

## 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

### SIXTH ENTRY ON REHEARING

Entered in the Journal on February 14, 2020

#### I. SUMMARY

{¶ 1} In this Sixth Entry on Rehearing, the Commission finds that rehearing should be granted for further consideration of the matters specified in the application for rehearing filed on January 17, 2020, by Ohio Consumers' Counsel.

#### II. DISCUSSION

{¶ 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.

{¶ 3} R.C. 4928.141 mandates that an electric distribution utility provide a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric service to customers, including a firm supply of electric generation service, to all consumers within its certified territory. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 4} On February 22, 2016, as amended on October 11, 2016, DP&L filed an application (Application) for its third ESP (ESP III). On October 20, 2017, the Commission issued its Opinion and Order modifying and approving an amended stipulation (Amended Stipulation) executed by various parties to this proceeding. ESP III was thus established, effective November 1, 2017.

{¶ 5} On October 19, 2018, at the conclusion of the rehearing process, Interstate Gas Supply, Inc. withdrew from the Amended Stipulation, necessitating a second evidentiary hearing. Entry (Nov. 15, 2018); Entry (Nov. 20, 2018). Following the additional evidentiary hearing, the Commission issued a Supplemental Opinion and Order on November 21, 2019 (Supplemental Opinion and Order). Therein, the Commission further modified and approved ESP III by eliminating DP&L's distribution modernization rider in light of the Supreme Court of Ohio's decision in *In re Application of Ohio Edison Co.*, 157 Ohio St.3d 73, 2019-Ohio-2401, 131 N.E.3d 906, *reconsideration denied*, 156 Ohio St.3d 1487, 2019-Ohio-3331, 129 N.E.3d 458. Supplemental Opinion and Order (Nov. 21, 2019) at ¶1, 102-110, 134.<sup>1</sup>

{¶ 6} On November 26, 2019, DP&L filed a notice of withdrawal to exercise its statutory right to withdraw its Application for ESP III under R.C. 4928.143(C)(2)(a). Additionally, citing to R.C. 4928.143(C)(2)(b), DP&L further invoked its statutory right to implement its most recent SSO, i.e., ESP I, as established in *In re The Dayton Power and Light Co.*, Case No. 08-1094-EL-SSO, et al. (*ESP I Case*), Opinion and Order (June 24, 2009); Entry (Dec. 19, 2012); Finding and Order (Aug. 26, 2016); Third Entry on Rehearing (Dec. 14, 2016). To effectuate the implementation of its most recent SSO under R.C. 4928.143(C)(2)(b), DP&L also filed proposed tariffs in the *ESP I Case*.

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<sup>1</sup> On December 23, 2019, two parties filed applications for rehearing of the Commission's Supplemental Opinion and Order. On January 15, 2020, the Commission issued a Fifth Entry on Rehearing granting rehearing for further consideration of the matters raised in the December 23, 2019 applications, which remain pending.

{¶ 7} On December 18, 2019, the Commission issued a Finding and Order approving DP&L's withdrawal of its Application, thereby terminating ESP III. Finding and Order (Dec. 18, 2019).

{¶ 8} Pursuant to R.C. 4903.10, any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days after the Commission's order is journalized.

{¶ 9} On January 17, 2020, Ohio Consumers' Counsel (OCC) filed an application for rehearing of the Commission's December 18, 2019 Finding and Order. After obtaining an extension of time, DP&L filed its memorandum in opposition to OCC's application for rehearing on February 3, 2020.

{¶ 10} Upon review, the Commission finds that sufficient reason has been set forth by OCC to warrant further consideration of the matters specified in its application for rehearing. Accordingly, OCC's January 17, 2020 application for rehearing should be granted for the purpose of further consideration of the matters specified therein.

### III. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That OCC's January 17, 2020 application for rehearing be granted for further consideration of the matters specified therein. It is, further,

{¶ 13} ORDERED, That a copy of this Sixth Entry on Rehearing be served upon all parties of record.

COMMISSIONERS:

*Approving:*

M. Beth Trombold

Daniel R. Conway

Dennis P. Deters

*Recusal:*

Lawrence K. Friedeman

PAS/hac

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**Case No(s). 16-0395-EL-SSO, 16-0396-EL-ATA, 16-0397-EL-AAM**

Summary: Entry in this Sixth Entry on Rehearing, the Commission finds that rehearing should be granted for further consideration of the matters specified in the application for rehearing filed on January 17, 2020, by Ohio Consumers' Counsel. electronically filed by Docketing Staff on behalf of Docketing