

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)	
Dayton Power and Light Company for)	Case No. 20-650-EL-AAM
Approval of Certain Accounting Authority.)	

In the Matter of the Application of The)	
Dayton Power and Light Company for)	
Approval of its Temporary Plan for)	Case No. 20-651-EL-UNC
Addressing the COVID-19 State of)	
Emergency.)	

Dayton Power and Light Company for)	
Waiver of Tariffs and Rules Related to the)	Case No. 20-652-EL-WVR
COVID-19 State of Emergency.)	

In the Matter of the Application of the)	
Dayton Power and Light Company for)	
Approval of Revised Contract with Certain)	Case No. 20-755-EL-AEC
Customers and Reasonable Arrangement)	
Related to the COVID-19 State of)	
Emergency.)	

**COMMENTS REGARDING DP&L'S TEMPORARY PLAN ADDRESSING
THE CORONAVIRUS EMERGENCY
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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I. INTRODUCTION

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consumers. The PUCO should require other actions by DP&L to protect its approximately 465,000 residential consumers during this emergency.

On April 15, 2020, the editorial board of The New York Times published an editorial under the headline, “Stop Dawdling. People Need Money.”¹ The Times editorial included the following words about the current suffering of Americans:

The economic shutdown caused by the coronavirus has left a growing number of American families desperately short of money. Images of hundreds of cars [waiting in long lines](#) at food banks across the country have become a symbol of the crisis, a contemporary equivalent of the old black-and-white images of Americans standing in bread lines during the Great Depression.

To [ease the pain](#), at least a little, Congress voted in late March to send \$1,200 each to most American adults. In this era of high-speed trading, digital wallets and instant payments, one might have imagined that the federal stimulus payments would be distributed quickly, too.

Instead, the first large wave of payments is only landing in bank accounts on Wednesday.

And tens of millions of Americans won’t get their stimulus payments until May — or later.²

The Office of the Ohio Consumers’ Counsel (“OCC”), the state advocate for Ohio’s residential utility customers, appreciates the opportunity to comment on DP&L’s emergency plan. The plan needs additional consumer protections, if it is to be approved.

The PUCO should not approve DP&L costs for charging to consumers unless, at a minimum, the costs are associated with DP&L’s actions taken during the emergency and the costs meet Ohio ratemaking standards, including that they are prudent and necessary. DP&L’s actions should be intended to safeguard and promote goals for averting a deeper health crisis, such as social distancing. DP&L’s actions should protect consumers during the emergency and in

¹ <https://www.nytimes.com/2020/04/15/opinion/coronavirus-stimulus-check-payment.html>.

² *Id.*

some instances for a reasonable timeframe thereafter. Further, added costs due to the emergency should be offset by costs the utility avoids during the emergency, with any charges or credits to consumers reflecting that netting. The PUCO should not permit cost allocations or revenue shifting from one class of customers to another.

During this state of emergency, the PUCO should consider additional measures that are not included in DP&L's plan to protect consumers. Money, if any, owed by DP&L to consumers should be returned as soon as possible. Pending increases in DP&L's charges to consumers should be put off until a reasonable time after the emergency (or the PUCO decides otherwise). And all "non-essential" services that DP&L provides should be suspended until a reasonable time after the emergency (or the PUCO decides otherwise).

II. HISTORY

On March 9, 2020, Governor DeWine declared a state of emergency to protect the health and safety of Ohioans from the dangerous effect of the coronavirus pandemic.³ These are perilous times for Ohio families throughout our great State, with a health crisis and ensuing personal-finance crisis. At this time of Governor DeWine's strong leadership to rally Ohioans to fight back against the virus, the PUCO's initiative in declaring an emergency to shield Ohioans from utility disconnections, door-to-door energy sales, and more is vitally important.

On March 12, 2020, the PUCO opened a docket and ordered utilities to "ensure that utility service to customers is maintained during the state of emergency." The PUCO directed all utilities to review their service disconnection policies, practices, and tariffs and promptly seek approval to suspend requirements that may "impose a service continuity hardship on residential

³ See Executive Order 2020-01D.

and non-residential customers” or “create unnecessary COVID-19 risks associated with social contact.”⁴

DP&L filed its initial temporary plan to deal with the emergency on March 23, 2020 and its supplemental temporary plan on April 15, 2020 (collectively, “Emergency Plan”), with each filing in different cases. As the PUCO reviews DP&L’s Emergency Plan, it should consider that in the coming months and potentially years, many Ohioans will struggle to pay their utility bills. Those Ohioans with financial challenges will include customers who have historically paid their bills in full and on time but who may be unable to continue doing so following the economic fallout of the coronavirus pandemic. Ohio businesses and families will face financial burdens that were unforeseeable just a few months ago. As a result of lost wages, unemployment, and other financial hardships from the coronavirus, the need to make sure that all customers pay only fair, just, and reasonable rates is especially heightened.

III. FOR CONSUMER PROTECTION, THE PUCO SHOULD NOT APPROVE DP&L’S CHARGES TO CONSUMERS UNLESS, AT A MINIMUM, DP&L’S PROPOSED CHARGES ARE PROVEN TO BE PRUDENT, NECESSARY, AND MEET OTHER RATEMAKING STANDARDS.

Disconnections of consumers during this state health emergency would be dangerous for DP&L’s customers, especially when those customers will be spending more time at home, putting social distancing into practice. DP&L’s Emergency Plan addresses many concerns that this state of emergency has created. But it is essential that DP&L’s customers are not harmed in the long term to protect their health and safety in the short term. Therefore, the PUCO should not approve DP&L’s charges to consumers unless, at a minimum, DP&L can show that the charges are for costs that are prudent, necessary, and meet other ratemaking standards.

⁴ See Entry at ¶ 6(a).

A. To protect consumers, all disconnections for non-payment should be suspended until a reasonable period after the coronavirus State of Emergency has ended.

1. Disconnections generally should be suspended until a reasonable period after the coronavirus state of emergency has ended.

DP&L's Emergency Plan complies with the PUCO's Order in the Generic Emergency Case that requires utilities to suspend disconnections of customers due to non-payment. When it comes to disconnections due to non-payment, there should be no uncertainty. The PUCO should be clear in its Order in this case (and in all other electric emergency cases) that no customer may be shut off due to non-payment beginning at least as of March 9, 2020. This Order should remain effective for a reasonable time after the coronavirus emergency has ended. This will literally "keep the lights on" for thousands of DP&L's customers during this difficult time. It will permit DP&L's customers time to recover from the physical and financial damage that the coronavirus emergency has caused even after the state of emergency has ended.

OCC appreciates that the PUCO has banned disconnections during the formal state of emergency. But in some ways personal emergencies may exist for some consumers for an unknown period of time after the emergency ends. So, the ban on disconnections should continue for a reasonable period after the formal emergency ends when the extent of circumstances of the emergency are better understood.

Such provisions should specifically be made available to any DP&L customer, including and especially those participating in the Percentage of Income Payment Plan ("PIPP").

2. Additional consumer protections should be extended to PIPP customers.

The PUCO should expressly Order that DP&L's PIPP participants will not be disconnected for non-payment and will receive the benefit of collection waivers. Further, DP&L's PIPP participants should not be dropped from the PIPP program if their re-verification is disrupted during the declared state of emergency. The financial impact of the coronavirus emergency will likely continue for some time after the declared state of emergency ends. PIPP customers represent the neediest of the needy in our society and are especially vulnerable at this time.

B. To protect consumers, DP&L should reconnect customers that were cut off thirty (30) days before March 9, 2020 due to non-payment.

DP&L should be ordered to reconnect customers who have had service recently shut off due to non-payment. The PUCO should establish a look-back period in this case (and make it applicable to other electric utilities' emergency plans). To protect consumers, the look-back period should begin at least thirty (30) days before the Governor's Order on March 9, 2020. Additionally, the PUCO should order that all reconnection fees, deposits, and accumulated late fees during the emergency, including any look-back period, be waived (deferred for later collection from customers) and refunded to those customers if already collected.

C. The PUCO should require extended payment plans to enable at risk customers to remain connected to service.

DP&L has indicated that it will "work with their customers on a case-by-case basis to determine reasonable payments[.]"⁵ But DP&L has not explained exactly what that means .

The PUCO should take the opportunity in this case to be specific. At a minimum, the PUCO should impose a reasonable time period during which DP&L's customers enter payment

⁵ See DP&L Application at 5.

plans for paying back any past-due amounts caused during this state of emergency. This will provide some relief to DP&L customers who have lost income due to the coronavirus while still allowing DP&L to collect revenues for electric service.⁶

D. To protect consumers, DP&L should not be permitted to lessen safety standards when person-to-person contact is unlikely.

DP&L's Emergency Plan takes steps to limit person-to-person interactions.⁷ When reasonable, such steps should be incorporated into any PUCO Order addressing the emergency including, but not limited to, shutting down in-person payments whenever possible and limiting meter reading at a home whenever possible.

But repairs necessary to maintain the reliability of DP&L's system should continue unless they involve unnecessary person-to-person interaction with customers. As the PUCO Staff stated in its Staff Report in this case: "most field inspections do not necessarily require social contact, however, Staff recognizes that some inspections may lead to social contact. Staff recommends that the Company record, track and proactively provide to Staff the inspections that that have been delayed [due to requiring social contact] and a time for when the inspection has been rescheduled on a monthly basis."⁸ The PUCO should adopt the Staff's recommendation as a part of DP&L's Emergency Plan.

E. The details of DP&L's Emergency Plan information must be provided to all of its customers to better enable them to adequately protect their interests.

Information regarding DP&L's Emergency Plan must be effectively communicated to its customers. DP&L's customers deserve to be, and should be, well-informed about what their rights and options are during the state of emergency. The PUCO should develop a plan to

⁶ See R.C. 4928.02 (L).

⁷ See Duke Application at 2, 5-7.

⁸ See *id.*, Staff Report at 6.

educate and inform customers of their rights during this emergency. All reasonable methods of communication should be used. For example, use of bill inserts, public service announcements, social media, and working with social service agencies should be explored.

IV. TO PROTECT CONSUMERS, THE PUCO SHOULD NOT PERMIT EXPENSES AND CHARGES TO BE SHIFTED BETWEEN RATE CLASSES.

DP&L's Emergency Plan states that waived and suspended fees should be consolidated (aggregated) and that DP&L should be able to collect those fees at a later date.⁹ DP&L has proposed simply adding all of the waived fees on to the customer's bill once the state of emergency has passed.¹⁰

To protect consumers, the PUCO should not adopt DP&L's proposals. Such actions will only extend the economic damage felt by those DP&L customers most harmed by the coronavirus emergency. Further, such requests contain too many unknowns and present opportunities for abuse (such as shifting costs between customer classes). As the PUCO Staff points out, the exact amount of incremental costs and lost revenues, if any, to be deferred is unknown.¹¹ Such requests also ignore the fact that the PUCO usually disfavors the use of regulatory assets unless they pass stringent scrutiny.¹² These actions are harmful to DP&L's customers and could lead to cost shifting among customer classes. Also, DP&L's proposals for

⁹ See DP&L's Application at 5-6.

¹⁰ See *id.*

¹¹ See *id.*, Staff Report at 4.

¹² See *In re Joint Application of Ohio Edison Co., The Cleveland Elec. Illuminating Co., & The Toledo Edison Co.*, Case No. 05-704-EL-ATA, Opinion & Order at 8-9 (January 4, 2006) ("Although the granting of such deferral authority is within the discretion of the Commission, we believe that to approve such a measure requires that we find there to be both exigent circumstances and good reason demonstrated before such amounts should be treated differently from ordinary utility expenses.").

rate increases should not be adopted when it is unclear how other PUCO actions could minimize any potential losses to DP&L.

To benefit customers in these difficult times, all late fees, late check fees, and credit card fees should be waived as of March 9, 2020 and deferred for subsequent collection. Subsequent collection should mean after the emergency is over or until the PUCO determines otherwise. Such policies would permit DP&L's customers to begin recovering both physically and economically from the damage caused by the coronavirus.

Even if the PUCO were to allow DP&L to eventually collect these "waived" fees, other expenses, and lost revenues from customers during this emergency, DP&L's residential customers should not be asked to subsidize any costs DP&L incurs for benefits it provides to commercial and industrial customers during this emergency. That is especially applicable when DP&L's residential customers are experiencing the deleterious economic impacts of the coronavirus.

DP&L is requesting that minimum demand charges on commercial and industrial customers be suspended. And DP&L wants those foregone business-customer charges added onto the bills of other customers to pay (including residential customers).¹³ That would be harmful to residential customers that could already be having problems paying their bills. Any money that DP&L loses from temporarily stopping minimum business demand charges should ultimately be collected from those customers that will benefit from the reduced costs – commercial and industrial customers – not those that do not – residential customers.¹⁴

¹³ See DP&L Supplemental Application at 4-5.

