

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION  
OF THE DAYTON POWER AND LIGHT  
COMPANY TO ESTABLISH A STANDARD  
SERVICE OFFER IN THE FORM OF AN  
ELECTRIC SECURITY PLAN.

CASE NO. 16-395-EL-SSO

IN THE MATTER OF THE APPLICATION  
OF THE DAYTON POWER AND LIGHT  
COMPANY FOR APPROVAL OF REVISED  
TARIFFS.

CASE NO. 16-396-EL-ATA

IN THE MATTER OF THE APPLICATION  
OF THE DAYTON POWER AND LIGHT  
COMPANY FOR APPROVAL OF CERTAIN  
ACCOUNTING AUTHORITY.

CASE NO. 16-397-EL-AAM

### ENTRY

Entered in the Journal on July 2, 2019

{¶ 1} In this Entry, the attorney examiner finds that the parties should have the opportunity to file supplemental briefs regarding the impact of *In re Application of Ohio Edison Co.*, Slip Opinion No. 2019-Ohio-2401 on this case.

{¶ 2} The Dayton Power and Light Company (DP&L) is a public utility as defined under R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission. On February 22, 2016, DP&L filed an application for a standard service offer pursuant to R.C. 4928.141. DP&L's application is for an electric security plan (ESP) in accordance with R.C. 4928.143. Additionally, DP&L filed accompanying applications for approval of revised tariffs and for approval of certain accounting authority.

{¶ 3} On October 11, 2016, DP&L filed an amended application for an ESP.

{¶ 4} On January 30, 2017, a stipulation and recommendation was filed by DP&L and various parties. Subsequently, on March 14, 2017, an amended stipulation and recommendation (Amended Stipulation) was filed by DP&L and various parties, including additional parties that were not part of the first stipulation.

{¶ 5} On October 20, 2017, the Commission issued its Opinion and Order (Opinion and Order) modifying and approving the Amended Stipulation.

{¶ 6} The Opinion and Order was the subject of several rounds of rehearing. On September 19, 2018, the Commission issued a Third Entry on Rehearing granting, in part, and denying, in part, DP&L's application for rehearing and denying all other applications for rehearing.

{¶ 7} On October 19, 2018, Interstate Gas Supply, Inc. (IGS) filed a notice of withdrawal from the Amended Stipulation (Notice of Withdrawal) and a motion for a procedural schedule. Ultimately, the hearing necessitated by IGS's Notice of Withdrawal began on April 1, 2019, and continued through April 3, 2019, with rebuttal testimony taken on April 15, 2019. Following the close of rebuttal, the attorney examiners directed that initial post-hearing briefs be filed on May 15, 2019, and reply briefs be filed on May 30, 2019.

{¶ 8} Substantive initial post-hearing briefs were timely filed by Staff, DP&L, Ohio Energy Group (OEG), Ohio Consumers' Counsel (OCC), and IGS. The Ohio Manufacturers' Association Energy Group and The Kroger Company each filed a document indicating its position has not changed since the original round of briefing occurred in May 2017 and, therefore, it rested on and incorporated those arguments set forth in the May 2017 briefs. On May 30, 2019, Staff, IGS, DP&L, OCC, and Retail Energy Supply Association filed reply briefs; OEG filed a notice indicating it would not file a reply.

{¶ 9} On October 11, 2017, the Commission issued a final appealable order in the fourth ESP proceeding filed by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company. *FirstEnergy ESP IV Case*, Case No. 14-1297-EL-SSO, Ninth Entry on Rehearing (Oct. 11, 2017). Among other terms, the ESP included a distribution modernization rider (Rider DMR) approved by the Commission. *FirstEnergy ESP IV Case*, Fifth Entry on Rehearing (Oct. 12, 2016). On June

19, 2019, the Supreme Court of Ohio issued its decision in *In re Application of Ohio Edison Co. (Ohio Edison)*, affirming the Commission's order in part and reversing it in part as it related to Rider DMR, and remanding with instructions to remove Rider DMR from FirstEnergy's ESP. Specifically, the Supreme Court of Ohio held that Rider DMR does not qualify as an incentive under R.C. 4928.143(B)(2)(h) and the conditions placed on the recovery of Rider DMR revenues were not sufficient to protect ratepayers. *Ohio Edison* at ¶¶ 14-29

{¶ 10} The October 20, 2017 Opinion and Order issued in this proceeding adopted an Amended Stipulation that included a distribution modernization rider similar to, but not identical with, the Rider DMR approved by the Commission in the *FirstEnergy ESP IV Case*. Given the Supreme Court of Ohio's recent ruling in *Ohio Edison*, the attorney examiner finds that parties should have the opportunity to brief the impact of *Ohio Edison* on this proceeding. Accordingly, supplemental briefs narrowly focused on the issue of the applicability of *In re Application of Ohio Edison Co.*, Slip Opinion No. 2019-Ohio-2401, may be filed on or before August 1, 2019.

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That the supplemental briefs be filed by August 1, 2019. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Gregory Price

By: Gregory A. Price  
Attorney Examiner

MJA/sc

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Summary: Attorney Examiner Entry ordering supplemental briefs to be filed by 08/01/2019 - electronically filed by Sandra Coffey on behalf of Gregory Price, Attorney Examiner, Public Utilities Commission of Ohio