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**Ohio** Public Utilities  
Commission

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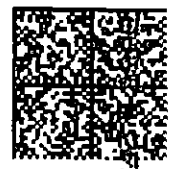
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Entry 9/27/21

20-1051-EL-AIR  
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**FILE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

**IN THE MATTER OF THE APPLICATION OF  
THE DAYTON POWER AND LIGHT  
COMPANY TO INCREASE ITS RATES FOR  
ELECTRIC DISTRIBUTION.**

**CASE NO. 20-1651-EL-AIR**

**IN THE MATTER OF THE APPLICATION OF  
THE DAYTON POWER AND LIGHT  
COMPANY FOR ACCOUNTING  
AUTHORITY.**

**CASE NO. 20-1652-EL-AAM**

**IN THE MATTER OF THE APPLICATION OF  
THE DAYTON POWER AND LIGHT  
COMPANY FOR APPROVAL OF REVISED  
TARIFFS.**

**CASE NO. 20-1653-EL-ATA**

**ENTRY**

Entered in the Journal on September 27, 2021

[¶ 1] The Dayton Power and Light Company (DP&L or the Company) is an electric light company and a public utility as defined in R.C. 4905.03 and R.C. 4905.02, respectively. As such, DP&L is subject to the jurisdiction of this Commission.

[¶ 2] R.C. Chapter 4909 prescribes the fixation of rates for public utilities. An application for an increase in rates is governed by and must satisfy the requirements of R.C. 4909.17 to 4909.19 and R.C. 4909.42. Additionally, R.C. 4903.083 provides that, for all cases involving applications for an increase in rates pursuant to R.C. 4909.18, the Commission shall hold public hearings in each municipal corporation in the affected service area having a population in excess of 100,000 persons; at least one public hearing shall be held in each affected service area, and at least one hearing shall be held after 5:00 p.m. R.C. 4903.083 further provides that notice of the hearings be published once each week for two consecutive weeks in a newspaper of general circulation in the service area.

[¶ 3] On November 30, 2020, the Company filed an application for an increase in electric distribution rates pursuant to R.C. 4909.18, together with applications for accounting authority and for approval of revised tariffs.

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[¶ 4] Pursuant to R.C. 4909.19, the Commission caused an investigation to be made of the facts set forth in the rate increase application, the exhibits attached thereto, and the matters connected therewith. On July 26, 2021, Staff filed a written report of its investigation, copies of which were mailed to the Company and other persons deemed interested in these cases.

[¶ 5] On July 30, 2021, the attorney examiner issued a procedural schedule setting forth various filing deadlines, scheduling a prehearing conference, and directing that the evidentiary hearing would commence on October 4, 2021. The attorney examiner also announced that local public hearings would be scheduled by subsequent Entry.

[¶ 6] By Entry issued August 9, 2021, the attorney examiner granted a motion to continue and rescheduled the hearing to commence October 26, 2021.

[¶ 7] On August 17, 2021, the attorney examiner issued an Entry scheduling two local public hearings pursuant to R.C. 4903.083 and directing the Company to publish legal notice of all scheduled hearings.

[¶ 8] By Entries dated April 7, 2021, April 29, 2021, June 1, 2021, and September 15, 2021, the attorney examiner granted intervenor status in these cases to the following entities: Ohio Energy Group; Ohio Manufacturers' Association Energy Group; The Kroger Co.; Ohio Consumers' Counsel (OCC); University of Dayton; Industrial Energy Users-Ohio; Interstate Gas Supply, Inc.; Retail Energy Supply Association (RESA); Ohio Partners for Affordable Energy; Walmart Inc.; Environmental Law & Policy Center; Ohio Hospital Association; Armada Power, LLC (Armada); Nationwide Energy Partners, LLC; Direct Energy Services, LLC, and Direct Energy Business, LLC; One Energy Enterprises LLC; ChargePoint, Inc.; the City of Dayton; and Ohio Environmental Council.<sup>1</sup>

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<sup>1</sup> On July 14, 2021, Armada withdrew from participating in these proceedings. Similarly, RESA withdrew from these matters by notice filed August 10, 2021.

{¶ 9} On September 16, 2021, the prehearing conference was conducted as scheduled. There, the attorney examiners discussed with counsel for the parties the possibility that the evidentiary hearing would be conducted remotely, rather than in person. No party objected.

{¶ 10} The attorney examiner conducted the first scheduled local public hearing on September 17, 2021, at 1:00 p.m., at the Dayton Municipal Building. One person offered testimony. The attorney examiner informed those present that the evidentiary hearing would be called and continued, with the substance of the hearing being conducted via remote technology. The attorney examiner further announced that details for observing the hearing would be forthcoming by future Entry.

{¶ 11} By Entry dated September 23, 2021, the attorney examiner formally announced that, pursuant to published notice, the evidentiary hearing will be called as scheduled on October 26, 2021, at 10:00 a.m., at the offices of the Commission – both in the scheduled hearing room and virtually using Webex – immediately adjourned, and then continued to reconvene one hour later by Webex only. The Entry includes the information necessary to allow any interested nonparty to observe the hearing via the internet or telephone.

{¶ 12} Meanwhile, on September 22, 2021, OCC filed a motion to allow Dayton-area consumers to participate virtually during the pandemic at the Commission's local public hearing to be held on September 28, 2021, with a request for expedited ruling. OCC raises concerns that the lack of participation in the first local public hearing may be linked to the recent increase in cases, hospitalizations, and deaths attributed to the once-in-a-century COVID-19 pandemic. OCC requests consumers be given an opportunity to participate remotely to provide oral testimony. OCC contends that allowing remote testimony would satisfy the intent of R.C. 4903.083. In closing, OCC states that good cause exists to grant its motion on an expedited basis, but that it cannot certify that no party opposes its request for expedited treatment.

[¶ 13] DP&L has indicated that the Company does not oppose the motion.<sup>2</sup>

[¶ 14] As stated above, R.C. 4903.083 sets forth requirements with regard to local hearings held for all cases involving applications for an increase in rates pursuant to R.C. 4909.18, such as in the present matter. Pursuant to those requirements, the Commission scheduled two local public hearings in the affected service area and directed the Company to publish notice of the hearings in newspapers of general circulation in the affected service area once a week for two consecutive weeks prior to the scheduled dates. With only a day remaining before the September 28, 2021 hearing, there is not sufficient time to properly notice the opportunity for remote testimony as required by the plain language of the statute, nor is there sufficient time to make technological arrangements. Accordingly, the attorney examiner finds that OCC's motion must be denied.

[¶ 15] While sufficient time does not exist in which to modify the currently scheduled hearing to provide for sufficient notice to the public to conduct a partial remote hearing as requested, the attorney examiner finds that a suitable alternative exists. Specifically, in light of the ever-evolving health and safety concerns engendered by the pandemic, the attorney examiner finds it appropriate to schedule a third public hearing – to be held by remote technology – during which the Company's customers may provide public testimony. The details for this event, and instructions for publication of its notice, will be provided by future Entry.

[¶ 16] It is, therefore,

[¶ 17] ORDERED, That OCC's motion be denied. It is, further,

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<sup>2</sup> The Company's statement was made through an email addressed to the attorney examiner and counsel for all parties.

{¶ 18} ORDERED, That a public hearing at which consumers in the Company's service area will have the opportunity to provide testimony by remote technology be scheduled by future Entry. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Patricia A. Schabo

By: Patricia A. Schabo  
Attorney Examiner

JRJ/hac