

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY FOR A FINDING THAT ITS
CURRENT ELECTRIC SECURITY PLAN
PASSES THE SIGNIFICANTLY EXCESSIVE
EARNINGS TEST AND MORE FAVORABLE
IN THE AGGREGATE TEST IN R.C.
4928.143(E).

CASE NO. 20-680-EL-UNC

ENTRY

Entered in the Journal on September 29, 2020

{¶ 1} The Dayton Power & Light Company (DP&L or the Company) is a public utility, an electric light company, and an electric distribution utility as defined in R.C. 4905.02, R.C. 4905.03(C), and R.C. 4928.01(A)(6), respectively. Therefore, DP&L is subject to the jurisdiction of this Commission.

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

{¶ 3} Pursuant to R.C. 4928.143(E), if a Commission-approved ESP has a term that exceeds three years from the effective date of the plan, the Commission must test the plan in the fourth year to determine whether the ESP, including its then-existing pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, continues to be more favorable in the aggregate and during the remaining term of the plan as compared to the expected results that would otherwise apply under R.C. 4928.142, i.e., under an MRO. The Commission must also determine the prospective effect of the ESP to determine if that effect is substantially likely to provide the EDU with a return on common equity that is significantly in excess of the return on common equity that is likely to be

earned by publicly traded companies, including utilities, that face comparable business and financial risk, with adjustments for capital structure as may be appropriate. The administration of these two tests—the more favorable in the aggregate test and the significantly excessive earnings test—is referred to herein as the quadrennial review.

{¶ 4} On October 20, 2017, the Commission approved, with modifications, DP&L’s third application for an ESP under R.C. 4928.143. *In re the Application of Dayton Power and Light Co. to Establish a Std. Serv. Offer in the Form of an Electric Security Plan*, Case No. 16-395-EL-SSO (*ESP III Case*), Opinion and Order (Oct. 20, 2017). On November 26, 2019, DP&L filed a notice of withdrawal of its application for ESP III under R.C. 4928.143(C)(2)(a). *ESP III Case*, Notice of Withdrawal (Nov. 26, 2019). Additionally, citing to R.C. 4928.143(C)(2)(b), DP&L filed proposed revised tariffs seeking to implement its most recent SSO, which was its first ESP (ESP I). *In re Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 08-1094-EL-SSO (*ESP I Case*), Proposed Revised Tariffs (Nov. 26, 2019). On December 18, 2019, the Commission issued a Finding and Order approving DP&L’s withdrawal of its Application, thereby terminating ESP III. *ESP III Case*, Finding and Order (Dec. 18, 2019).

{¶ 5} On December 18, 2019, the Commission also issued a Second Finding and Order approving, with modifications, DP&L’s proposed revised tariffs in order to continue the provisions, terms, and conditions of ESP I. *ESP I Case*, Second Finding and Order (Dec. 18, 2019). In addition to restoring ESP I, the Commission acknowledged that the term of ESP I has cumulatively exceeded three years and is thus subject to mandatory review under R.C. 4928.143(E). Accordingly, the Commission directed DP&L to open a docket by April 1, 2020, in which the Commission would conduct the quadrennial review detailed in R.C. 4928.143(E). *ESP I Case*, Second Finding and Order (Dec. 18, 2019) at ¶ 41.

{¶ 6} On April 1, 2020, DP&L filed an application for a finding that its current ESP passes the administration of the quadrennial review for the forecast period of 2020-2023.

{¶ 7} By Entry dated April 23, 2020, the attorney examiner issued an original procedural schedule that included deadlines for intervention, the filing of initial and reply comments, and discovery, and set a hearing date in October 2020.

{¶ 8} Over the course of this proceeding, the following entities have sought and been granted intervention: the Ohio Energy Group (OEG), Industrial Energy Users-Ohio (IEU-Ohio), Ohio Consumers' Counsel (OCC), City of Dayton (Dayton), Honda of America Mfg., Inc. (Honda), Ohio Hospital Association (OHA), Ohio Manufacturers' Association Energy Group (OMAEG), Interstate Gas Supply, Inc. (IGS), Kroger Co. (Kroger), and University of Dayton (UD).

{¶ 9} Pursuant to the April 23, 2020 Entry, OCC, OHA, IGS, DP&L, Honda and Dayton, OEG, IEU-Ohio, Kroger, and OMAEG filed initial comments on July 1, 2020. And, on July 16, 2020, reply comments were filed by OCC, IEU-Ohio, UD, IGS, Kroger, DP&L, OHA, OEG, OMAEG, and jointly by Honda and Dayton.

{¶ 10} On September 3, 2020, the attorney examiner issued a revised procedural schedule. The new procedural schedule set an October 1, 2020 deadline for supplemental testimony by DP&L and an October 15, 2020 deadline for intervenor testimony. The attorney examiner additionally scheduled a November 2, 2020 prehearing conference and, if necessary, a hearing to commence on December 1, 2020.

{¶ 11} On September 28, 2020, DP&L filed a motion for an extension of time to file testimony and request for expedited ruling. DP&L moves to extend the filing deadlines for testimony by one week such that the deadline for DP&L to file supplemental testimony is October 8, 2020, and the deadline for intervenors to file testimony is October 22, 2020. For cause, DP&L states that the parties are currently negotiating a settlement of the issues raised in this proceeding and that the requested extension would facilitate those negotiations. Additionally, DP&L notes that, if a settlement can be reached, the current testimony deadlines would no longer be relevant. Regarding the request for expedited consideration, DP&L represents that counsel contacted all other parties to determine whether there would

be any objection to the issuance of an expedited ruling; that every party other than UD responded; and that no responding party objected to the request.

{¶ 12} The attorney examiner finds that the motion to extend the deadlines for filing testimony is reasonable and should be granted. Accordingly, those dates are extended as follows:

- (a) October 8, 2020 – deadline for DP&L to file supplemental testimony, if any.
- (b) October 22, 2020 – deadline for intervenors to file testimony.

The prehearing conference and hearing dates set forth in the September 3, 2020 procedural schedule are not affected by this Entry.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That DP&L's motion for an extension of time to file testimony be granted as stated in Paragraph 12. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Patricia A. Schabo

By: Patricia A. Schabo
Attorney Examiner

GAP/hac

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Case No(s). 20-0680-EL-UNC

Summary: Attorney Examiner Entry granting DP&L's motion for an extension of time to file testimony electronically filed by Heather A Chilcote on behalf of Patricia Schabo, Attorney Examiner, Public Utilities Commission