

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

CASE NO. 20-650-EL-AAM

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY FOR APPROVAL OF ITS
TEMPORARY PLAN FOR ADDRESSING THE
COVID-19 STATE OF EMERGENCY.

CASE NO. 20-651-EL-UNC

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY FOR WAIVER OF TARIFFS AND
RULES RELATED TO THE COVID-19
STATE OF EMERGENCY.

CASE NO. 20-652-EL-WVR

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY FOR APPROVAL OF REVISED
CONTRACT WITH CERTAIN CUSTOMERS
AND REASONABLE ARRANGEMENT
RELATED TO THE COVID-19 STATE OF
EMERGENCY.

CASE NO. 20-755-EL-AEC

FINDING AND ORDER

Entered in the Journal on May 20, 2020

I. SUMMARY

{¶ 1} The Commission finds that the applications of The Dayton Power and Light Company for approval of its plan for addressing the COVID-19 state of emergency should be approved, subject to Staff's recommendations and modifications, and consistent with this Finding and Order.

II. DISCUSSION

A. *Procedural History*

{¶ 2} The Dayton Power and Light Company (DP&L or the Company) is an electric light company as defined by R.C. 4905.03 and a public utility as defined by R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4909.16 provides, in part, that, in the event of an emergency, when the Commission finds it necessary to prevent injury to the business or interests of the public or of any public utility, it may temporarily alter, amend, or suspend any existing rates or schedules.

{¶ 4} R.C. 4905.31 authorizes the Commission to approve schedules or reasonable arrangements between a public utility and one or more of its customers. The statute provides that every such schedule or reasonable arrangement shall be under the supervision and regulation of the Commission, and is subject to change, alteration, or modification by the Commission.

{¶ 5} R.C. 4905.13 authorizes the Commission to establish systems of accounts to be kept by public utilities and to prescribe the manner in which these accounts will be kept. Pursuant to Ohio Adm.Code 4901:1-9-05, the Commission adopted the Uniform System of Accounts (USOA), which was established by the Federal Energy Regulatory Commission (FERC), for electric utilities in Ohio, except to the extent that the provisions of the USOA are inconsistent with any outstanding accounting orders of the Commission. Additionally, the Commission may require the creation and maintenance of such additional accounts as may be prescribed to cover the accounting procedures of electric utilities.

{¶ 6} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department

of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 7} Pursuant to R.C. 3701.13, the Ohio Department of Health has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the Ohio Department of Health issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 8} On March 12, 2020, the Commission opened Case No. 20-591-AU-UNC and directed all utility companies in this state to review their disconnection procedures in light of the state of emergency. *In re the Proper Procedures and Process for the Commission’s Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC (*Emergency Case*), Entry (Mar. 12, 2020) at ¶ 7. On March 13, 2020, the Commission extended its winter reconnection order through May 1, 2020, and directed all utility companies in this state to review their reconnection procedures. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 6. In the March 12, 2020, and March 13, 2020 Entries, the Commission also directed all utility companies to promptly seek any necessary approval, for the duration of the emergency, to suspend otherwise applicable disconnection or reconnection requirements that may impose a service continuity or service restoration hardship on residential and non-residential customers or create unnecessary COVID-19 risks associated with social contact. The Commission determined that such filings shall be deemed approved on an emergency basis for a period of at least 30 days effective as of the filing date or until such date as the Commission may otherwise specify, which shall not be less than 30 days.

{¶ 9} On March 20, 2020, in the *Emergency Case*, the Commission directed all utility companies to suspend in-person, actual meter readings in circumstances where a meter is located inside a customer's home or similar location, as well as all other non-essential functions that may create unnecessary COVID-19 risks associated with social contact. The Commission also clarified that requests for accounting authority or incremental cost recovery related to the emergency will be addressed in each utility's individual case by subsequent entry. *Emergency Case*, Entry (Mar. 20, 2020) at ¶¶ 10-11, 13.

{¶ 10} On March 23, 2020, in the first three of the above-captioned cases, DP&L filed an application for approval of its temporary plan for addressing the COVID-19 state of emergency.

{¶ 11} On April 8, 2020, in the *Emergency Case*, the Commission, among other things, extended the 30-day automatic approval period for filings to suspend otherwise applicable disconnection requirements for an additional 30 days, unless otherwise ordered by the Commission. *Emergency Case*, Finding and Order (Apr. 8, 2020) at ¶ 9.

