

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY TO ESTABLISH A STANDARD
SERVICE OFFER IN THE FORM OF AN
ELECTRIC SECURITY PLAN.

CASE NO. 08-1094-EL-SSO

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

CASE NO. 08-1095-EL-ATA

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

CASE NO. 08-1096-EL-AAM

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY FOR WAIVER OF CERTAIN
COMMISSION RULES.

CASE NO. 08-1097-EL-UNC

ENTRY

Entered in the Journal on October 21, 2021

{¶ 1} The Dayton Power and Light Company d/b/a AES Ohio (AES Ohio or the Company) is a public utility as defined under R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 3} R.C. 4928.143(C)(2)(b) provides that if a utility terminates an application for an ESP or if the Commission disapproves an application, the Commission shall issue such

order as is necessary to continue the provisions, terms, and conditions of the utility's most recent SSO, along with any expected increases or decreases in fuel costs from those contained in that offer, until a subsequent SSO is authorized.

{¶ 4} By Opinion and Order issued in these cases on June 24, 2009, the Commission adopted the stipulation and recommendation of the parties (ESP I Stipulation) to establish AES Ohio's first ESP (ESP I). Thereafter, on December 19, 2012, the Commission continued ESP I until a subsequent SSO could be authorized. Entry (Dec. 19, 2012) at 3-5.

{¶ 5} On September 4, 2013, the Commission modified and approved AES Ohio's application for a second ESP (ESP II). *In re The Dayton Power and Light Co.*, Case No. 12-426-EL-SSO, et al. (*ESP II Case*), Opinion and Order (Sept. 4, 2013). On June 20, 2016, the Supreme Court of Ohio issued an opinion reversing the decision of the Commission approving ESP II and disposing of all pending appeals. *In re Application of Dayton Power & Light Co.*, 147 Ohio St.3d 166, 2016-Ohio-3490, 62 N.E.3d 179. Thereafter, on August 26, 2016, in the *ESP II Case*, the Commission modified ESP II as directed by the Court's remand and then granted AES Ohio's application to withdraw ESP II, thereby terminating it. *ESP II Case*, Finding and Order (Aug. 26, 2016).

{¶ 6} In light of the withdrawal and termination of ESP II, the Commission, pursuant to R.C. 4928.143(C)(2)(b), granted AES Ohio's application in these cases to implement the provisions, terms, and conditions of ESP I, its most recent SSO, until a subsequent SSO could be authorized. Finding and Order (Aug. 26, 2016), Third Entry on Rehearing (Dec. 14, 2016). The provisions, terms, and conditions of ESP I remained in effect until the Commission modified and approved an amended stipulation establishing the Company's third ESP (ESP III), effective November 1, 2017. *In re Dayton Power and Light Co.*, Case No. 16-395-EL-SSO, et al. (*ESP III Case*), Opinion and Order (Oct. 20, 2017) at ¶ 131.

{¶ 7} Approximately two years later, on November 26, 2019, AES Ohio filed a notice of withdrawal of its ESP III application pursuant to R.C. 4928.143(C)(2)(a). *ESP III Case*,

Notice of Withdrawal (Nov. 26, 2019). On the same day, AES Ohio also filed proposed tariffs in these proceedings to implement the provisions, terms, and conditions of ESP I, its most recent ESP prior to ESP III. Proposed Revised Tariffs (Nov. 26, 2019). On December 18, 2019, the Commission accepted the Company's withdrawal of ESP III. *ESP III Case, Finding and Order* (Dec. 18, 2019).

{¶ 8} On December 18, 2019, the Commission also issued a Second Finding and Order approving, with modifications, AES Ohio's proposed tariffs to implement the provisions, terms, and conditions of ESP I. *Second Finding and Order* (Dec. 18, 2019).

{¶ 9} Several rounds of rehearing followed the Second Finding and Order. Most recently, on August 11, 2021, the Commission issued a Sixth Entry on Rehearing, in which applications for rehearing filed by AES Ohio and Ohio Consumers' Counsel (OCC) were denied. OCC filed a notice of appeal with the Ohio Supreme Court on August 27, 2021; AES Ohio filed a notice of cross-appeal on October 8, 2021.

{¶ 10} Meanwhile, on September 10, 2021, OCC filed a Notice of Termination and Withdrawal from the February 24, 2009 ESP I Stipulation (Notice of Withdrawal).

{¶ 11} On September 30, 2021, the Company filed a motion to strike OCC's Notice of Withdrawal. OCC filed a memorandum contra AES Ohio's motion to strike on October 15, 2021. Thus, in accordance with Ohio Adm.Code 4901-1-12, the Company's reply in support of its motion to strike would be due on October 22, 2021.

{¶ 12} On October 20, 2021, however, AES Ohio filed an unopposed motion for an extension of time. AES Ohio seeks a one-week extension, or until October 29, 2021, to file its reply in support of the motion to strike. AES Ohio represents that, pursuant to communications with counsel for OCC prior to filing the motion, OCC does not oppose the requested extension.

{¶ 13} The attorney examiner finds that the motion should be granted. Accordingly, AES Ohio's deadline for filing a reply in support of its motion to strike OCC's Notice of Withdrawal is extended to October 29, 2021.

{¶ 14} It is, therefore,

{¶ 15} ORDERED, That AES Ohio's motion be granted as stated in Paragraph 13. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Patricia A. Schabo

By: Patricia A. Schabo
Attorney Examiner

SJP/hac

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Case No(s). 08-1094-EL-SSO, 08-1095-EL-ATA, 08-1096-EL-AAM, 08-1097-EL-UNC

Summary: Attorney Examiner Entry ordering that AES Ohio's motion be granted as stated in Paragraph 13 electronically filed by Heather A. Chilcote on behalf of Patricia Schabo, Attorney Examiner, Public Utilities Commission