

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

SUPPLEMENTAL FINDING AND ORDER

Entered in the Journal on August 12, 2020

I. SUMMARY

{¶ 1} The Commission approves the transition plan of The Dayton Power and Light Company to return to pre-COVID-19 operations and activities, 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. 4905.13 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.

{¶ 5} 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/.

{¶ 6} 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.”

{¶ 7} 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.

{¶ 8} 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.

{¶ 9} 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.

{¶ 10} 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.

{¶ 11} 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.

{¶ 12} 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.

{¶ 13} Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), Ohio Energy Group, Interstate Gas Supply, Inc., Ohio Environmental Council, Kroger Co., and Ohio Manufacturers' Association Energy Group were granted intervention in this matter, and each entity timely filed comments on May 4, 2020.

{¶ 14} 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. Among other things, the Commission directed DP&L to work with Staff to develop a plan for the resumption of service disconnections and other activities, including timelines and provisions for extended payment plans for both residential and non-residential customers impacted by the emergency. The Commission directed that interested parties may file comments regarding the plan within ten days after its filing. May 20, 2020 Finding and Order at ¶ 25, 50.

{¶ 15} On July 15, 2020, DP&L filed an updated transition plan for resuming disconnections and other activities (transition plan).

{¶ 16} On July 27, 2020, OCC and OPAE filed comments in response to DP&L's transition plan.

B. Review of the Transition Plan and Comments

1. RESUMPTION OF DISCONNECTIONS AND PAYMENT PLAN OPTIONS

{¶ 17} DP&L proposes to end its moratorium on disconnecting customer accounts for non-payment by resuming customer notifications on August 17, 2020, and resuming disconnections on September 1, 2020. DP&L commits that it will ensure safe practices regarding contact with the public, including: social distancing, wearing masks when engaging in in-person contact, offering contactless payment options during the personal notice on the day of disconnect, and monitoring and modifying safeguards as appropriate.

{¶ 18} Regarding payment plan agreements, DP&L proposes to offer a standardized 12-month pay agreement for its residential customers, which it will promote on its website (customer portal), phone system, and through call representatives. Customers subject to current payment plans will be offered the opportunity to switch to the 12-month pay agreement, which is available without any initiating fee. Under the 12-month pay agreement, customers make up their account deficit by paying their current bill plus equal installments of their past due charges over a one year period. The Company seeks clarification that its proposed pay agreement will be treated similar to approved plans as outlined in Ohio Adm.Code 4901:1-18-05(B), and that customers will not be eligible to participate in alternative pay agreement plans until they remedy any default arising from the 12-month pay agreement. DP&L will also offer customized payment terms to larger commercial and industrial customers. The Company expects to begin communicating these payment options in July, with customers being able to enroll in the payment plan during the period from August 3 through November 30, 2020.

{¶ 19} Regarding its customers that participate in the percentage of income payment plan (PIPP), DP&L confirms that these customers have maintained their eligibility status at their anniversary dates. The Company indicates that it will coordinate with the Ohio

Development Services Agency (ODSA) as that agency reinstitutes the PIPP eligibility verification process.

{¶ 20} Regarding its plan to resume requiring security deposits and fees for reconnection, late payments, and credit card payments, DP&L plans to continue forgoing reconnection fees and security deposit requirements for re-activated accounts, as well as late payment fees, through August 31, 2020. The Company will also forgo assessing late fees on accounts that are current on established pay agreements. Further, for the period ending November 30, 2021, the Company will waive credit card fees for customers who make electronic payments while enrolled in the 12-month pay agreement plan.

{¶ 21} Regarding disconnection and payment issues, OPAE is generally supportive of the 12-month pay agreement plan, though it would: (1) prefer that the plan be made available with a start date of at least December 31, 2020; and, (2) urge that the plan not relieve DP&L from its responsibility to work with customers individually to develop alternative plans as needed. OPAE also urges that DP&L delay disconnections until October 15, 2020 in order to provide customers with sufficient notice, and to enable customers to explore engaging local agencies for winter assistance programs. Regarding the resumption of reconnection fees, OPAE urges DP&L to bill reconnection fees in lieu of requiring them to be paid prior to reconnection. Further, OPAE contends that late fees should be waived until November 30, 2021, consistent with DP&L's proposed time period for ending credit card fees for those enrolled in the 12-month pay agreement plans.

{¶ 22} Regarding disconnection and payment issues, OCC argues that, for the protection of consumers, the Commission should, for the entire period of the emergency and a reasonable time thereafter, require DP&L to continue: (1) suspending all disconnections for non-payment; and, (2) waiving or suspending deposits, late payment fees, and reconnection fees. OCC emphasizes that this approach would assure customers that their essential utility service will not be shut off during the crisis, while also affording the Commission flexibility to address the emergency plans of the utilities based on the facts

as the emergency unfolds. According to OCC, DP&L's plan to resume disconnections, late fees, and reconnection deposits and fees, fails to recognize that the crisis is far from over in this state, with coronavirus cases increasing at this time. In addition to opposing DP&L's time for implementing its transition plan, OCC also urges that the Company offer payment plans longer than 12 months, forgo all credit card payment processing fees, and disclose to PIPP customers how they will be treated in the transition plan.

