

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 April 23, 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. These two tests are referred to as the more favorable in the aggregate test (MFA test) and the significantly excessive earnings test (SEET), respectively.

{¶ 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 both the SEET and MFA test 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 SEET and the MFA test, as required by R.C. 4928.143(E) for the forecast period of 2020-2023. In support of the application, DP&L also filed the testimony of Gustavo Garavaglia M. and R. Jeffrey Malinak.

{¶ 7} On April 2, 2020, the Ohio Energy Group (OEG) and Industrial Energy Users-Ohio (IEU-Ohio) filed separate motions seeking to intervene in this proceeding. Each entity asserts that it is entitled to intervene under R.C. 4903.221 and Ohio Adm.Code 4901-1-11. No party opposed intervention. Upon review, the attorney examiner finds that the motions to intervene are reasonable and should be granted.

{¶ 8} In order to accomplish a review of DP&L's ESP with regard to the prospective SEET and MFA test, the following procedural schedule is established in this case:

- (a) June 15, 2020 – deadline for filing motions to intervene.
- (b) July 1, 2020 – deadline for filing initial comments regarding the application.
- (c) July 16, 2020 – deadline for filing reply comments.
- (d) September 1, 2020 – deadline for issuing written discovery, except for notices of deposition.
- (e) October 13-14, 2020 – if necessary, the evidentiary hearing shall occur at the offices of the Commission, Hearing Room 11-A, 180 East Broad Street, Columbus, Ohio 43215.

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That the motions to intervene filed by OEG and IEU-Ohio be granted as stated in Paragraph 7. It is, further,

{¶ 11} ORDERED, That the procedural schedule be established as set forth in Paragraph 8. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Michael L. Williams

By: Michael L. Williams
Attorney Examiner

SJP/hac

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

Summary: Attorney Examiner Entry granting motions to intervene and setting forth procedural schedule electronically filed by Heather A Chilcote on behalf of Michael L. Williams, Attorney Examiner, Public Utilities Commission of Ohio