

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 March 31, 2022

{¶ 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 pursuant to 4905.04, 4905.05, and 4905.06.

{¶ 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. In determining just and reasonable rates, R.C. 4909.15(C) mandates that the revenues and expenses of a utility be determined during a test period. When applying for a rate increase, a utility may propose a test period for this determination that is any 12-month period beginning not more than six months before, and not ending more than nine months after, the date the application is filed. R.C. 4909.15. Unless otherwise ordered by the Commission, the test period shall be what is proposed by the utility. *Id.* Additionally, under R.C. 4909.15(C)(2), the date certain shall not be later than the date of filing.

{¶ 3} On October 30, 2020, pursuant to the Standard Filing Requirements set forth in Ohio Adm.Code 4901-7-01, Appendix A (Standard Filing Requirements or SFR), DP&L filed a notice of its intent to file an application to increase its rates for electric distribution service.

{¶ 4} Also on October 30, 2020, the Company filed a motion to establish a test period and date certain in accordance with R.C. 4909.15(C) and Chapter II(A)(5)(a) of the Standard Filing Requirements. DP&L proposed the 12-month period beginning June 1, 2020, and ending May 31, 2021, as the test year and June 30, 2020, as the date certain for its forthcoming application, which it intended to file on November 30, 2020. The October 30, 2020 motion also requested waivers of certain Standard Filing Requirements pursuant to Chapter II(A)(4)(a).

{¶ 5} On November 18, 2020, the Commission approved DP&L's motion to set the test period and date certain, as well as its motion for waiver of certain SFRs.

{¶ 6} On November 30, 2020, DP&L filed its application to increase its rates. On December 14, 2020, the Company filed direct testimony in support of its application.

{¶ 7} On April 7, 2021, the Commission accepted the application as of the filing date of November 30, 2020. As part of the same Entry, the Commission granted motions to intervene on behalf of Ohio Consumers' Counsel (OCC) and Ohio Partners for Affordable Energy (OPAE), as well as ten additional intervenors.

{¶ 8} On July 26, 2021, Staff filed its report of investigation.

{¶ 9} On July 30, 2021, the attorney examiner issued a procedural schedule setting forth case deadlines, including scheduling the matter for an evidentiary hearing on October 4, 2021. Pursuant to an Entry dated August 9, 2021, the attorney examiner granted a joint motion for continuance of the evidentiary hearing, resetting it for October 26, 2021.

{¶ 10} On August 5, 2021, OCC filed a motion to dismiss DP&L's application for a rate increase.

{¶ 11} On August 20, 2021, DP&L filed a memorandum in opposition to OCC's motion to dismiss.

{¶ 12} On August 27, 2021, OCC and OPAE filed separate replies in support of the motion to dismiss DP&L's application for a rate increase.

{¶ 13} By Entry dated October 20, 2021, the Commission denied OCC's motion to dismiss upon finding that the application is ripe for consideration in spite of the fact that implementation of any approved change to rates may be stayed as part of the Commission's determination of the legal issues presented.

{¶ 14} On November 19, 2021, OCC filed an application for rehearing and memorandum in support in regard to the October 20, 2021 Entry.

{¶ 15} On December 6, 2021, DP&L filed a memorandum in opposition to OCC's application for rehearing.

{¶ 16} On December 15, 2021, the Commission denied OCC's application for rehearing.

{¶ 17} Following several continuances that were approved at the request of the parties, the evidentiary hearing was held beginning on January 25, 2022, and concluding on February 7, 2022.

{¶ 18} On March 4, 2022, initial post-hearing briefs were timely filed by DP&L, Staff, and 11 intervenors.¹ Further, post-hearing reply briefs were timely filed by DP&L, Staff, and ten intervenors on March 30, 2022.²

{¶ 19} On March 14, 2022, DP&L filed a motion for oral argument and request for expedited ruling. DP&L seeks oral argument as to whether a rate freeze can be lawfully implemented in this case. DP&L claims that oral argument is appropriate because the legal issues involving the rate freeze are novel such that oral argument will benefit the Commission in its consideration of the matter. Further, DP&L indicates that the issue is of vital importance to its continuing financial operations.

{¶ 20} On March 21, 2022, OCC filed a memorandum contra DP&L's motion for oral argument. OCC claims that the rate freeze issue has been addressed through testimony and post-hearing briefs such that oral argument is unnecessary. Additionally, OCC claims that Staff, OCC, and DP&L recently filed briefs as to this issue in an appeal before the Supreme Court of Ohio. OCC also argues that should DP&L's motion for oral argument be granted, OCC should be given the opportunity for oral argument as to the legality of DP&L's continuing collection of its stability charge, which OCC has continued to oppose in this case.

{¶ 21} The attorney examiner finds that oral argument concerning the rate freeze issue in this case will be beneficial. Further, the attorney examiner finds that OCC's request for oral argument is denied as it was (1) not properly requested, and (2) does not address an issue where oral argument will be beneficial to the Commission. Accordingly, oral arguments before the Commission shall commence immediately following the Commission meeting on May 18, 2022, in Hearing Room 11-B at the offices of the Commission, 180 East Broad Street, 11th Floor, Columbus, Ohio 43215-3793. The Commission will hear arguments from DP&L, OCC, The Kroger Co. (Kroger), and the Ohio Manufacturers' Association

¹ OPAE timely filed correspondence on March 4, 2022, in which it indicated that, while it did not intend to file an initial brief, it did reserve its right to file a reply brief.

² OPAE filed reply correspondence in lieu of its brief, and Ohio Energy Group filed correspondence in which it indicated that it did not intend to file a reply brief.

Energy Group (OMAEG), with the right of participation being determined according to those parties that either participated in briefing as to OCC's earlier motion to dismiss or raised the rate freeze issue in objections and initial post-hearing briefs. DP&L will be allotted ten minutes of initial time, and an additional five minutes of rebuttal time. OCC will be allotted ten minutes of time, and Kroger and OMAEG will be allotted ten minutes of time, which shall be used collectively, as their arguments are closely aligned.

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That oral arguments in this matter are scheduled for May 18, 2022, as stated in Paragraph 21. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Michael L. Williams

By: Michael L. Williams
Attorney Examiner

SJP/hac

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

3/31/2022 3:02:08 PM

in

Case No(s). 20-1651-EL-AIR, 20-1652-EL-AAM, 20-1653-EL-ATA

Summary: Attorney Examiner Entry ordering that oral arguments in this matter are scheduled for May 18, 2022, as stated in Paragraph 21 electronically filed by Heather A. Chilcote on behalf of Michael L. Williams, Attorney Examiner, Public Utilities Commission of Ohio