

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
AND REASONABLE ARRANGEMENT
RELATED TO THE COVID-19 STATE OF
EMERGENCY.**

CASE NO. 20-755-EL-AEC

ENTRY

Entered in the Journal on November 18, 2020

I. SUMMARY

{¶ 1} The Commission denies the joint motion of Coalition on Homelessness and Housing in Ohio, Greater Edgmont Community Coalition, Ohio Consumers' Counsel, Ohio Poverty Law Center, and Southeastern Ohio Legal Services to postpone The Dayton Power and Light Company's resumption of the anniversary date drop process for the percentage of income payment plan program.

II. DISCUSSION

A. *Procedural History*

{¶ 2} The Dayton Power and Light Company (DP&L or the Company) is an electric light company as defined by R.C. 4905.03 and a public utility as defined by R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4909.16 provides, in part, that, in the event of an emergency, when the Commission finds it necessary to prevent injury to the business or interests of the public or of any public utility, it may temporarily alter, amend, or suspend any existing rates or schedules.

{¶ 4} R.C. 4905.13 authorizes the Commission to establish systems of accounts to be kept by public utilities and to prescribe the manner in which these accounts will be kept. Pursuant to Ohio Adm.Code 4901:1-9-05, the Commission adopted the Uniform System of Accounts (USOA), which was established by the Federal Energy Regulatory Commission (FERC), for electric utilities in Ohio, except to the extent that the provisions of the USOA are inconsistent with any outstanding accounting orders of the Commission. Additionally, the Commission may require the creation and maintenance of such additional accounts as may be prescribed to cover the accounting procedures of electric utilities.

{¶ 5} On March 9, 2020, the governor signed 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. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 6} Pursuant to R.C. 3701.13, the Ohio Department of Health has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the Ohio Department of Health issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.”

{¶ 7} On March 12, 2020, the Commission opened Case No. 20-591-AU-UNC and directed all utility companies in this state to review their disconnection procedures in light of the state of emergency. *In re the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC (*Emergency Case*), Entry (Mar. 12, 2020) at ¶ 7. On March 13, 2020, the Commission extended its winter reconnection order through May 1, 2020, and directed all utility companies in this state to review their reconnection procedures. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 6. In the March 12, 2020, and March 13, 2020 Entries, the Commission also directed all utility companies to promptly seek any necessary approval, for the duration of the emergency, to suspend otherwise applicable disconnection or reconnection requirements that may impose a service continuity or service restoration hardship on residential and non-residential customers or create unnecessary COVID-19 risks associated with social contact. The Commission determined that such filings shall be deemed approved on an emergency basis for a period of at least 30 days effective as of the filing date or until such date as the Commission may otherwise specify, which shall not be less than 30 days.

{¶ 8} On March 20, 2020, in the *Emergency Case*, the Commission directed all utility companies to suspend in-person, actual meter readings in circumstances where a meter is located inside a customer's home or similar location, as well as all other non-essential functions that may create unnecessary COVID-19 risks associated with social contact. The Commission also clarified that requests for accounting authority or incremental cost

recovery related to the emergency will be addressed in each utility's individual case by subsequent entry. *Emergency Case*, Entry (Mar. 20, 2020) at ¶¶ 10-11, 13.

{¶ 9} On March 23, 2020, in the first three of the above-captioned cases, DP&L filed an application for approval of its temporary plan for addressing the COVID-19 state of emergency.

{¶ 10} On April 8, 2020, in the *Emergency Case*, the Commission, among other things, extended the 30-day automatic approval period for filings to suspend otherwise applicable disconnection requirements for an additional 30 days, unless otherwise ordered by the Commission. *Emergency Case*, Finding and Order (Apr. 8, 2020) at ¶ 9.

{¶ 11} On April 15, 2020, DP&L filed a supplemental application for approval of its temporary plan for addressing the COVID-19 state of emergency and initiated Case No. 20-755-EL-AEC, which sought a reasonable arrangement.

{¶ 12} On April 22, 2020, Staff filed its review and recommendations in response to DP&L's request for approval of its emergency plan, as supplemented.

{¶ 13} Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), Ohio Energy Group, Interstate Gas Supply, Inc., Ohio Environmental Council, Kroger Co., and Ohio Manufacturers' Association Energy Group were granted intervention in this matter, and each entity timely filed comments on May 4, 2020.

{¶ 14} By Finding and Order issued May 20, 2020, the Commission approved DP&L's supplemented application, subject to Staff's recommendations and modifications, and consistent with the Finding and Order. Among other things, the Commission directed DP&L to work with Staff to develop a plan for the resumption of service disconnections and other activities, including timelines and provisions for extended payment plans for both residential and non-residential customers impacted by the emergency. The Commission directed that interested parties may file comments regarding the plan within ten days after its filing. May 20, 2020 Finding and Order at ¶ 25, 50.

{¶ 15} On July 15, 2020, DP&L filed an updated transition plan for resuming disconnections and other activities (transition plan).

{¶ 16} On July 27, 2020, OCC and OPAE filed comments in response to DP&L's transition plan.

{¶ 17} On August 12, 2020, the Commission approved DP&L's transition plan, consistent with the Commission's Supplemental Finding and Order. With respect to percentage of income payment plan (PIPP) customers, the Commission directed DP&L to work with the Ohio Development Services Agency (ODSA) to determine how and when eligibility and verification requirements would be reinstated after the resumption of disconnections and to file a notice in these dockets by August 21, 2020, confirming how the PIPP and Graduate PIPP programs would begin to resume their normal operations. August 12, 2020 Supplemental Finding and Order at ¶ 24.

{¶ 18} On August 21, 2020, following consultation with ODSA, DP&L filed a notice describing how the normal operations of the PIPP and Graduate PIPP programs will be resumed by the Company and ODSA. DP&L indicates that it plans to continue communicating with ODSA regarding resuming these programs. Further, by December 31, 2020, DP&L intends to file a notice at least 30 days in advance of resuming the anniversary date drop process.

{¶ 19} On September 11, 2020, DP&L filed an application for rehearing of the Supplemental Finding and Order dated August 12, 2020.

{¶ 20} On September 21, 2020, OCC filed a memorandum contra DP&L's application for rehearing.

{¶ 21} By Entry on Rehearing on October 7, 2020, the Commission denied DP&L's application for rehearing.

{¶ 22} On September 23, 2020, Coalition on Homelessness and Housing in Ohio, Greater Edgemont Community Coalition, Ohio Consumers' Counsel, Ohio Poverty Law Center, and Southeastern Ohio Legal Services (collectively, Consumer Groups) filed a joint motion requesting that the Commission prohibit DP&L from dropping customers from the PIPP program prior to January 2021. There were no memoranda contra to the joint motion.

B. Consideration of the Motion

{¶ 23} In their motion, the Consumer Groups request that the Commission prevent DP&L from removing customers from the PIPP program at least until January 2021. In support of their motion, the Consumer Groups state that at-risk Ohioans continue to struggle with health and financial challenges resulting from the COVID-19 pandemic and that it is, therefore, necessary to continue consumer protections for PIPP customers through at least the end of the year. The Consumer Groups assert that, although DP&L acknowledged that ODSA intends to continue consumer protections for electric PIPP customers through the end of 2020, the Company's plan for resuming dropping customers from the PIPP program upon filing a 30-day notice with the Commission leaves the potential for earlier PIPP enrollment changes by DP&L. The Consumer Groups argue that the Commission should prevent DP&L Ohio from doing so, while also directing Staff to work with ODSA to assist in coordinating future plans for reinstating all electric PIPP eligibility and verification requirements.

{¶ 24} Upon thorough review of the Consumer Groups' motion, the Commission finds that the motion should be denied. Initially, we note that DP&L addressed the resumption of the PIPP anniversary date drop process in its transition plan. In response, the Commission directed DP&L to work with ODSA to determine how and when PIPP eligibility and verification requirements will be reinstated and to file, by August 21, 2020, a notice confirming how the PIPP and Graduate PIPP programs will begin to resume their normal operations. August 12, 2020 Supplemental Finding and Order at ¶ 24. Following consultation with ODSA, DP&L filed its notice on August 21, 2020, as directed by the Commission. In the notice, DP&L reported that ODSA plans to resume PIPP drops for

failure to reverify eligibility¹ beginning on January 1, 2021, although ODSA intends to evaluate the status and impact of COVID-19 in Ohio in December 2020, which may result in the postponement of PIPP reverification drops to a later date. DP&L also noted that, under PIPP program rules,² it is required to drop an active PIPP customer from the program who is not current with monthly PIPP payments on the account's anniversary date. DP&L submits that its plan is acceptable because DP&L will (1) continue working with ODSA, and (2) file notice with the Commission at least 30 days prior to resuming dropping customers from the PIPP program. As a result, DP&L is providing sufficient customer notice and protection as to both (1) the waiver of, and (2) the plan for resuming legally required PIPP reverification drops.

{¶ 25} The Consumer Groups' motion essentially asserts that the timing of DP&L's resumption of PIPP drops for failure to be current on the anniversary date should be precisely aligned with ODSA's time frame for resuming drops for failure to reverify eligibility for the PIPP program. The Consumer Groups have not explained why the timing for the resumption of these two different PIPP program requirements must be bound together, aside from concern for the ongoing state of emergency caused by the pandemic. As we have previously recognized, many customers may continue to experience financial stress as a result of COVID-19, despite the gradual reopening of businesses throughout Ohio. We have also noted that emergency measures such as the suspension of service disconnections for non-payment cannot remain in effect indefinitely. May 20, 2020 Finding and Order at ¶ 25; August 12, 2020 Supplemental Finding and Order at ¶ 24. The Commission continues to take reasonable steps to protect customers, most recently by

¹ Ohio Adm.Code 122:5-3-03(C)(1) provides, in part, that, "[i]f a PIPP plus customer fails to submit information sufficient to verify continuing eligibility within sixty days after the customer's annual verification date, the customer will be ineligible to continue in the PIPP plus program, and the [ODSA's] office of community assistance will send the affected utility by electronic data transfer a drop file to remove such customer as an active PIPP plus customer."

² Ohio Adm.Code 122:5-3-02(H)(1)(b)(i) provides that, "[i]f the customer is not current on his/her anniversary date, the electric distribution utility will issue a notice on the customer's bill, and the customer will have one billing cycle after the date of the notice to pay past due monthly PIPP plus installment amounts. If such amounts are not timely paid, the electric distribution utility will drop the customer from the PIPP plus program, and such customer will cease to be an active PIPP plus customer."

ordering an implementation date for the 2020-2021 winter reconnect order that is earlier than in prior years. *In re the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2020-2021 Winter Heating Season*, Case No. 20-1252-GE-UNC, Finding and Order (Aug. 12, 2020). The Commission will also continue to monitor service continuity and related issues, as well as the availability of extended payment plans and other customer assistance programs, through the *Emergency Case* and through the individual emergency plan cases of DP&L and other public utilities regulated by the Commission.

III. ORDER

{¶ 26} It is, therefore,

{¶ 27} ORDERED, That the motion filed by the Consumer Groups on September 23, 2020, be denied. It is, further,

{¶ 28} ORDERED, That a copy of this Entry be served upon all interested persons and parties of record.

COMMISSIONERS:

Approving:

M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

MLW/hac

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

Summary: Entry denying the joint motion of Coalition on Homelessness and Housing in Ohio, Greater Edgemont Community Coalition, Ohio Consumers' Counsel, Ohio Poverty Law Center, and Southeastern Ohio Legal Services to postpone The Dayton Power and Light Company's resumption of the anniversary date drop process for the percentage of income payment plan program. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio