

## 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 April 24, 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. R.C. 4928.143(C)(1) directs that the Commission issue an order on an electric distribution utility's application for an ESP not later than 275 days after the application's filing date.

{¶ 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 was 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; Ohio Energy Leadership Council (formerly Industrial Energy Users-Ohio); Armada Power, LLC; Constellation Energy Generation, LLC and Constellation NewEnergy, Inc. (collectively, Constellation); 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. On January 20, 2023, the attorney examiner granted all pending motions to intervene.

{¶ 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. AES Ohio timely filed its memorandum contra on January 31, 2023, and One Energy filed a reply in support of its motion on February 7, 2023.

{¶ 7} 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. 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 the filing date for intervenor testimony was extended to February 27, 2023.

{¶ 8} Subsequently, on February 13, 2023, Staff and AES Ohio 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. Specifically, the joint motion requested 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. On February 15, 2023, Kroger filed a memorandum contra the joint motion for a continuance.

{¶ 9} By Entry issued on February 16, 2023, the attorney examiner directed that, pursuant to published notice, the evidentiary hearing be called as scheduled on March 6, 2023, and continued to April 12, 2023, at 10:00 a.m. Additionally, the attorney examiner directed that 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.

{¶ 10} The evidentiary hearing commenced on March 6, 2023, and was immediately adjourned until April 12, 2023.

{¶ 11} On March 22, 2023, a motion for extension time and request for expedited consideration was filed by Constellation. Specifically, Constellation sought to extend the deadline for serving discovery requests from March 22, 2023, to April 12, 2023; the deadline for filing testimony from March 29, 2023, to April 19, 2023; and the hearing date from April 12, 2023, to May 3, 2023. Constellation represented that settlement negotiations were ongoing with a prospect that a stipulation will be filed. However, Constellation argued that with the impending deadlines, good cause existed to extend the existing procedural schedule.

{¶ 12} On March 24, 2023, the attorney examiner notified the parties that the existing procedural schedule would be vacated, including the deadline for filing intervenor testimony on March 29, 2023. Subsequently, on April 3, 2023, the attorney examiner established a new hearing schedule, directing that testimony in opposition to any stipulation filed by the parties and all other intervenor testimony be filed by April 17, 2023, that Staff

testimony be filed by April 24, 2023, and that the evidentiary hearing reconvene on May 2, 2023.

{¶ 13} A stipulation was filed by various parties on April 10, 2023.

{¶ 14} On April 14, 2023, OCC filed a motion for extension of time to file testimony in opposition to the stipulation. The attorney examiner granted this motion on April 17, 2023, extending the deadline for filing testimony in opposition to the stipulation and all other intervenor testimony to April 21, 2023.

{¶ 15} Subsequently, on April 21, 2023, Staff filed a motion for an additional extension of time and a request for expedited consideration. Staff requests that the deadline for Staff testimony be further extended to April 26, 2023. Staff represents that no party opposes either Staff's motion or an expedited ruling on the motion.<sup>1</sup>

{¶ 16} In light of the fact that no party objects to the Staff's motion, the attorney examiner finds that the motion should be granted. Accordingly, Staff's testimony should be filed no later than April 26, 2023.

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That Staff's motion for an extension be granted. It is, further,

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<sup>1</sup> Staff notes that ChargePoint did not respond to Staff's communication regarding expedited consideration and that OCC's non-opposition to the motion was contingent upon Staff's working with the scheduling of Staff witnesses for cross-examination.

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

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Gregory A. Price

By: Gregory A. Price  
Attorney Examiner

MJA/dr

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

Summary: Attorney Examiner Entry granting Staff's motion for an extension electronically filed by Debbie S. Ryan on behalf of Gregory A. Price, Attorney Examiner, Public Utilities Commission of Ohio.