

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

ENTRY ON REHEARING

Entered in the Journal on July 15, 2020

I. SUMMARY

{¶ 1} The Commission denies the application for rehearing filed by Ohio Consumers' Counsel.

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} 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/.

{¶ 5} 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.”

{¶ 6} 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.

{¶ 7} 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.

{¶ 8} 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.

{¶ 9} 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.

{¶ 10} 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, which sought a reasonable arrangement.

{¶ 11} 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.

{¶ 12} 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) were granted intervention in this matter, and each entity timely filed comments on May 4, 2020.

{¶ 13} By Finding and Order issued May 20, 2020, the Commission approved DP&L's supplemented application, subject to Staff's recommendations and modifications, and consistent with the Finding and Order.

{¶ 14} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.

{¶ 15} On June 19, 2020, OCC filed an application for rehearing of the May 20, 2020 Finding and Order, asserting four assignments of error.

{¶ 16} Memoranda contra OCC's application for rehearing were filed by DP&L and OPAE on June 29, 2020.

{¶ 17} In general, DP&L argues that the Commission should deny OCC's application for rehearing, in its entirety, as OCC fails to raise any new arguments for the Commission's consideration. Further, OPAE argues generally against OCC's positions because they are either premature or improper attempts to circumvent the Commission's judgment.

{¶ 18} The Commission has reviewed and considered all of the arguments raised in OCC's application for rehearing. Any argument raised on rehearing that is not specifically

discussed herein has been thoroughly and adequately considered by the Commission and should be denied.

B. Consideration of the Application for Rehearing

{¶ 19} As it did in Case No. 20-637-GA-UNC, *In the Matter of the Motion of Columbia Gas of Ohio, Inc. to Suspend Certain Procedures and Process During the COVID-19 State of Emergency and Related Matters (Columbia Case)*, Application for Rehearing (June 19, 2020), OCC submits four assignments of error in regard to the Commission's consideration of DP&L's temporary plan for addressing the COVID-19 state of emergency: (1) the Commission erred by failing to require reconnections of customers that DP&L disconnected during the time period beginning thirty days before the Commission's emergency order went into effect; (2) the Commission erred by failing to continue the consumer protection of the suspension of utility disconnections for a reasonable period of time after its declared state of emergency has ended; (3) the Commission erred by failing to order that its declared state of emergency will continue indefinitely consistent with the threat of the coronavirus to Ohioans and the consequences of its financial impact on them; and (4) the Commission erred by failing to enter an order adopting all of the consumer protection recommendations of the National Consumer Law Center as proposed by OCC.¹

{¶ 20} As OCC's assignments of error are duplicated from those it filed in the *Columbia Case*, where each of those assignments of error were considered and rejected by the Commission today or in the *Ohio Power Case*, the Commission finds that there is no basis for further consideration of the arguments raised by OCC in this case. Accordingly, for the

¹ The Commission also notes that three of OCC's four assignments of error in this case are also identical to those raised in Case No. 20-602-EL-UNC, *In the Matter of the Application of Ohio Power Company for Approval of Its Temporary Plan for Addressing the COVID-19 State of Emergency*, Application for Rehearing (June 8, 2020). Each of those three assignments of error were considered and rejected by the Commission. *In re Ohio Power Company*, Entry on Rehearing (July 1, 2020). The only additional assignment of error in this case relates to whether the Commission erred in not adopting the recommendations of the National Consumer Law Center, and that issue is considered and rejected in the *Columbia Case*.

reasons provided in the Entry on Rehearing dated July 15, 2020, in the *Columbia Case*, the Commission also denies rehearing in this case.

III. ORDER

{¶ 21} It is, therefore,

{¶ 22} ORDERED, That the application for rehearing filed by OCC be denied. It is, further,

{¶ 23} ORDERED, That a copy of this Entry on Rehearing 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: Entry denying the application for rehearing filed by Ohio Consumers' Counsel electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio