

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority	)	Case No. 20-650-EL-AAM
	)	
	)	
In the Matter of the Application of The Dayton Power and Light Company for Approval of its Temporary Plan for Addressing the COVID-19 State of Emergency	)	Case No. 20-651-EL-UNC
	)	
	)	
In the Matter of the Application of The Dayton Power and Light Company for Waiver of Tariffs and Rules Related to the COVID-19 State of Emergency	)	Case No. 20-652-EL-WVR
	)	
	)	
In the Matter of the Application of The Dayton Power and Light Company for Approval of revised contract with certain customers	)	Case No. 20-755-EL-AEC
	)	

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**THE DAYTON POWER AND LIGHT COMPANY’S MEMORANDUM CONTRA  
TO THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL’S APPLICATION FOR  
REHEARING**

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**I. INTRODUCTION**

On March 12, 2020, the Public Utilities Commission of Ohio (“PUCO” or “the Commission”) opened the 20-591-AU-UNC docket in response to the Governor of Ohio “issuing Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19.”<sup>1</sup> The Commission further acknowledged that pursuant to Executive Order 2020-01D “state agencies are required to implement procedures consistent with recommendations from the Department of Health to

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<sup>1</sup> 20-591-AU-ORD, Entry at ¶ 5 (March 12, 2020).

prevent or alleviate the public health threat associated with COVID-19.<sup>2</sup> In that same Entry, the Commission ordered utility companies to review and promptly seek necessary approval to waive “their service disconnection policies, practices, and tariff provisions” and “otherwise applicable requirements that may impose a service continuity hardship on customers or create unnecessary risks of social contact . . . for the duration of the emergency.”<sup>3</sup>

On March 23, 2020, The Dayton Power and Light Company (“DP&L” or the “Company”) filed an Application in response to the Commission Orders in Case No. 20-591-AU-UNC, setting forth its plan to minimize any service continuity hardship or service restoration hardship on the Company’s customers as well as avoiding unnecessary COVID-19 risks associated with social contact (“the Plan”). On April 15, 2020, DP&L filed a Supplemental Application proposing to implement several billing modifications to reduce the financial burden of its commercial and industrial customers and seeks Commission approval of the plan and the associated relief set forth in this Application (“Supplemental Plan”). On May 20, 2020, the Commission approved and amended DP&L’s Plan and Supplemental Plan. In large part, the Commission approved DP&L’s Plan, but amended the Supplemental Plan to operate on an opt-in basis and that foregone minimum billing demand revenue should be collected from those commercial and industrial customers that choose to opt-in through a reasonable extended payment plan.<sup>4</sup> On June 19, 2020, the Office of the Ohio Consumers’ Counsel (“OCC”) filed an Application for Rehearing in this matter alleging four assignments of error. The Commission should deny OCC’s Application for Rehearing as set forth in more detail below.

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<sup>2</sup> Id.

<sup>3</sup> Id. at ¶ 7.

<sup>4</sup> 20-650-EL-AAM *et al.*, Finding and Order at ¶59 (May 20, 2020)

**II. The Commission Properly Found it Unnecessary to Order a Universal “Look Back” for Reconnections.**

OCC’s first assignment of error appears to be built upon a fundamental misunderstanding of DP&L’s Plan and the Commission’s subsequent approval. OCC argues that the Commission should have required reconnection of those customers that were disconnected thirty days before the PUCO’s emergency Order and takes issue with the Commission finding that a “look back” was unnecessary.”<sup>5</sup> But the Commission’s ruling was reasonable because DP&L not only promptly took steps to extend the winter reconnect order,<sup>6</sup> but also expanded it to those residential customers that had already once used the Winter Reconnect during the 2019-2020 winter season.<sup>7</sup> In effect, this allows those customers that had been disconnected prior to the emergency to reconnect under DP&L’s Plan. For these reasons, the Commission acted reasonably and lawfully in granting DP&L’s Plan and should reject OCC’s first assignment of error.

**III. The Commission Set Forth a Reasonable Process to Resume Utility Disconnections After the Declared Emergency Has Ended.**

Albeit unclear, OCC’s second and third assignments of error appear to insist upon protracted and indefinite suspension of disconnections and other routine fees. Although there is no clear end to the COVID-19 pandemic, the Commission appropriately recognized that disconnections could not continue indefinitely.<sup>8</sup> Nevertheless, OCC seeks an indefinite

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<sup>5</sup> Application for Rehearing Regarding PUCO Order on Dayton Power and Light Company’s Temporary Plan Addressing Consumer Protection During the Coronavirus Emergency by the Office of the Ohio Consumers’ Counsel (“OCC AfR”) at p. 3 (June 19, 2020).

<sup>6</sup> 20-650-EL-AAM *et al.*, Finding and Order at ¶ 31.

<sup>7</sup> *See*, Application of The Dayton Power and Light Company at p. 4 (March 23, 2020).

<sup>8</sup> 20-650-EL-AAM *et al.*, Finding and Order at ¶ 25.

continuation of the emergency<sup>9</sup> even as the state has not only begun efforts to relax requirements of the Department of Health's Amended Stay at Home Order,<sup>10</sup> but many of the previous executive orders have been rescinded or relaxed. Moreover, the Commission has, in effect, ordered exactly what OCC has requested – suspension of disconnection for a reasonable period of time after the formal declared emergency.

In its Order granting DP&L's Plan, the Commission directed DP&L to work with Staff to develop a comprehensive plan to safely resume activities to a pre-COVID-19 basis including the resumption of meter reading and of service disconnections as well as timelines and provisions for extended payment plans for both residential and non-residential customers impacted by this emergency.<sup>11</sup> The comprehensive plan is required to be filed in these dockets at least 45 days prior to the resumption of service disconnection. And interested parties, such as OCC, are expressly afforded the opportunity to file comments within ten days after the filing of said plan.<sup>12</sup> At a minimum, OCC has prematurely raised issues about the timing of resumption before DP&L has even filed its required plan. The Commission has provided a process and timeline for resumption of disconnections and payment plans within a reasonable time after the expiration of the executive orders.

#### **IV. The Commission Properly Rejected OCC's Request to Adopt the National Consumer Law Center Whitepaper.**

In its final assignment of error, OCC takes issue with the Commission deciding not to adopt the whitepaper issued by the National Consumer Law Center attached to OCC's

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<sup>9</sup> OCC AfR at p. 4.

<sup>10</sup> 20-650-EL-AAM *et al.*, Finding and Order at ¶ 24.

<sup>11</sup> *Id.* at ¶ 25.

<sup>12</sup> *Id.*

Comments.<sup>13</sup> OCC argues that customers “should have the peace of mind that they will have a reasonable opportunity to pay for their electric service, and any past due amounts that were suspended due to the emergency, after the emergency is over.”<sup>14</sup> That is precisely what the Commission ordered in this matter when it directed DP&L to work with Staff to develop a filing that must include detailed “timelines and provisions for *extended payment plans* for both residential and non-residential customers impacted by this emergency.”<sup>15</sup> Therefore, the Commission’s ruling was not unreasonable or unlawful.

Respectfully submitted,

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<sup>13</sup> OCC AfR at p. 5.

<sup>14</sup> Id.

<sup>15</sup> 20-650-EL-AAM *et al.*, Finding and Order at ¶ 25 (emphasis added).

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing been served via electronic mail upon the following  
counsel of record, this 29<sup>th</sup> day of June, 2020:

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Summary: Memorandum Contra of The Dayton Power and Light Company to The Office of the Ohio Consumers' Counsel's Application for Rehearing electronically filed by Mr. Michael J Schuler on behalf of The Dayton Power and Light Company