{¶ 12} On April 15, 2020, DP&L filed a supplemental application for approval of its temporary plan for addressing the COVID-19 state of emergency and initiated Case No. 20-755-EL-AEC. In the supplemental application, DP&L requested approval of its emergency plan, including modifying its practices for billing commercial and industrial customers due to limitations in demand reading capabilities and in order to alleviate demand charges on customers whose demand is curtailed by the state of emergency. DP&L also sought approval to recover deferred costs resulting from its emergency plan through either a reasonable arrangement or establishing a deferral recovery plan for costs that are not included in the distribution decoupling deferral request filed by DP&L on January 23, 2020, in Case No. 20-140-EL-AAM.

{¶ 13} On April 22, 2020, Staff filed its review and recommendations in response to DP&L's request for approval of its emergency plan, as supplemented.

{¶ 14} By Entry dated April 24, 2020, the attorney examiner directed that motions for intervention and comments be filed in these proceedings no later than May 4, 2020.

{¶ 15} On various dates, motions for intervention were filed by Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), Ohio Energy Group (OEG), Interstate Gas Supply, Inc. (IGS), Ohio Environmental Council (OEC), Kroger Co. (Kroger), and Ohio Manufacturers' Association Energy Group (OMAEG). No memoranda contra were filed. The Commission finds that the motions are reasonable and should be granted.

{¶ 16} On May 4, 2020, comments were filed by OEG, OPAE, IGS, Kroger, OMAEG, OCC, and OEC.

B. Review of the Application, as Supplemented, and the Comments

{¶ 17} In the combined applications, DP&L states that, unless otherwise indicated, the operational components of its proposed emergency plan are intended to be in effect starting on March 12, 2020, and lasting for the entire duration of the declared emergency. DP&L further states that it seeks affirmative Commission approval of its plan and request for associated relief, although the Company acknowledges that some or all of the components of its plan may be deemed automatically approved pursuant to the Commission's Entries in the *Emergency Case*. DP&L also notes that it plans to commence implementation of the plan immediately, subject to further direction from the Commission. Finally, DP&L reserves the right, following consultation with Staff, to modify or supplement its plan based on developing conditions during the declared state of emergency.

{¶ 18} In their comments, intervenors and Staff generally support aspects of DP&L's emergency plan, though they oppose other components or offer recommendations for the Commission's consideration, as discussed below.

{¶ 19} With respect to the specific details of the plan, DP&L requests that the Commission exercise its authority under R.C. 4909.16 and 4905.31 to approve six plan components as described below.

1. SUSPENSION OF DISCONNECTIONS

{¶ 20} First, DP&L explains that, for the duration of the emergency, it has ceased all residential and non-residential disconnections, except as necessary to prevent or resolve a presently or imminently hazardous situation, or where requested by a customer. Although customers may temporarily continue to receive disconnection notices by mail, DP&L notes that it will use various channels of communication to explain to customers that such notices can be disregarded during the emergency. DP&L adds that, with respect to percentage of income payment plan (PIPP) customers, the Company will implement information technology modifications to ensure that such customers maintain their eligibility status at their anniversary date during the state of emergency. DP&L also states that the Ohio Development Services Agency has reportedly suspended the dismissal of PIPP customers from the program for failure to reverify their continued eligibility. Finally, DP&L proposes to defer for subsequent recovery any costs that are not covered through PIPP and that are not collected from affected customers.

{¶ 21} Staff supports DP&L's suspension of disconnections. In addition, Staff does not oppose the information technology changes necessary to suspend the removal of PIPP customers from the program at their anniversary date, given that some customers may not be able to stay current on their PIPP payments to maintain eligibility. OPAE also supports DP&L's suspension of disconnections and annual PIPP eligibility reverification.

{¶ 22} Although OEC generally supports the disconnection and continuity of service components of DP&L's emergency plan, OEC recommends that the Company's suspension of disconnections and removal of financial barriers to reconnection or continuity of service only be discontinued after a reasonable period of time in which Staff, the Company, and stakeholders are able to assess whether it is appropriate to return processes to normal operation. OEC states that it is critical to ensure that there is a stable environment for utility customers before lifting the important measures in the disconnection and service continuity plan proposed by DP&L.

{¶ 23} OCC offers two recommendations in this area. First, OCC recommends that disconnections for non-payment for all customers be suspended for a reasonable period after the state of emergency has ended. Second, OCC advises that additional protections should be extended to PIPP customers, including the suspension of disconnections for non-payment, collection waivers, and continued eligibility for the program even if reverification is disrupted during the emergency.

