

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The       )  
Dayton Power and Light Company for       ) Case No. 20-650-EL-AAM  
Approval of Certain Accounting       )  
Authority.       )

In the Matter of the Application of The       )  
Dayton Power and Light Company for       ) Case No. 20-651-EL-UNC  
Approval of its Temporary Plan for       )  
Addressing the COVID-19 State of       )  
Emergency.       )

Dayton Power and Light Company for       ) Case No. 20-652-EL-WVR  
Waiver of Tariffs and Rules Related to       )  
the COVID-19 State of Emergency.       )

In the Matter of the Application of the       )  
Dayton Power and Light Company for       )  
Approval of Revised Contract with       ) Case No. 20-755-EL-AEC  
Certain Customers and Reasonable       )  
Arrangement Related to the COVID-19       )  
State of Emergency.       )

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**APPLICATION FOR REHEARING REGARDING PUCO ORDER ON DAYTON  
POWER AND LIGHT COMPANY’S TEMPORARY PLAN ADDRESSING  
CONSUMER PROTECTION DURING THE CORONAVIRUS EMERGENCY  
BY  
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

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The coronavirus emergency and the ensuing economic emergency have led to much suffering this year for many Ohioans, including among at-risk populations already in need of protection under R.C. 4928.02(L). The PUCO took action in its May 20, 2020 Finding and Order (“Order”) to protect consumers during this time of the coronavirus emergency. Those actions included suspending disconnections and prohibiting cost shifting. But more needs to be done to protect consumers, especially given the consumer

struggles in the DP&L service territory. The city of Dayton was experiencing 32.7% poverty and Montgomery County was experiencing 17% food insecurity even before the health emergency.

In this regard, the PUCO should have adopted such OCC Recommendations as to maintain the ban on DP&L's disconnections of consumers' utility service for an indefinite (reasonable) period of time after the end of the declared emergency. Our proposal continues to be an imperative for consumers. Either consumers' health, safety, and welfare protections should continue after the formal end of the emergency or the formal emergency should be continued.

The PUCO's order was unreasonable and unlawful in the following respects:

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by failing to require reconnections of customers that DP&L disconnected during the time period beginning thirty days before the PUCO's emergency Order went into effect.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by failing to continue the consumer protection of the suspension of utility disconnections for a reasonable period of time after its declared emergency has ended.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by failing to order that its declared emergency will continue indefinitely consistent with the threat of the coronavirus to Ohioans and the consequences of its financial impact on them.

ASSIGNMENT OF ERROR NO. 4: The PUCO erred by failing to enter an order adopting all the consumer protection recommendations of the National Consumer Law Center as proposed by OCC.

Respectfully submitted,

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**BEFORE  
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Dayton Power and Light Company for	)	
Waiver of Tariffs and Rules Related to the	)	Case No. 20-652-EL-WVR
COVID-19 State of Emergency.	)	

In the Matter of the Application of the	)	
Dayton Power and Light Company for	)	
Approval of Revised Contract with Certain	)	Case No. 20-755-EL-AEC
Customers and Reasonable Arrangement	)	
Related to the COVID-19 State of	)	
Emergency.	)	

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**MEMORANDUM IN SUPPORT OF APPLICATION FOR REHEARING  
REGARDING DAYTON POWER AND LIGHT COMPANY'S TEMPORARY  
PLAN ADDRESSING THE CORONAVIRUS EMERGENCY  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

The coronavirus emergency and the ensuing economic emergency have led to much suffering this year for many Ohioans, including among at-risk populations already in need of protection under R.C. 4928.02(L). Jobs and wages are being lost. Families are struggling to pay their bills. Consumers need relief.

There are looming health and financial concerns with the coronavirus. Various concerns should be addressed by granting OCC's application for rehearing.

The PUCO's failure to further act to protect customers was unreasonable and unlawful.

## **II. STANDARD OF REVIEW**

Applications for rehearing are governed by R.C. 4903.10, which provides that within 30 days after issuance of a PUCO order, "any party who has entered an appearance in person or by counsel in the proceeding may apply for rehearing in respect to any matters determined in the proceeding." OCC entered an appearance through its Motion to Intervene in this case, and the PUCO granted OCC's Motion.

R.C. 4903.10(B) also requires that an application for rehearing be "in writing and shall set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful." Further, Ohio Adm. Code 4901-1-35(A) states: "An application for rehearing must be accompanied by a memorandum in support, which shall be filed no later than the application for rehearing." In considering an application for rehearing, R.C. 4903.10(B) provides that "the commission may grant and hold such rehearing on the matter specified in such application, if in its judgment sufficient reason therefor is made to appear." The statute also provides: "[i]f, after such rehearing, the commission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify the same; otherwise such order shall be affirmed."