{¶ 23} The Commission recognizes that many customers may continue to experience financial stress as a result of COVID-19, despite the gradual reopening of businesses throughout Ohio. At the same time, as we noted in the May 20, 2020 Finding and Order, service disconnections for non-payment cannot be suspended indefinitely. May 20, 2020 Finding and Order at ¶ 25. For the protection of consumers, the Commission, therefore, previously extended the winter reconnect order issued in Case No. 19-1472-GE-UNC until May 1, 2020, which provided customers with additional options to reconnect service or avoid the disconnection of service. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 8. Further, DP&L, through its emergency plan approved in the May 20, 2020 Finding and Order, 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. DP&L also suspended its collection of deposits and reconnection fees for customers that had been recently disconnected, while also halting late fees for commercial and industrial customers. In addition, DP&L has assisted customers on a case-by-case basis to determine reasonable payment plans based on their current past due balance, as well as taken steps to ensure that PIPP customers remain enrolled in the program regardless of eligibility and verification requirements. May 20, 2020 Finding and Order at ¶¶ 20, 27. As set forth in its transition plan, DP&L will continue to suspend disconnections and forgo reconnection deposits until September 2020, and will offer a number of payment plan options. Moreover, pursuant to Ohio Adm.Code 4901:1-18-05(A), DP&L is required to offer a custom payment plan when contacted by a customer who has, or seeks to avoid, a delinquent account, while considering certain factors such as the account balance and recent payment history. For these reasons,

we approve DP&L's transition plan with respect to disconnection activities. We decline to adopt OPAE's recommendations for later effective dates of the disconnection and payment arrangements, as well as OCC's recommendation that disconnections for non-payment be suspended indefinitely.

{¶ 24} Additionally, the Commission finds that DP&L's proposed payment plans for residential and non-residential customers should be approved. Consistent with the Commission's directive in the May 20, 2020 Finding and Order, DP&L's transition plan includes an extended payment plan option, which the Company intends to offer to residential customers through November 2020, as well as a non-residential payment option that will extend outstanding payments for a period of up to six months. May 20, 2020 Finding and Order at ¶ 25. While we approve DP&L's extended payment plans, we acknowledge that the proposed payment plans could be financially difficult for some customers during the pandemic. Accordingly, in addition to the payment arrangements proposed in the transition plan, DP&L should continue to provide residential customers with the extended payment plan options, including PIPP, as set forth in Ohio Adm.Code 4901:1-18-05, and information regarding other available payment assistance. We also expect that DP&L will accommodate reasonable requests from both residential and non-residential customers for additional payment plan options on a case-by-case basis. As to the resumption of late payment fees for commercial and industrial customers, as well as the reinstatement of reconnection fees and deposits, we determine that DP&L's transition plan is reasonable. However, as the Commission emphasized in the May 20, 2020 Finding and Order, DP&L should be flexible with the collection of deposits and fees during the course of this emergency, where it is reasonable to do so under the circumstances. May 20, 2020 Finding and Order at ¶ 31. In response to OCC's and OPAE's concern regarding late fees for residential customers, nothing in DP&L's transition plan indicates that residential customers have been, or will be, assessed such fees in violation of the Company's current tariff provisions. Finally, regarding PIPP customers, the Commission directs DP&L to work with ODSA to determine how and when eligibility and verification requirements will be

reinstated after the moratorium ends and whether missed PIPP payments will be rolled into arrears. By August 21, 2020, DP&L shall file a notice in these dockets confirming how the PIPP and Graduate PIPP programs will begin to resume their normal operations.

2. DEFERRAL OF UNCOLLECTIBLE EXPENSES AND OPERATIONAL COSTS

{¶ 25} DP&L restates its proposal to continue deferral for fees and other COVID-19 related costs, and to seek recovery through a future filing with the Commission.

{¶ 26} OPAE is not opposed to the deferral of costs, but notes that deferral alone is no guarantee of recovery. OPAE argues that increased costs must be offset with cost reductions where there have been savings to the Company resulting from the changes caused by the pandemic. Legitimate costs that are above and beyond those anticipated when rates were last set, netted against savings resulting from the curtailing of activity as a result of the pandemic, may be considered for later recovery. OPAE makes clear that the recovery of lost revenues has been rejected in several states, and should be rejected in Ohio as well.

{¶ 27} OCC does not offer any comment regarding DP&L's deferral proposal.

{¶ 28} In the May 20, 2020 Finding and Order, the Commission addressed DP&L's request for approval to implement a rate mechanism to track, defer, and recover uncollectible costs that exceed the current pre-emergency level, as well as to track and defer any incremental operational costs incurred to protect the health and safety of its employees and customers with regard to COVID-19. In granting deferral authority to DP&L for certain expenses and foregone revenues, we emphasized 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. We also directed DP&L to track the costs associated with the emergency plan in a separate FERC account;

separately track and defer the uncollectible expenses associated with the Company's default service generation such that such expenses can potentially be recovered or reconciled through a bypassable mechanism; and track any costs that are avoided due to the emergency. May 20, 2020 Finding and Order at ¶¶ 44-45. The Commission, therefore, has already granted deferral authority to DP&L, as set forth in the May 20, 2020 Finding and Order, and specified the steps that the Company should undertake for properly tracking and booking its incremental costs and savings. Implementation details related to DP&L's accounting of its factoring expense and charge-offs are more appropriately considered as part of the proceeding in which the Company's request for recovery of the deferred amounts is reviewed by the Commission.

3. WAIVER OF CERTAIN REQUIREMENTS AND OPERATIONAL REPORT

{¶ 29} DP&L provides a report on a number of operational items where it has restarted activities, with safety modifications, that were initially paused during the State of Emergency. With respect to meter reading and energy efficiency programs, the Company has started a "contactless" process to read outside meters, as well as inside meters where social distancing protocols are possible. Regarding energy efficiency programs, the Company has resumed "contactless" appliance recycling, as well as resuming rebate program activities under social distancing guidelines. Further, the Company has also resumed utility funded programs such as the Home Weatherization Assistance Program and Electric Partnership Program in accordance with guidance provided by the ODSA. The Company indicates that it will continue to monitor and make any necessary changes to these resumed activities.

{¶ 30} DP&L requests a waiver of call tracking times for its call center through the end of 2020. The Company states that in spite of adding additional training and resources, that it expects increased call volumes regarding upcoming pay agreements and disconnect notices. While the Company believes its operational changes will support the additional call volume, it argues that additional external events such as increased COVID-19 concerns

or unexpected storms may strain the call center and cause wait times in violation of Ohio Adm.Code 4901:1-10-09(B).

{¶ 31} DP&L further offers details regarding its communication plan surrounding its continuing response to the COVID-19 emergency. The Company will inform customers of its 12-month pay agreement program through various means, including email, automated calls, television and radio advertisement, social media, and website updates. Further, the Company will work with the Commission and other organizations to publish information, and will inform customers of its fee and PIPP changes.

{¶ 32} DP&L further reserves the right to seek changes to its plan based on future COVID-19 developments and requests blanket waivers of “any provision” of its plan that is inconsistent with its tariffs or the Ohio Adm.Code

{¶ 33} OPAE’s comments regarding the Company’s operational and waiver items are generally supportive. OPAE anticipates working with DP&L regarding the Company’s communication plan, and encourages DP&L and the Commission to remain adaptive to further modifications as necessary to protect public health.

{¶ 34} OCC opposes DP&L’s request for a blanket waiver of its tariffs and the Ohio Adm.Code, arguing that the Company should be required to separately identify and provide justification as to tariffs or code provisions that DP&L seeks to waive.

{¶ 35} The Commission finds that DP&L’s transition plan with respect to the waiver of certain requirements and its operational report should be approved, except in regard to the Company’s request for blanket waivers of its tariffs and the Ohio Adm.Code. In doing so, we stress the need for the Company’s consistent commitment to provide employees and contractors with necessary PPE and to observe social distancing guidelines, as well as other precautionary measures. We also grant DP&L’s request to extend the timeline for excluding call tracking times for its call center. We decline to extend waivers of the Company’s tariffs and the entirety of the Ohio Administrative Code, finding that DP&L must specify areas

where it deems noncompliance to be supported, rather than seeking blanket Commission approval for any such items.

4. ADDITIONAL OCC RECOMMENDATION

{¶ 36} OCC recommends that the Commission establish a uniform set of guidelines, such as those published by the National Consumer Law Center (NCLC), applicable to all utilities for establishing an orderly transition back to pre-pandemic operations. OCC notes that each utility is proposing its own schedule for resuming activities, including disconnections for non-payment, and that the consumer protections available in some utility service territories differ greatly from the protections available to consumers elsewhere. OCC concludes that this haphazard approach should not be approved by the Commission.

{¶ 37} As we have noted in prior orders, the issues of service continuity, social distancing, consumer protections, and payment arrangements, including fees and charges, are being, and will continue to be, adequately addressed through the *Emergency Case* and each utility company's emergency plan case. See, e.g., *In re Columbia Gas of Ohio, Inc.*, Case No. 20-637-GA-UNC, Finding and Order (May 20, 2020) at ¶ 51; *In re The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Case No. 20-600-GA-UNC, Supplemental Finding and Order (July 15, 2020) at ¶ 43. Because the Commission finds that DP&L's transition plan is reasonable in addressing these issues, subject to our findings elsewhere in this Supplemental Finding and Order, we again decline to adopt OCC's recommendation regarding the NCLC guidelines.

C. Commission Conclusion

{¶ 38} Upon thorough review of DP&L's transition plan and the intervenors' comments, the Commission finds that the transition plan is reasonable and should be approved, consistent with the above findings.

III. ORDER

{¶ 39} It is, therefore,

{¶ 40} ORDERED, That DP&L's transition plan be approved, consistent with this Supplemental Finding and Order. It is, further,

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

{¶ 42} ORDERED, That a copy of this Supplemental 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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Summary: Finding & Order approving the transition plan of The Dayton Power and Light Company to return to pre-COVID-19 operations and activities, consistent with this Finding and Order electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio