

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY FOR A LIMITED WAIVER OF
OHIO ADM.CODE 4901:1-18-06(A)(2).

CASE NO. 18-1257-EL-WVR

ENTRY ON REHEARING

Entered in the Journal on August 14, 2019

I. SUMMARY

{¶ 1} The Commission finds that the application for rehearing filed by Ohio Consumers' Counsel on July 19, 2019, should be denied.

II. DISCUSSION

{¶ 2} The Dayton Power and Light Company (DP&L or Company) is an electric distribution utility as defined in R.C. 4905.02 and R.C. 4928.01(A)(6), and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} On August 2, 2018, DP&L filed an application for a limited waiver of Ohio Adm.Code 4901:1-18-06(A)(2), which requires utilities to provide a residential customer with personal notice on the day of disconnection of service due to non-payment. Specifically, DP&L requests a limited waiver of the personal notice requirement with regard to customers whom the Company has deemed "Code Red" customers, i.e., customers who have acted violently or aggressively toward DP&L representatives in the past, generally requiring a police escort for visits to the premises.

{¶ 4} On June 19, 2019, the Commission issued an Entry approving the application for a waiver, subject to six conditions set forth in the Entry.

{¶ 5} R.C. 4903.10, states that any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission within 30 days of the entry of the order upon the Commission's journal.

{¶ 6} On July 19, 2019, Ohio Consumers' Counsel (OCC) filed an application for rehearing regarding the June 19, 2019 Entry. DP&L filed a memorandum contra the application for rehearing on July 29, 2019.

{¶ 7} In its first assignment of error, OCC claims that the June 19, 2019 Entry is unreasonable because it does not provide any support or assurance that the technology needed to implement remote shut-offs for accounts identified as Code Red is not duplicative and will not result in additional costs to consumers when DP&L implements the technology to remotely shut off all customers. In support of this assignment of error, OCC claims that the Commission should have deferred consideration of this waiver request case and consolidated this waiver request with a separate waiver request that DP&L put forth as part of its grid modernization application in Case Nos. 18-1875-EL-GRD, 18-1876-EL-WVR, and 18-1877-EL-AAM (*SmartGrid Case*). In the *SmartGrid Case*, DP&L has requested a limited waiver of Ohio Adm.Code 4901:1-18-06(A)(2) as part of its broader effort to modernize its distribution grid. OCC claims that the Code Red waiver should have been considered within the context of DP&L's broader waiver request concerning the same rule, as the capabilities and functionality that DP&L proposed for Code Red customers in this case appear to be duplicative of the capabilities and functionality proposed in the *SmartGrid Case*, potentially resulting in extra cost to the ratepayers.

{¶ 8} In its memorandum contra, DP&L contends that it was not unreasonable for the Commission to grant DP&L's limited waiver separate from the *SmartGrid Case* and without express reference to duplicative costs. DP&L notes that it has not requested cost recovery in this waiver request nor has it indicated any intention of seeking cost recovery at this time. The Company posits that, if and when it seeks recovery for meters that are equipped to carry out the remote connectivity associated with the waiver in this case and the *SmartGrid Case*, OCC will have an opportunity to raise whether those costs were prudently and reasonably incurred. DP&L also claims that, because there are only a very small number of customers identified as Code Red, the safety concerns for its personnel and

local law enforcement outweigh the minimal costs associated with the Code Red waiver, even if there were duplicative costs to implement the required technology.

{¶ 9} The Commission finds that rehearing on this assignment of error should be denied. In its application for rehearing, OCC fails to present any new arguments in support of its assignment of error but simply reiterates arguments made by OCC in comments filed on April 10, 2019, in this proceeding. The Commission thoroughly addressed those comments in the June 19, 2019 Entry. June 19, 2019 Entry at ¶10. Therefore, rehearing should be denied.

{¶ 10} In its second assignment of error, OCC claims that the June 19, 2019 Entry is unreasonable because it imposes no meaningful recordkeeping standards on DP&L other than a vague “best efforts” and “shall endeavor” documentation requirement to support designating customers on the Code Red list and departs from the Commission’s decision in a similar waiver request made by AEP Ohio. *In re the Application of Ohio Power Company for a Limited Waiver of Ohio Adm.Code 4901:1-18-06(A)(2)*, Case No. 16-1773-EL-WVR (AEP Waiver Case), Entry (Feb. 8, 2017) (*AEP Waiver Case*). OCC objects to a single sentence in the June 19, 2019 Entry related to the documentation retained by DP&L related to customers designated Code Red; this sentence states “DP&L shall make best efforts to collect and record this information and shall endeavor to provide the same information for all pre-existing Code Red accounts.” June 19, 2019 Entry at ¶10. OCC posits that this sentence lacks accountability and unnecessarily deviates from the Commission decision in the *AEP Ohio Waiver Case*.

{¶ 11} In its memorandum contra, DP&L argues that the Commission struck an appropriate balance of interests by requiring the Company to employ “best efforts” to retain documentation associated with customers identified as Code Red. DP&L claims that the information required to be obtained cannot always be captured in the heat of the moment. DP&L also claims that, if the Commission were to adopt OCC’s recommendation, the Company may not be able to utilize the waiver for all customers identified as Code Red.

Instead, the Company's employees may be forced to place themselves in harm's way in order to obtain the additional documentation required by the Commission. Thus, DP&L argues that adopting OCC's recommendation would produce an unreasonable result.

{¶ 12} The Commission notes that, in the June 19, 2019 Entry, the Commission adopted conditions for the waiver requested by DP&L which were identical in all respects to the conditions imposed in the *AEP Ohio Waiver Case*, except for two provisions: the clarification that DP&L should use its "best efforts" to collect the required information in the future and that DP&L should "endeavor" to provide the same information for all pre-existing Code Red accounts; and an additional requirement to work with law enforcement personnel to install new meters at the customer's premises to ensure the safety of DP&L's employees. June 19, 2019 Entry at ¶10; *AEP Ohio Waiver Case*, Entry (Feb. 8, 2017) at ¶19. Both the clarification and the additional provision reflect the Commission's determination that the safety of DP&L's employees is paramount. We reject OCC's claim that the clarification lacks accountability; instead, the clarification reflects our intent that a technical failure to include all of the required information does not negate the waiver and thus subject DP&L's employees to unnecessary safety risks. This is particularly true with respect to the existing 50 Code Red accounts, where DP&L may not have retained all of the required information.

{¶ 13} Likewise, we reject OCC's claim that we are not following the precedent set in the *AEP Ohio Waiver Case*. The conditions for the waiver are identical, except for the two provisions discussed above, and we have explained the reason for the additional provisions. Accordingly, the Commission finds that rehearing on this assignment of error should be denied.

{¶ 14} The Commission reiterates that this limited waiver of Ohio Adm.Code 4901:1-18-06(A)(2) for designated Code Red customers only applies to the extent specified in the June 19, 2019 Entry and that DP&L must comply with all other requirements imposed by Title 49 of the Revised Code and the Commission's rules.

III. ORDER

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That the application for rehearing filed by OCC on July 19, 2019, be denied. It is, further,

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

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

GAP/hac

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Summary: Entry Entry on Rehearing that the Commission finds that the application for rehearing filed by Ohio Consumers' Counsel on July 19, 2019, should be denied. electronically filed by Docketing Staff on behalf of Docketing