The statutory standard for abrogating or modifying some portions of the Finding and Order is met here. The PUCO should grant and hold rehearing on the matters specified in this Application for Rehearing and abrogate or modify the Finding and Order consistent with OCC's Recommendations herein.

### **III. MATTERS FOR RECONSIDERATION**

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by failing to require reconnections of customers that DP&L disconnected during the time period beginning thirty days before the PUCO's emergency Order went into effect.

In its comments, OCC recommended that the PUCO order DP&L to protect consumers by reconnecting those that were disconnected thirty days before the PUCO's emergency Order.<sup>1</sup> The PUCO found OCC's suggested "look-back" period "unnecessary."<sup>2</sup> That finding is unreasonable and the PUCO erred in making it.

All consumers have been affected by the coronavirus emergency. Those who by sheer happenstance were disconnected by DP&L a short period of time before the emergency are no less worthy of protection than those consumers who were disconnected after the emergency. They face health challenges. They face financial challenges. They need basic utility service. They should be protected by the PUCO. The PUCO should abrogate its order and direct DP&L to reconnect consumers who were disconnected due to non-payment in the thirty days before the emergency was declared.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by failing to continue the consumer protection of the suspension of utility disconnections for a reasonable period of time after its declared emergency has ended.

OCC recommended in its comments that the PUCO should continue the suspension of disconnections for a reasonable period of time after the coronavirus emergency.<sup>3</sup> OCC appreciates the PUCO's recognition of the importance of this issue and

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<sup>1</sup> See OCC's Comments at 6.

<sup>2</sup> See Order at 10.

<sup>3</sup> See OCC's Comments at 5.

supports the requirement for DP&L to file a plan to address it, with the opportunity for interested parties to comment.<sup>4</sup>

But due to the coronavirus, consumers need protection now. While they are struggling with lost wages, jobs, and the health matters associated with the coronavirus, the least of their worries should be about receiving basic utility service. The PUCO should order DP&L to suspend disconnection for a reasonable period of time after the formal declared emergency. Its decision not to is unreasonable because it does not sufficiently protect consumers.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by failing to order that its declared emergency will continue indefinitely consistent with the threat of the coronavirus to Ohioans and the consequences of its financial impact on them.

Ohioans are facing uncertain times. No one can predict with accuracy how the health and financial challenges posed by the coronavirus will turn out or will end. As has been reported, utility consumers could face a second wave of pain – looming utility shutoffs even after the coronavirus health threats end.<sup>5</sup> The PUCO should not abandon or discontinue the consumer protections that it has implemented too early. Instead, the PUCO should further protect consumers by continuing its emergency jurisdiction indefinitely, or at least until an extended period of time after the end to the coronavirus emergency is officially declared.

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<sup>4</sup> See Order at 7-8.

<sup>5</sup> See Energy Wire, “A second wave of pain: Looming utility shutoffs” (May 21, 2020), <https://www.eenews.net/energywire/2020/05/21/stories/1063189771>.

ASSIGNMENT OF ERROR NO. 4: The PUCO erred by failing to enter an order adopting all the consumer protection recommendations of the National Consumer Law Center as proposed by OCC.

OCC made recommendations in a list developed by the National Consumer Law Center (“NCLC”).<sup>6</sup> Stated generally, the consumer protections would facilitate consumers’ ability to pay for their electric service after the emergency is over.<sup>7</sup> The PUCO did not adopt the NCLC’s recommendations.<sup>8</sup> It should have. At this time, where consumers are facing health and financial challenges due to the coronavirus, they should have certainty now that their essential electric service will not be turned off by DP&L. They should have the peace of mind that they will have a reasonable opportunity to pay for their electric service, and any past due amounts that were suspended due to the emergency, after the emergency is over.

The consumer protections from the NCLC, advocated for by OCC, should be adopted by the PUCO.

#### **IV. CONCLUSION**

For the health and economic security of *all* of DP&L’s customers, the PUCO should grant rehearing on OCC’s assignments of error and modify or abrogate its Order as described above. Granting rehearing is necessary to immediately protect *all* of AEP’s consumers.

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<sup>6</sup> See OCC’s Comments at 13.

<sup>7</sup> See *id.* at attachment A.

<sup>8</sup> See Entry.



Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Application for Rehearing by the Office of the Ohio Consumers' Counsel was served on the persons stated below via electric transmission this 19th day of June 2020.

/s/ William J. Michael  
William J. Michael  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: App for Rehearing Application for Rehearing Regarding PUCO Order on Dayton Power and Light Company's Temporary Plan Addressing Consumer Protection During the Coronavirus Emergency by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Michael, William J.