

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY TO ESTABLISH A STANDARD
SERVICE OFFER IN THE FORM OF AN
ELECTRIC SECURITY PLAN.

CASE NO. 16-395-EL-SSO

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY FOR APPROVAL OF REVISED
TARIFFS.

CASE NO. 16-396-EL-ATA

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY FOR APPROVAL OF CERTAIN
ACCOUNTING AUTHORITY.

CASE NO. 16-397-EL-AAM

ENTRY

Entered in the Journal on November 27, 2019

{¶ 1} The Dayton Power and Light Company (DP&L) is a public utility as defined under R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} On February 22, 2016, DP&L filed an application for a standard service offer (SSO) pursuant to R.C. 4928.141. DP&L's application is for an electric security plan (ESP) in accordance with R.C. 4928.143. Additionally, DP&L filed accompanying applications for approval of revised tariffs and for approval of certain accounting authority. On October 11, 2016, DP&L filed an amended application for an ESP.¹

{¶ 3} On October 20, 2017, the Commission issued its Opinion and Order (Opinion and Order) modifying and approving an amended stipulation and recommendation (Amended Stipulation) filed in this proceeding. Subsequently, on September 19, 2018, the Commission issued a Third Entry on Rehearing granting, in part, and denying, in part, DP&L's application for rehearing and denying all other applications for rehearing.

¹ The attorney examiner refers to the initial and amended application together as the Application.

{¶ 4} On October 19, 2018, Interstate Gas Supply, Inc. gave notice of its withdrawal from the Amended Stipulation, setting into motion a second hearing that commenced on April 1, 2019, and, with a respite, ended with rebuttal testimony on April 15, 2019. Initial post-hearing briefs were filed May 15, 2019, and reply briefs were filed May 30, 2019.

{¶ 5} Subsequently, on June 19, 2019, the Supreme Court of Ohio issued a decision in which the Court struck down a distribution modernization rider (DMR) authorized by the Commission in an unrelated ESP proceeding upon finding that the DMR did not qualify as an incentive under R.C. 4928.143(B)(2)(h) and that the conditions placed on the recovery of the DMR revenues were not sufficient to protect ratepayers. *In re Application of Ohio Edison Co.*, 157 Ohio St.3d 73, 2019-Ohio-2401, 131 N.E.3d 906, *reconsideration denied*, 156 Ohio St.3d, 2019-Ohio-331, 129 N.E.3d 454, and *reconsideration denied*, 156 Ohio St.3d. 1487, 2019-Ohio3331, 129 N.E.3d 458 (*Ohio Edison*). Following the issuance of *Ohio Edison*, the Commission invited the parties herein to file supplemental briefs narrowly focused on the applicability of the decision on this proceeding, as the Amended Stipulation included a DMR similar to that at issue in *Ohio Edison*.

{¶ 6} On November 21, 2019, the Commission issued a Supplemental Opinion and Order (Supplemental Opinion and Order) modifying and approving the Amended Stipulation in light of the Supreme Court of Ohio's decision in *Ohio Edison*. More specifically, the Commission found that DP&L's DMR was unlawful and violated important regulatory practices and principles; therefore, the Commission modified the Amended Stipulation to eliminate the provisions regarding the DMR. Supplemental Opinion and Order at ¶ 110.

{¶ 7} Pursuant to R.C. 4928.143(C)(2)(a), if the Commission modifies and approves an application for an ESP filed under R.C. 4928.143(C)(1), the electric utility may withdraw the application, thereby terminating it. Furthermore, pursuant to R.C. 4928.143(C)(2)(b), if the utility terminates an application for an ESP pursuant to R.C. 4928.143(C)(2)(a), the Commission shall issue such order as is necessary to continue the provisions, terms, and

conditions of the utility's most recent SSO, along with any expected increases or decreases in fuel costs from those contained in that offer, until a subsequent SSO is authorized.

{¶ 8} On November 26, 2019, DP&L filed a notice of withdrawal (Notice) of its Application for an ESP. In the Notice, DP&L states that it is exercising its statutory right to withdraw its Application under R.C. 4928.143(C)(2)(a). Citing to R.C. 4928.143(C)(2)(b), DP&L further states that it is exercising its statutory right to implement its most recent SSO, i.e., its first ESP, which was authorized by the Commission in *In re The Dayton Power and Light Co.*, Case No. 08-1094-EL-SSO, et al., Opinion and Order (June 24, 2009).

{¶ 9} The attorney examiner finds that any party to this proceeding that wishes to respond to DP&L's November 26, 2019 Notice shall do so on or before December 4, 2019.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That any responses to DP&L's November 26, 2019 Notice must be filed on or before December 4, 2019. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Patricia A. Schabo

By: Patricia A. Schabo
Attorney Examiner

NJW/hac

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11/27/2019 2:49:01 PM

in

Case No(s). 16-0395-EL-SSO, 16-0396-EL-ATA, 16-0397-EL-AAM

Summary: Attorney Examiner Entry setting deadline for responses to Notice electronically filed by Heather A Chilcote on behalf of Patricia Schabo, Attorney Examiner, Public Utilities Commission