¹⁴ See *id.*

By comparison, Duke's proposal to temporarily stop minimum demand charges and to collect the charges later from those very same business customers, is more fair. Under Duke's approach, the customers that benefit from the temporary proposal (commercial and industrial) are the customers that should eventually pay for that benefit.¹⁵ Passing such costs instead onto DP&L's residential customers would injure residential customers and burden them when they do not receive the benefit.

If DP&L waives minimum demand charges for commercial and industrial customers, then the PUCO should order DP&L to follow Duke's model.

V. TO PROTECT CONSUMERS, THE PUCO SHOULD ORDER DP&L TO TRACK COSTS THAT IT AVOIDS DUE TO THE STATE OF EMERGENCY AND USE SUCH COST SAVINGS TO OFFSET OTHER EMERGENCY COSTS ASSOCIATED WITH DP&L'S EMERGENCY PLAN.

The PUCO Staff recommended in its Staff Report that all of DP&L's incremental costs and revenues be tracked.¹⁶ Consistent with this recommendation, the PUCO should Order DP&L to track expenses that were *not* incurred (*i.e.*, savings) during this state of emergency. Such avoided expenses should be used to offset expenses associated with its emergency plan that DP&L is later allowed to collect from customers. Certain postponed actions and deferred activities will no doubt occur and actually reduce DP&L's overall expenses. Specifically, some of these activities include, but are not limited to, any furloughs or reduction in salaries, reductions in employee numbers, meter readings, reduced travel expenses, and maintenance items. It is only reasonable that the expenses that DP&L *does not* incur due to the emergency

¹⁵ See *In re the Application of Duke Energy Ohio, Inc., Under the Commission's Proceedings During the Declared State of Emergency, for a Reasonable Arrangement with Customers Served Under Rates DS, DP, and TS*, Case No. 20-856-EL-AEC, et. al. at 9-10 (April 16, 2020) ("Duke Reasonable Arrangement").

¹⁶ See DP&L Supplemental Application, Staff Report at 6.

should be tracked so that they can offset the expenses that DP&L *does* incur due to the emergency.

Additionally, certain costs that DP&L will incur during the emergency may already be included in DP&L's base rates.¹⁷ Staff pointed to one such example of costs already included in DP&L's base rates involving DP&L's IT employees in its Staff Report.¹⁸ Another example could be labor and fleet expenses required to do disconnections that will no longer be done during the emergency. This expense is duplicative because this same labor and fleet will be used to perform the reconnections mentioned earlier. Obviously, consumer protection requires that duplicative collections from customers should be prohibited.

VI. THE PUCO SHOULD ORDER THAT DP&L ADOPT ADDITIONAL CONSUMER PROTECTIONS IN ITS EMERGENCY PLAN.

In addition to causing severe health concerns, the coronavirus emergency has had a devastating impact on consumers' finances. Jobs have been lost, unemployment has increased, and wages have been reduced. In light of that devastating impact, the PUCO should add additional consumer protections to DP&L's Emergency Plan.

A. To protect consumers, any pending rate increases should be deferred until after the emergency ends (or the PUCO determines otherwise).

DP&L has a case pending where it is requesting an increase in charges to consumers for its Economic Development Rider (which requires all customers to subsidize electricity discounts to certain large customers).¹⁹ In this time of emergency due to the coronavirus – where consumers are dealing with lost jobs, lost wages, and associated challenges – increased charges

¹⁷ Staff Report at 3.

¹⁸ *See id.*

¹⁹ Case No. 20-572-EL-RDR.

should be deferred with minimal carrying charges until after the emergency ends (or the PUCO determines otherwise). This will enable consumers to deal with the impact of the emergency and recover from the financial impact it has had (and will have).

B. Work on, and charges for, “non-essential” utility services should be suspended until the emergency ends (or the PUCO determines otherwise).

Maintaining essential utility service to consumers in this emergency is crucial. Equally as important is helping consumers deal with the financial hardships they are facing as a result of the emergency. While making sure that essential utility service is maintained, “non-essential” utility services (and charges for them) should be suspended. Essential utility services are those necessary to make sure that DP&L has necessary and adequate facilities to provide basic reliable service to customers. Non-essential services are those not needed to provide basic utility services to customers.²⁰ Suspending “non-essential” utility services during the emergency will help consumers dealing with the financial hardships they are facing.

One such opportunity lies within the energy efficiency subsidies collected by DP&L. Energy efficiency programs are not essential to the provision of reliable electric service to consumers. In fact, the Ohio General Assembly recently passed legislation (H.B. 6, codified at R.C. 4928.66) that repealed the energy efficiency mandates and terminated electric energy efficiency programs as of December 31, 2020. DP&L is winding down its energy efficiency program, which is to end December 31, 2020. Under the PUCO’s emergency authority in R.C. 4909.16, the “wind-down” of DP&L’s energy efficiency program should be accelerated.²¹ Such an Order will assist tens of thousands of individuals in paying their utility bills during and after the declared state of emergency.

²⁰ See R.C. 4905.22.

²¹ See Case No. 17-1398-EL-POR, Order (February 26, 2020).

Additionally, DP&L's work on, and charges to consumers for, grid modernization²² and seamless move²³ could be suspended until after the emergency ends (or the PUCO decides otherwise) without interrupting DP&L's delivery of essential electric service. Such activities should be suspended, as "non-essential" services. That will protect consumers from paying charges for non-essential activities until some future time that the PUCO determines the activities are warranted.

C. Other consumer protection considerations.

The National Consumer Law Center has published a brief set of recommendations, "Coronavirus Crises: How States Can Help Consumers Maintain Essential Utility Services." The publication is attached hereto as Attachment A. As the PUCO reviews DP&L's Emergency Plan, the consumer protections in the National Consumer Law Center's publication should be implemented.

VII. CONCLUSION

For the health and economic security of DP&L's customers, the PUCO should issue an Order that lessens the burden felt by DP&L's residential consumers caused by the coronavirus emergency. Such an Order should permit the suspension of Ohio's regulatory process only when prudent and necessary. Such an Order should also eliminate unnecessary costs and expenses currently passed onto DP&L's residential customers. The additional steps proposed by OCC to protect customers, but not included in DP&L's Emergency Plan, should be adopted by the PUCO.

²² See Case No. 18-1875-EL-GRD.

²³ See Case No. 19-2144-EL-UNC.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Comments have been served via electronic transmission upon the following parties of record this 4th day of May 2020.

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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Coronavirus Crisis: How States Can Help Consumers Maintain Essential Utility Services

March 2020

KEEP RESIDENTIAL UTILITY SERVICE ON DURING THE CRISIS

Access to affordable electric, gas, water, sewer, and telecommunications (including internet) services is essential at all times, but especially during a worldwide pandemic and shelter-at-home orders. Throughout the COVID-19 emergency, states should take the following steps to ensure that consumers stay connected to essential utility networks and reduce the need for public interaction:

- Issue an emergency declaration through gubernatorial action banning all regulated and unregulated utility service shut offs, including electric, gas, water/sewer, and telecommunications services, due to inability to pay, during the crisis;
- Order all regulated and unregulated utilities to reconnect customers who were previously disconnected due to inability to pay;
- Ban all in-person marketing and sales of alternative energy supply and distributed energy products during the length of the emergency declaration;
- Encourage low-income households to apply for the federal Lifeline phone and broadband program for free or discounted voice and data service;
- Adjust state Low Income Home Energy Assistance Program (LIHEAP) application deadlines, enrollment access and eligibility certification processes; and

ENSURING THAT UTILITY SERVICE IS AFFORDABLE FOR ALL

After emergency orders have been lifted, states should ensure that utility arrearages incurred during the crisis do not trigger disconnections. States should require all utility service providers, both regulated and unregulated, to adopt more flexible credit and collections practices than currently required by state regulations and unregulated utility policies. Such protections should:

- Eliminate any customer deposit requirements;
- Eliminate down payment requirements on deferred payment arrangements (DPAs);
- Allow flexible, reasonable DPAs that are based on the customer's ability to pay;
- Eliminate any requirement that disconnected customers pay the full arrearage in order to reconnect, thereby permitting reconnection upon issuance of an affordable DPA;
- Eliminate minimum balance requirements for prepaid utility service customers;
- Require utilities to write off debt for consumers who certify that they are eligible for LIHEAP, but are unable to receive LIHEAP due to insufficient LIHEAP funds; and
- Prohibit utilities from imposing late fees and engaging in negative credit reporting

Questions? Contact National Consumer Law Center advocates Jen Bosco (jbosco@nclc.org), Charlie Harak (charak@nclc.org), John Howat (jhowat@nclc.org), Karen Lusson (klusson@nclc.org) or Olivia Wein (owein@nclc.org).

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Summary: Comments Comments Regarding DP&L's Temporary Plan Addressing The Coronavirus Emergency by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Michael, William J.