{¶ 24} The Commission finds that DP&L's proposal for the suspension of disconnections and related matters is reasonable and consistent with the Commission's directives in the *Emergency Case*. In the March 12, 2020 Entry, the Commission directed all public utilities under its jurisdiction, for the duration of the emergency, to promptly seek any necessary approval to suspend otherwise applicable requirements that may impose a service continuity hardship on residential and non-residential customers. *Emergency Case*, Entry (Mar. 12, 2020) at ¶¶ 1, 7. In its emergency plan, DP&L states that it has implemented the system changes required to suspend disconnections for all customers, except where disconnection is necessary due to an imminently hazardous situation or is prompted by the request of a customer. DP&L further states that these changes will remain in place for the duration of the declared state of emergency. OCC and OEC, however, recommend that the suspension of disconnections for non-payment continue for a reasonable period after the declared state of emergency has ended. Since the state has begun efforts to responsibly relax requirements of the Department of Health's Amended Stay at Home Order (Stay at Home Order), the Commission finds that this issue – how to responsibly return to otherwise applicable protocols related to maintenance and restoration of service – requires further consideration and should be addressed.

{¶ 25} The Commission recognizes that, even in light of the emergency, service disconnections for non-payment cannot be suspended indefinitely. Therefore, at this time, consistent with the Executive Order and the Commission's emergency authority under R.C. 4909.16, the Commission directs DP&L to work with Staff to develop a plan for the resumption of meter reading and of service disconnections, including timelines and

provisions for extended payment plans for both residential and non-residential customers impacted by this emergency. As set forth in Paragraph 50, this plan should be part of a comprehensive plan describing DP&L's expectations as to safely resuming activities to a pre-COVID-19 basis. The comprehensive plan should be filed in these dockets at least 45 days prior to the resumption of service disconnections. Interested persons may file comments regarding the plan within ten days after the filing of the plan.

{¶ 26} Regarding OCC's second recommendation, we find that DP&L's emergency plan incorporates protections for PIPP customers, including a suspension of disconnections for non-payment, information technology changes to ensure continued program eligibility, and other measures addressed below.

2. SUSPENSION OF DEPOSITS, RECONNECTION FEES, AND LATE PAYMENT FEES

{¶ 27} Addressing its second emergency plan component, DP&L states that, consistent with the March 13, 2020 Entry in the *Emergency Case*, the Company will continue to implement the Commission's winter reconnect order, as issued in Case No. 19-1472-GE-UNC, through May 1, 2020. DP&L also notes that it has begun to temporarily forego customer deposits and reconnection fees for customers that have been recently disconnected. If a customer requires a security deposit for service establishment, the deposit will be charged to the customer's initial bill. In addition, DP&L states that it will not charge late fees and credit card fees to any customers during the declared state of emergency and will instead defer these foregone charges as a regulatory asset for subsequent recovery. After the declared state of emergency ends, DP&L will reassess deferred payments that are not already subject to a payment plan through billing or additional payment plans. DP&L advises that it will work with customers on a case-by-case basis to determine reasonable payment plans based on the current past due balance. Amounts that are waived or uncollected, as well as late fees and credit card fees, will be deferred for subsequent cost recovery.

{¶ 28} Staff supports DP&L's removal of financial barriers to reconnection or continuity of service, including deposits, late fees, and reconnection fees.

{¶ 29} OCC recommends that DP&L be required to reconnect service for customers that were disconnected for non-payment 30 days before the declaration of the emergency on March 9, 2020. In addition, OCC requests that the Commission direct that all reconnection fees, deposits, and accumulated late fees that have been collected during the emergency, as well as the 30-day period prior to the declaration of the emergency, be waived, deferred, and refunded to customers. OCC also recommends that the Commission provide specific directives for flexible customer payment plans, including imposing a reasonable time period during which DP&L's customers will be permitted to enter into extended payment plans for paying back any past due amounts that accrue during the emergency. With respect to the suspension of certain fees, OCC contends that DP&L should not be permitted to add all of the waived fees to the customer's bill after the emergency ends. OCC adds that all late fees, credit card fees, and returned check fees should be waived for all customers as of March 9, 2020, and deferred for subsequent collection. OCC also argues that DP&L's residential customers should not be required to subsidize any costs incurred or benefits provided to commercial and industrial customers during the emergency. OCC further argues that any operational costs that DP&L avoids due to the state of emergency should be tracked and used to offset other costs associated with DP&L's emergency plan.

{¶ 30} The Commission finds that DP&L's proposal for the temporary avoidance of customer deposits, reconnection fees, and certain late fees is reasonable and consistent with the Commission's directives in the *Emergency Case*. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 6. Under DP&L's proposal, the Company will work with customers to establish reasonable payment plans relating to past due balances, and defer as regulatory assets uncollected charges, late fees, and credit card fees. We find that this plan component will provide immediate bill relief, while affording flexibility to DP&L and each customer to enter into an extended payment plan that includes payment of the fee or deposit at a later date.

Any fee or deposit that is not subsequently recovered from the customer should be deferred, with the issue of recovery to be addressed by the Commission in a future proceeding, as discussed further below.

{¶ 31} We find that DP&L's emergency plan already sufficiently addresses many of OCC's concerns. As directed by the Commission, DP&L acted promptly in taking the steps necessary to extend the winter reconnect order, as issued in Case No. 19-1472-GE-UNC, through May 1, 2020. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 8. DP&L has reconnected service for customers that have recently experienced a disconnection for non-payment. With respect to OCC's request that reconnection of service and the suspension of related fees and deposits be required for a 30-day period prior to the declaration of the state of emergency, we find it unnecessary to adopt OCC's overly strict "look-back period," although we certainly encourage DP&L, now that the extended winter reconnect order has expired, to work with its customers to agree on terms to reconnect service, regardless of when disconnection occurred, and to temporarily forego the collection of deposits and fees, where it is reasonable to do so under the circumstances.

3. COMMUNICATIONS REGARDING IN-PERSON BILL PAYMENTS AND SCAMS

{¶ 32} DP&L's third emergency plan component involves communications to encourage bill payments through mail or electronic means in lieu of in-person payments at the more than 100 payment stations that collect and forward payments to the Company. Although payments continue to be accepted at payment stations located at businesses that remain open, DP&L states that these communications should help to minimize social contact relating to payment centers. In order to further encourage online payment, DP&L is seeking a solution with its vendors to avoid credit card fees for customers that pay with a credit card when they are being reconnected. DP&L adds that the resulting costs associated with any foregone or reduced charges that are paid or reimbursed by the Company will be tracked and deferred for recovery. Finally, DP&L states that it will continue to monitor scams and increase awareness through communications to customers during the crisis.

{¶ 33} OCC recommends that the details of DP&L's emergency plan be provided to customers through all reasonable methods of communication, in order to enable them to adequately protect their interests during the emergency.

{¶ 34} The Commission finds that DP&L's communications proposal is reasonable and should be approved. To the extent that DP&L has not already done so, it should also notify its customers regarding the relief measures afforded under its emergency plan. With regard to the avoidance of credit card fees associated with the reconnection of service, we find that any such fee that is not subsequently recovered from the customer should be deferred, with the issue of recovery to be addressed by the Commission in a future proceeding, as discussed in more detail below.

4. DEFERRAL OF UNCOLLECTIBLE EXPENSES AND OPERATIONAL COSTS

{¶ 35} As a result of the above components of the emergency plan, DP&L notes that it anticipates that its uncollectible expense will increase beyond the amount reflected in base rates. DP&L, therefore, proposes to implement a rate mechanism to track, defer, and recover uncollectible costs that exceed the current pre-emergency level. Additionally, DP&L states that it will track and defer any incremental operational costs incurred to protect the health and safety of its employees and customers with regard to COVID-19.

{¶ 36} Acknowledging that the scope and exact amount of incremental costs and foregone revenues are unknown at this early stage, Staff states that DP&L provided examples of the types of items that may be included in the deferral, which include expenses related to PIPP customer-driven IT modifications, forgone revenues related to late, reconnection and credit card fees, incremental costs incurred in protecting employee health and safety, and the temporary waiver or reduction of minimum demand provisions for non-residential customers. Staff further states that it has reviewed DP&L's deferral request based on the six criteria that Staff uses to evaluate requests for deferral authority, while acknowledging the unique circumstances presented by the COVID-19 pandemic:

- (1) Is the current level of costs included in the last rate case insufficient? Staff states that, although the exact amount of the deferral is unknown, many of the expenses incurred as part of the emergency plan are above and beyond the amount included in DP&L's base rates, which is, therefore, insufficient. Staff adds that DP&L has agreed to work with Staff to ensure that all deferred expenses are incremental to base rates so that double-recovery does not occur.
- (2) Are the costs requested to be deferred material in nature? Staff states that, although it cannot determine at this time whether the costs are material in nature, there is a reasonably probable chance that the incurred expenses and foregone revenues will, in fact, be material, particularly in light of DP&L's proposal to suspend or waive customer fees.
- (3) Is the problem outside of the utility's control? Staff states that the COVID-19 pandemic is not within DP&L's control.
- (4) Are the expenditures atypical and infrequent? Staff states that DP&L's incurred expenses and foregone revenues are atypical and infrequent, as the COVID-19 pandemic is an exceedingly rare occurrence.
- (5) Would the costs result in financial harm to the utility? Staff states that, although it cannot determine at this time whether DP&L will be financially harmed, there is a realistic chance that the Company would experience such harm if its deferral request is denied.
- (6) Could the Commission encourage the utility to do something that it would not otherwise do by granting the deferral authority? Staff states that, by granting the deferral request, the Commission could encourage DP&L to undertake certain actions in response to the COVID-19 pandemic that would not otherwise occur.

{¶ 37} Based on Staff's analysis of DP&L's application and evaluation of the six criteria for deferring expenses, Staff recommends that deferral authority be granted for both expenses and revenues and that recovery of any deferred revenues (for example, those attributable to minimum demand charges and waived customer fees) be in compliance with ASC 980-605-25-4. Staff also recommends that DP&L track costs associated with the emergency plan in a separate FERC account. Finally, Staff requests that the Commission emphasize that recovery is not guaranteed until the deferred amounts have been reviewed and addressed in appropriate future proceedings, in which the question of recovery of the deferred amounts, including, but not limited to, issues such as prudence, proper computation, proper recording, reasonableness, and any potential double-recovery, will be considered.

{¶ 38} OPAE supports DP&L's request for deferral authority, provided the Company remains subject to a standard deferral recovery proceeding to ensure recovery is prudent, reasonable, and lawful. OPAE states that it reserves the right to challenge recovery in the appropriate proceeding.

{¶ 39} In response to DP&L's request for deferral authority, OCC contends that the request is unknown in scope and may lead to cost shifting among rate classes. OCC asserts that the Commission should not approve any charges to customers unless they are, at a minimum, prudent, necessary, and consistent with other ratemaking standards. OCC adds that the Commission should not permit expenses to be shifted between rate classes. OCC recommends that DP&L be required to track costs that it avoids due to the emergency, such as reductions in salaries, employees, meter readings, travel expenses, and maintenance. OCC proposes that any such cost savings be used to offset the costs associated with DP&L's emergency plan that are not already included in the Company's base rates. Additionally, OCC recommends that any pending rider rate increases be deferred, with minimal carrying charges, until the emergency ends or as otherwise determined by the Commission.

{¶ 40} OMAEG argues that the uncertainty of the deferred amounts and the potential for double-recovery are problematic. Because the level and type of costs for which DP&L is seeking deferral authority, as well as how those costs will be allocated and recovered from customers, are unknown and uncertain, OMAEG has significant concerns regarding the impact of the Company's deferral request on customers' rates in the future. OMAEG also agrees with Staff that it is important to protect customers from paying twice for the same costs. OMAEG, therefore, recommends that the Commission adopt Staff's recommendations regarding the recovery of the deferred amounts and direct that recovery is not guaranteed, as only those deferred amounts that are prudent, properly computed, properly recorded, reasonable, and not already recovered in rates will be eligible for subsequent recovery.

{¶ 41} Kroger states that it has significant concerns regarding the unknown level and type of operating costs and foregone revenues for which DP&L is seeking deferral authority, and how such costs and foregone revenues will be allocated and recovered from customers in the future. Kroger adds that there is the potential for double-recovery, as it is unclear at this time whether DP&L is seeking to defer costs that are already covered in base rates. Further, Kroger argues against DP&L's ability to recover amounts for which DP&L has touted its efforts in furtherance of generating customer goodwill.

{¶ 42} OEC supports Staff's recommendations as to deferred costs. OEC asserts that Staff's conditions will ensure that customers are only subject to costs that meet the tests set forth by the Commission, including determination of which customer classes are responsible for which costs. OEC emphasizes that, because the scope of DP&L's spending under the emergency plan is currently unknown, the Commission should not authorize a blanket approval of recovery of deferred costs.

{¶ 43} Addressing DP&L's request for authority to establish a mechanism to track, defer, and recover uncollectible expenses that exceed the pre-emergency level, IGS recommends that the Company be directed to separate the unexpected uncollectible

expenses associated with its default service generation and to track, defer, and recover such expenses through a bypassable mechanism. IGS notes that non-emergency uncollectible expenses associated with distribution service, as well as the bad debt associated with default service generation receivables, are proper for consideration in regard to establishing DP&L's base rates. According to IGS, its recommended approach will ensure that shopping customers in DP&L's service territory do not pay twice for generation-related bad debt, avoid increased hardships on shopping customers, and further the state policy in R.C. 4928.02(H).

{¶ 44} Although we acknowledge the concerns raised by Staff and the intervenors, we find that Staff has generally offered a reasonable approach to DP&L's request for deferral authority. Consequently, as recommended by Staff, the Commission grants deferral authority for both expenses and foregone revenues. DP&L is directed to track the costs associated with the emergency plan in a separate FERC account. Finally, we emphasize that recovery is not guaranteed until the deferred amounts have been reviewed and addressed in an appropriate future proceeding, in which the question of recovery of the deferred amounts, including, but not limited to, issues such as prudence, proper computation, proper recording, reasonableness, and any potential double-recovery, will be fully considered by the Commission. DP&L is authorized to initiate a further filing to establish a mechanism to amortize deferred expenses and foregone revenue recorded by the Company pursuant to the accounting authority provided herein.

