

**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) Case No. 20-651-EL-UNC
Approval of its Temporary Plan for)
Addressing the COVID-19 State of)
Emergency.)

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

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

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

I. INTRODUCTION

The coronavirus pandemic has taken its toll on Ohioans. As Dayton Power & Light (“DP&L”) seeks to transition from pandemic-mode to “normalcy,” the need for consumer protection remains paramount. DP&L’s application for rehearing presents the Public Utilities Commission of Ohio (“PUCO”) an opportunity to demonstrate that it will protect consumers as we transition back to normalcy, rather than allowing utilities to

profit from a coronavirus pandemic outside the control of their customers. Consumer protection is especially important given high poverty levels in DP&L's service territory,¹ food insecurity,² and the impacts of social disparities in our country where, for example, minorities suffer from poverty at higher levels than their percentage representation in the overall population.³ The PUCO should simply deny DP&L's application.

This is because DP&L wants to defer for later collection *all* credit card fees, not just those of customers in need. For consumer protection, the PUCO should continue to say no. The PUCO should only allow DP&L to defer credit card fees for those most vulnerable – consumers on payment plans. The PUCO should not grant DP&L's request to defer these charges for all customers who choose to pay with a credit card regardless of whether they are in need. Further, the PUCO should not allow DP&L to collect from consumers' carrying charges on deferred credit card fees.

II. RECOMMENDATIONS

A. **To protect consumers, the PUCO should allow DP&L to defer credit card fees only for those most vulnerable – consumers on payment plans – without carrying charges.**

The PUCO allowed DP&L to defer credit card fees for later collection.⁴ But it limited DP&L's deferral authority to only those customers on a 12-month payment plan.⁵ In response to its application for rehearing, DP&L wants the PUCO to expand its deferral

¹ For example, Dayton has a poverty rate in excess of 32.7%.

² The food insecurity rate in Ohio has increased to 23% as a result of the pandemic. <http://ohiofoodbanks.org/files/2019-20/Press-Release-OAF-urges-SNAP-increase-6.15.20.pdf>.

³ For example, black Americans are 11.8% of Ohio's population, yet 32% of black Americans in Ohio live below the poverty line. <https://www.welfareinfo.org/poverty-rate/ohio/>.

⁴ Supplemental Opinion and Order (August 12, 2020) at 6-9.

⁵ *Id.*

authority beyond vulnerable customers (those on a payment plan) to include *all* customers.⁶ The PUCO should not do so. It should limit DP&L’s authority to defer credit card fees to only customers on payment plans.

Consumers should not become guarantors of revenues and earnings for utilities. Ratemaking is not supposed to be a dollar-for-dollar collection of costs from consumers. Utilities are afforded an opportunity to earn a fair and reasonable rate of return on their investment. In return they are obligated to provide safe and reliable service to consumers. That is the regulatory compact under which utilities operate in Ohio. And that is why OCC recommended against DP&L’s request as part of its transition plan to defer credit card fees for later collection.⁷ “Such fees only make utility payments more expensive for consumers.”⁸

The PUCO has authorized DP&L to defer credit card fees for later collection (in accordance with to the PUCO’s Supplemental Opinion and Order); however, the PUCO has not allowed DP&L to do so for all customers. The PUCO’s limitation of its deferral authority to customers in need, is an appropriate limitation.

Undoubtedly, some customers regardless of the pandemic have the ability to pay their electric bills on-time, and some may choose to pay with a credit card. Credit card fees for such customers should not be deferred for later collection, potentially from all customers. Instead, such customers should pay their own credit card fees and pay on time.

⁶ DP&L’s Application for Rehearing (September 11, 2020).

⁷ OCC’s Comments (July 27, 2020) at 10.

⁸ *Id.*

In contrast, customers in need – those on a payment plan – should get the benefit of avoiding those fees during the emergency. The uncollected fees can be deferred for later collection.⁹ It would provide them a little time to recover from the pandemic’s hardships before the entire bill is due. And while they are recovering, they should not be charged interest. Consumers are suffering. Many have suffered greatly. Businesses throughout Ohio have suffered. DP&L’s should not be exempt from the pandemic’s ramifications by government fiat.

III. CONCLUSION

As Ohio’s utility industry transitions back to “normal,” it is important that the PUCO remain vigilant. The coronavirus crisis should not be turned into an opportunity for utilities to profit from a pandemic that was outside of consumers’ control. Vulnerable consumers need protection. DP&L’s application for rehearing should be rejected. To protect consumers, the PUCO should allow DP&L to defer credit card fees only for those most vulnerable – consumers on payment plans – without interest.

⁹ Of course, deferral authority does not equate to guaranteed recovery, as the PUCO has pointed out. Opinion and Order (May 20, 2020) at 15. At a minimum, DP&L must meet the requirements identified by the PUCO. *See id.*

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ William J. Michael

William J. Michael (0070921)
Counsel of Record
Ambrosia E. Wilson (0096598)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, 7th Floor

Columbus, Ohio 43215-4213

Telephone [Michael]: (614) 466-1291

Telephone [Wilson]: (614) 466-1292

William.Michael@occ.ohio.gov

Ambrosia.Wilson@occ.ohio.gov

(willing to accept service by e-mail)

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Memorandum Contra by the Office of the Ohio Consumers' Counsel was served on the persons stated below via electric transmission this 21st day of September 2020.

/s/ William J. Michael
William J. Michael
Assistant Consumers' Counsel

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

SERVICE LIST

john.jones@ohioattorneygeneral.gov

Attorney Examiners:

patricia.schabo@puco.ohio.gov
michael.williams@puco.ohio.gov
megan.addison@puco.ohio.gov

michael.schuler@aes.com
rdove@keglerbrown.com
mpritchard@mcneeslaw.com
rglover@mcneeslaw.com
mkurtz@bkllawfirm.com
kboehm@bkllawfirm.com
jkylerecohn@bkllawfirm.com
bethany.allen@igs.com
joe.oliker@igs.com
michael.nugent@igs.com
paul@carpenterlipps.com
mleppla@theOEC.org
tdougherty@theOEC.org
ctavenor@theOEC.org
bojko@carpenterlipps.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/21/2020 3:33:40 PM

in

Case No(s). 20-0650-EL-AAM, 20-0651-EL-UNC, 20-0652-EL-WVR, 20-0755-EL-AEC

Summary: Memorandum Memorandum Contra Dayton Power and Light's Application for Rehearing by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Michael, William J.