hollon

Christopher C. Hollon

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

Case No(s). 21-0966-EL-CSS

Summary: Answer Answer, Motion to Dismiss, and Request for Mediation of The Dayton Power and Light Company d/b/a AES Ohio electronically filed by Mr. Christopher C. Hollon on behalf of The Dayton Power and Light Company d/b/a AES Ohio