{¶ 45} In response to the intervenors' recommendations, we direct DP&L to separately track and defer the uncollectible expenses associated with its default service generation such that such expenses can potentially be recovered or reconciled through a bypassable mechanism, subject to the Commission's review in future proceedings. The Commission also directs DP&L to track any costs that it avoids due to the emergency.

5. WAIVER OF FIELD ACTIVITY REQUIREMENTS

{¶ 46} As its fifth plan component, DP&L notes that, consistent with the March 20, 2020 Entry in the *Emergency Case*, the Company has curtailed or implemented restrictions on field activities, including, but not limited to, in-person actual meter readings and energy efficiency activities, particularly where such activities would involve in-person social contact. Staff interprets DP&L's application as a request for waiver of all applicable tariff and rule provisions necessary to implement these restrictions.

{¶ 47} Staff does not oppose a temporary waiver of certain tariff requirements and rules, in particular Ohio Adm.Code 4901:1-10-05(I) (in-person meter readings). With respect to customers that request an initial or final meter reading, Staff advises that DP&L should seek to obtain a customer-provided meter reading during the emergency.

{¶ 48} OCC recommends that Staff's position be adopted regarding DP&L's waiver of meter reading requirements. Further, citing field inspections and repairs necessary to maintain system reliability, OCC asserts that DP&L should not be permitted to lessen safety standards in situations where person-to-person contact is unlikely. OCC also recommends that non-essential utility service work and associated charges should be suspended until the emergency ends or as otherwise ordered by the Commission. More specifically, OCC suggests that the wind-down under Amended Substitute House Bill No. 6 of DP&L's energy efficiency program, which is to conclude by December 31, 2020, should be accelerated. OCC adds that DP&L's work and associated charges collected through the grid modernization and seamless move riders could be suspended without interrupting the delivery of essential electric service. Finally, OCC urges the implementation of the consumer protections recommended by the National Consumer Law Center, which OCC attached to its comments.

{¶ 49} The Commission finds that DP&L's request for a waiver of certain field activities, including, but not limited to, in-person actual meter readings and energy efficiency activities is reasonable and should be approved, subject to Staff's

recommendations. In response to OCC's request that DP&L suspend non-essential utility service work, the March 20, 2020 Entry in the *Emergency Case* directed all public utilities under the Commission's jurisdiction to suspend, for the duration of the emergency, all non-essential functions that may create unnecessary COVID-19 risks associated with social contact, including in-home energy efficiency audits and weatherization programs. *Emergency Case*, Entry (Mar. 20, 2020) at ¶¶ 1, 10-11. Consistent with that Entry, any non-essential work that does not create unnecessary COVID-19 spread risks may continue during the emergency. OCC's recommendations regarding the suspension of energy efficiency, grid modernization and seamless move charges should be raised in an appropriate docket in which DP&L seeks to recover such charges. Regarding OCC's assertion that DP&L should not be permitted to lessen safety standards, the Commission notes that nothing in the March 20, 2020 Entry or any other entry has authorized any public utility to forego work that is necessary to ensure the provision of safe electric service and we have expressly noted that disconnections and inspections must continue where necessary to remedy a safety-related concern. *Emergency Case*, Entry (Mar. 12, 2020) at ¶ 7, Entry (Mar. 20, 2020) at ¶ 10.

{¶ 50} The Commission further finds that, in light of the easing of social distancing restrictions as provided in the Stay At Home Order and in furtherance of the necessity of planning for the safe resumption of more complete operations, DP&L should begin working with Staff to develop a plan for operations that will necessarily involve at least the potential for an expanded level of social contact. Consistent with the direction in Paragraph 25, the Commission directs DP&L to work with Staff to develop a single, comprehensive plan for the resumption of activities and operations previously prohibited by the *Emergency Case* in furtherance of a safe return to pre-COVID-19 operations. DP&L's plan should include specifics as to the activities considered for resumption, and include timelines and provisions for safety adaptations for both residential and non-residential customers impacted by the activities proposed for resumption. This plan should be filed in these dockets at least 45 days prior to the resumption of activities that involve the likelihood of enhanced social

contact. Interested persons may file comments regarding the plan within ten days after the filing of the plan.

6. REASONABLE ARRANGEMENT TO RESET MINIMUM DEMAND CHARGES

{¶ 51} As the sixth component of the emergency plan, as proposed in its supplemental application, DP&L seeks approval of temporary changes to its billing practices in relation to demand charges for its commercial and industrial customers. DP&L asserts that it is incapable of remotely reading meters to determine demand charges for approximately 43,000 of its commercial and industrial customers. Further, for an additional 18,500 of its commercial and industrial customers that do not require meter reading for demand charges, DP&L asserts that these customers would benefit by demand charge relief during the emergency. Accordingly, DP&L proposes charging an energy-only rate equivalent to the County Fair Rate for those commercial and industrial customers whose demand meters are temporarily not being read. And for those commercial and industrial customers whose demand meters do not require reading, DP&L proposes reducing the current maximum charge rate to reflect the current County Fair Rate. Further, for all non-residential customers, DP&L would waive the minimum demand provisions and only bill according to an actual read, where available, of the customer's current monthly demand. DP&L argues that its proposals: (1) prevent potentially unreasonable demand charges from a minimum demand set in the prior eleven months; and, (2) provide relief for customers that have reduced or temporarily ceased operations. In terms of cost-recovery relative to the proposed bill practices, DP&L requests either: (1) authority to defer the costs of avoided customer charges for future recovery provided that those costs are not already included in the distribution decoupling deferral request filed by the Company on January 23, 2000, in Case No. 20-140-EL-AAM; or, (2) a reasonable arrangement under R.C. 4905.31 and corresponding interim rate schedule that would reset minimum demand charges for commercial and industrial customers. DP&L asserts that its proposal constitutes an economic development program under R.C. 4905.31(E), as it would enable businesses to retain jobs and manage the impacts of the crisis. Consistent with other reasonable

arrangements approved for DP&L, the Company proposes that the foregone revenues be deferred for recovery through its economic development rider (EDR). Finally, to the extent necessary to facilitate the expeditious implementation of the reasonable arrangement, DP&L requests a waiver of the filing requirements in Ohio Adm.Code Chapter 4901:1-38.

{¶ 52} Staff states that it has reviewed DP&L's proposed reasonable arrangement or deferral of charges avoided by customers for future recovery. Staff advises that DP&L's proposal to provide relief to commercial and industrial customers is reasonable and recommends that the Commission approve the reasonable arrangement application, as filed, for a period of 90 days, unless extended by the Commission. Staff also states that ASC 980-605 applies to any foregone revenues that result from implementation of the emergency plan and that a clear recovery mechanism is necessary to satisfy the requirements in ASC 980-605-25-4. Staff indicates, however, that the proposed reasonable arrangement is not the typical type of arrangement with foregone revenues that are socialized across all customer classes through the EDR. Staff notes that an alternative approach would be for recovery to be provided through the EDR from the non-residential classes that were provided relief as part of the reasonable arrangement. Staff adds that another potential option, if administratively feasible, would be a payment plan mechanism, whereby the customers receiving relief under the reasonable arrangement would repay the benefits that they receive at some point in the future.

{¶ 53} OEG states that, as an existing rate mechanism, the EDR provides a reasonable and administratively efficient means of recovery of the costs associated with the proposed minimum demand credit reasonable arrangement. OEG, therefore, urges the Commission to adopt either DP&L's recovery proposal or Staff's alternative proposal under which deferred minimum demand credit costs would be recovered only from non-residential customer classes through the EDR.

{¶ 54} OP&E does not oppose the provision of a credit to DP&L's commercial and industrial customers, but only if those customers pay for that benefit. OP&E asserts that

DP&L's proposal to recover its foregone revenues through the EDR would disproportionately and negatively impact the residential customer class, which would experience no benefit from this proposal, despite carrying more than 66 percent of the burden of funding the demand credit. OPAE concludes that any recovery should follow traditional cost allocation principles, with costs being recovered from the class that benefits.

{¶ 55} OCC argues that any foregone revenues from DP&L's proposal should be collected from those commercial and industrial customers that will benefit from the proposal. OCC notes that DP&L should be required to use the approach offered by Duke Energy Ohio, Inc. for a comparable proposal in Case No. 20-856-EL-AEC, et al. According to OCC, residential customers should not be burdened by the costs associated with a proposal that does not benefit them.

{¶ 56} Similarly, OEC opposes DP&L's proposal and contends that industrial and commercial customers should bear the burden of the relief. OEC notes that residential customers will not benefit from this component of DP&L's emergency plan and, therefore, it is unreasonable to require the residential customer class to provide the greatest share of funding to back the proposal.

{¶ 57} OMAEG states that it questions the prudence and reasonableness of DP&L's proposal to collect foregone revenues through the EDR. OMAEG also argues that DP&L's request for approval of a reasonable arrangement to recover foregone revenues associated with the COVID-19 emergency is not the type of economic development arrangement contemplated in Ohio Adm.Code Chapter 4901:1-38. OMAEG further contends that DP&L's application lacks sufficient information and does not comply with Ohio Adm.Code 4901:1-38-03, which requires that an application for approval of an economic development arrangement include specific information about the proposed arrangement and provide information on all associated incentives, estimated billings without incentives, and annual estimated delta revenues for the term of the incentives. Additionally, OMAEG agrees with Staff's position that there may be more appropriate recovery options, including those that

would require repayment by those that receive the benefit of the provided relief. OMAEG requests that the Commission consider whether the economic development arrangement is just and reasonable, furthers state policy in R.C. 4928.02, causes any unreasonable or anticompetitive effects, and properly balances any purported benefits to individual customers with the costs to other customers of achieving such benefits. OMAEG also agrees with Staff's recommendations that any deferral recovery be scrutinized to ensure that DP&L does not receive double-recovery by including expenses as part of its COVID-19 plan where the expenses are already included in the Company's base rates. Further, OMAEG argues that any deferral recovery should not include amounts where DP&L has also claimed that its COVID-19 response measures were taken as acts of customer goodwill.

{¶ 58} Kroger does not support DP&L's use of a reasonable arrangement under R.C. 4905.31 to recover its costs associated with responding to the COVID-19 pandemic. According to Kroger, the Commission's approval of DP&L's proposal would create a bad precedent of permitting a public utility to seek a reasonable arrangement in any situation where its revenues may not be as anticipated, which is not the purpose and intent of such arrangements. Kroger adds that not all commercial and industrial customers have experienced lower usage levels and, therefore, not all such customers will benefit from DP&L's proposal to reset minimum demand charges. Kroger notes that there are other recovery options, aside from the EDR, that may be more appropriate, including a repayment of the relief received by those that receive it. Kroger also recommends that any deferral recovery be scrutinized to ensure that DP&L does not receive double-recovery by including expenses as part of its COVID-19 plan where the expenses are already included in the Company's base rates. Further, Kroger argues that any deferral recovery should not include amounts where DP&L has also claimed that its COVID-19 response measures were taken as acts of customer goodwill.

{¶ 59} The Commission appreciates DP&L's proposal to provide an energy-only rate and to temporarily eliminate or offset minimum billing demand charges in order to assist commercial and industrial customers in avoiding demand ratchet wires charges at a time

when the operations of, and the cash flow available to, many Ohio businesses have been curtailed by efforts to address the COVID-19 public health emergency. The proposal is a step in the right direction. However, we agree with certain intervenors that DP&L's recovery of the resulting foregone minimum billing demand revenue should be collected from those commercial and industrial customers that will benefit from the proposal through a reasonable extended payment plan that the Company makes available to non-residential customers. We, therefore, decline to approve DP&L's proposed reasonable arrangement and associated recovery of foregone revenues through the EDR. Consistent with one of Staff's alternative options for cost recovery, the Commission directs DP&L to file in these proceedings, for Staff's review, an optional extended payment plan mechanism. This mechanism should enable any non-residential customer subject to a minimum billing demand provision that has or will have during the pendency of the emergency, for service rendered on or after March 9, 2020, an accumulated bill payment arrearage to maintain service, while eliminating the arrearage over a reasonable period of time measured with reference to the state's phased efforts to responsibly relax the requirements of the Stay at Home Order. DP&L should establish an opt-in process for its industrial and commercial customers to obtain the relief afforded by this proposal.

C. Commission Conclusion

{¶ 60} Upon thorough review of DP&L's application, as supplemented, Staff's recommendations, and the intervenors' comments, the Commission finds that the application is reasonable and should be approved, subject to Staff's recommendations and modifications, and consistent with the above findings.

III. ORDER

{¶ 61} It is, therefore,

{¶ 62} ORDERED, That DP&L's application, as supplemented, be approved, subject to Staff's recommendations and modifications, and consistent with this Finding and Order. It is, further,

{¶ 63} ORDERED, That DP&L take all necessary steps to carry out the terms of this Finding and Order. It is, further,

{¶ 64} ORDERED, That the motions to intervene in these proceedings filed by OCC, OP&E, OEG, IGS, OEC, Kroger, and OMAEG be granted. It is, further,

{¶ 65} ORDERED, That a copy of this Finding and Order be served upon all interested persons and parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

MLW/hac

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Case No(s). 20-0650-EL-AAM, 20-0651-EL-UNC, 20-0652-EL-WVR, 20-0755-EL-AEC

Summary: Finding & Order finding that the applications of The Dayton Power and Light Company for approval of its plan for addressing the COVID-19 state of emergency should be approved, subject to Staff's recommendations and modifications, and consistent with this Finding and Order electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio