

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY D/B/A AES OHIO FOR
APPROVAL OF ITS ELECTRIC SECURITY
PLAN.

CASE NO. 22-900-EL-SSO

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY D/B/A AES OHIO FOR
APPROVAL OF REVISED TARIFFS.

CASE NO. 22-901-EL-ATA

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY D/B/A AES OHIO FOR
APPROVAL OF ACCOUNTING AUTHORITY
PURSUANT TO R.C. 4905.13.

CASE NO. 22-902-EL-AAM

ENTRY

Entered in the Journal on February 16, 2023

{¶ 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. As such, the Company is subject to the jurisdiction of this Commission.

{¶ 2} R.C. 4928.141 mandates that an electric distribution utility shall provide 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 service, to all consumers within its certified territory. 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} On September 26, 2022, AES Ohio filed an application to establish the Company's fourth ESP along with related applications for approval of revised tariffs and for approval of accounting authority (the Application).

{¶ 4} By Entries dated September 30, 2022, and November 21, 2022, the attorney examiner established a procedural schedule for this proceeding. Pursuant to that schedule,

motions to intervene were to be filed by November 28, 2022, a local public hearing was conducted on February 2, 2023, in Dayton, Ohio, and the evidentiary hearing regarding AES Ohio's Application is scheduled to commence on March 6, 2023. The schedule also set forth deadlines for discovery and for the filing of intervenor testimony.

{¶ 5} Timely motions to intervene were filed by Ohio Energy Group; Interstate Gas Supply, Inc.; University of Dayton; the Ohio Manufacturers' Association Energy Group; Industrial Energy Users-Ohio; Armada Power, LLC; Constellation Energy Generation, LLC and Constellation NewEnergy, Inc.; The Kroger Company (Kroger); the Citizens' Utility Board of Ohio; Ohio Partners for Affordable Energy; Ohio Consumers' Counsel; Walmart, Inc.; ChargePoint, Inc.; the Ohio Hospital Association; the Ohio Environmental Council; the City of Dayton; One Energy Enterprises, Inc. (One Energy); the Retail Energy Supply Association; and the Environmental Law & Policy Center.

{¶ 6} On January 9, 2023, One Energy filed a motion to dismiss AES Ohio's Application. On January 19, 2023, AES Ohio filed an unopposed motion for an extension of time to respond to One Energy's motion to dismiss with a request for an expedited ruling.

{¶ 7} By Entry dated January 20, 2023, the attorney examiner granted AES Ohio's motion for an extension, establishing a new filing date of January 31, 2023; the Entry also granted all pending motions to intervene. AES Ohio timely filed its memorandum contra on January 31, 2023, and One Energy filed a reply in support of its motion on February 2, 2023.

{¶ 8} Also on January 20, 2023, AES Ohio filed a motion for an extension of time for discovery and for intervenors to file testimony, as well as a request for an expedited ruling, in order to facilitate ongoing settlement discussions.

{¶ 9} By Entry dated January 26, 2023, the attorney examiner granted AES Ohio's motion. Pursuant to the Entry, the deadline for filing discovery requests, except notices of

deposition, was extended to February 16, 2023, and intervenor testimony is now due to be filed on or before February 27, 2023.

{¶ 10} On February 13, 2023, Staff and AES Ohio (Movants) filed a joint motion for a continuance of the evidentiary hearing, as well as an extension of the deadlines for discovery and filing intervenor testimony, with a request for an expedited ruling. Specifically, Movants ask that the hearing be rescheduled to commence on April 5, 2023, that the deadline for serving discovery requests be reset to March 1, 2023, and that the deadline for intervenors to file testimony be reset to March 15, 2023. For cause, Movants relate that they, along with various intervenors, have participated in numerous discussions to determine whether a stipulation can be reached in this proceeding; Movants seek additional time to continue to explore the possibility of a settlement. Additionally, understanding that a continuance will affect the timing of any Commission order in this matter, AES Ohio alters its original timeline as set forth in the Application and requests that rates be effective no later than August 1, 2023. As to an expedited ruling, Movants represent that all intervenors were contacted and none objected to expedited treatment of the motion. Kroger, however, did object to the proposed hearing date.

{¶ 11} On February 15, 2023, Kroger filed a memorandum contra the joint motion for a continuance. Kroger states that, although it supports rescheduling the hearing date and concomitant procedural deadlines, it opposes the date proposed in the motion. Kroger states that its counsel will be out-of-state for a prescheduled, pre-paid vacation starting April 4, 2023, and, thus, will be unavailable to adequately represent Kroger through cross-examination of witnesses. Kroger asserts that continuing the hearing to commence on April 12, 2023, or April 17, 2023, would allow for the proposed continuance without any similar scheduling conflicts, as none of the parties cited scheduling conflicts to begin the hearing on those dates.

{¶ 12} Upon consideration of the motion and memorandum contra, the attorney examiner finds that the joint motion for a continuance should be granted as modified herein.

Specifically, the attorney examiner directs that, pursuant to published notice, the evidentiary hearing will be called as scheduled on March 6, 2023, at 10:00 a.m., at the offices of the Commission, Hearing Room 11-A, 11th Floor, 180 East Broad Street, Columbus, Ohio 43215. After opening the record, the evidentiary hearing will be adjourned. The hearing will reconvene on Wednesday, April 12, 2023, at 10:00 a.m. Additionally, all discovery requests other than notices of deposition must be filed by March 22, 2023, and intervenor testimony must be filed by March 29, 2023.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That the joint motion for a continuance be granted in accordance with Paragraph 12. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Patricia A. Schabo

By: Patricia A. Schabo
Attorney Examiner

GNS/dr

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Case No(s). 22-0900-EL-SSO, 22-0901-EL-ATA, 22-0902-EL-AAM

Summary: Entry granting the joint motion for a continuance be granted and scheduling the evidentiary hearing for March 6, 2023 at 10:00 am at the offices of the Commission, Hearing Room 11-A, 11th Floor, 180 East Broad Street, Columbus, OH 43215 electronically filed by Debbie S Ryan on behalf of Patricia A. Schabo, Attorney Examiner, Public Utilities Commission of Ohio