

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
INDIA DAVIS AND DENZEL JACOBS,**

COMPLAINANTS,

CASE NO. 22-49-EL-CSS

v.

**THE DAYTON POWER AND LIGHT
COMPANY D/B/A AES OHIO,**

RESPONDENT.

ENTRY

Entered in the Journal November 16, 2022

I. SUMMARY

{¶ 1} The Commission finds that this case should be dismissed, without prejudice, for lack of prosecution by India Davis and Denzel Jacobs.

II. DISCUSSION

{¶ 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 d/b/a AES Ohio (AES Ohio) is an electric light company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02. As such, AES Ohio is subject to the jurisdiction of this Commission.

{¶ 4} On January 20, 2022, India Davis and Denzel Jacobs (Complainants) filed a complaint against AES Ohio. Briefly summarized, Complainants allege, among other things, that AES Ohio: (1) wrongfully failed to acknowledge a payment for electric service which Complainants claim that they made in early December of 2021; (2) wrongfully

terminated Complainants' service based on alleged service tampering; and (3) overcharged Complainants, and treated them unfairly, during service restoration.

{¶ 5} On February 9, 2022, AES Ohio filed its answer in which it admits some, and denies other allegations in the complaint and sets forth several affirmative defenses.

{¶ 6} A settlement conference was scheduled and held on February 24, 2022. At that time, the parties did not reach, but agreed to continue working together toward achieving, settlement. In this regard, Complainants indicated that with additional time and effort on their part, they expected to soon obtain and share certain information which might prove helpful towards resolving the case. Since the February 24, 2022 settlement conference, however, Complainants have not provided any further information. In the meantime, both AES Ohio and the attorney examiner have made numerous efforts, all to no avail, to contact Complainants to learn about their willingness to move forward with their complaint.

{¶ 7} By Entry issued September 8, 2022, a second settlement conference was scheduled for September 20, 2022. The Entry advised Complainants that their failure to attend and participate in the September 20, 2022 settlement conference might result in dismissal of this case for lack of prosecution.

{¶ 8} The September 20, 2022 settlement conference was held, as scheduled. At that time, an attorney examiner from the Commission and representatives of AES Ohio were in attendance, but Complainants did not appear. Further, Complainants did not contact anyone from the Commission to explain their absence from the September 20, 2022 settlement conference.

{¶ 9} On October 7, 2022, AES Ohio filed a motion seeking dismissal of this complaint. AES Ohio submits that case dismissal for failure to prosecute is appropriate because Complainants have abandoned settlement negotiations, refused to respond to attempts to communicate with them made by AES Ohio and the attorney examiner, and otherwise failed to prosecute this matter.

{¶ 10} The Commission has held that a complainant's failure to attend a formally scheduled settlement conference may constitute reasonable grounds for dismissal for failure to prosecute. *In Re Moss v. The Cleveland Electric Illuminating Company*, Case No. 17-651-EL-CSS, Entry (Aug. 2, 2017); *In re: Sturgill v, NOPEC* Case No. 17-2127-GA-CSS, Entry (Apr. 11, 2018).

{¶ 11} Under the circumstances presented of record, the Commission finds that this case should be dismissed, without prejudice, for lack of prosecution by Complainants.

III. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That, in accordance with the above findings, Case No. 22-49-EL-CSS be dismissed, without prejudice, for lack of prosecution. It is, further,

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

COMMISSIONERS:

Approving:

Jenifer French, Chair
Lawrence K. Friedeman
Dennis P. Deters

DEF/mef

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in

Case No(s). 22-0049-EL-CSS

Summary: Entry finding that this case should be dismissed, without prejudice, for lack of prosecution by India Davis and Denzel Jacobs. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio