

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
THE SIGNIFICANTLY EXCESSIVE
EARNINGS TEST UNDER R.C. 4928.143(F)
AND OHIO ADM.CODE 4901:1-35-10 FOR
THE DAYTON POWER AND LIGHT
COMPANY D/B/A AES OHIO.

CASE NO. 21-588-EL-UNC

IN THE MATTER OF THE APPLICATION OF
THE SIGNIFICANTLY EXCESSIVE
EARNINGS TEST UNDER R.C. 4928.143(F)
AND OHIO ADM.CODE 4901:1-35-10 FOR
THE DAYTON POWER AND LIGHT
COMPANY D/B/A AES OHIO.

CASE NO. 22-514-EL-UNC

IN THE MATTER OF THE APPLICATION OF
THE SIGNIFICANTLY EXCESSIVE
EARNINGS TEST UNDER R.C. 4928.143(F)
AND OHIO ADM.CODE 4901:1-35-10 FOR
THE DAYTON POWER AND LIGHT
COMPANY D/B/A AES OHIO.

CASE NO. 23-543-EL-UNC

ENTRY

Entered in the Journal on August 30, 2023

{¶ 1} The Dayton Power and Light Company d/b/a AES Ohio (AES Ohio) is an electric distribution utility and a public utility as defined in R.C. 4928.01(A)(6) and R.C. 4905.02, respectively. As such, AES Ohio is subject to the jurisdiction of this Commission.

{¶ 2} Pursuant to R.C. 4928.143(F), following the end of each annual period of an approved electric security plan, the Commission is required to evaluate if any adjustments resulted in significantly excessive earnings for the electric utility. This determination is measured by whether the earned return on common equity of the utility is significantly in excess of the return on common equity that was earned during the same period by publicly traded companies, including other utilities, that face comparable business and financial risk, with adjustments for capital structure as may be appropriate.

{¶ 3} On May 17, 2021, in Case No. 21-588-EL-UNC, AES Ohio filed an application and supporting documents for the administration of the significantly excessive earnings test, as required by R.C. 4928.143(F) and Ohio Adm.Code 4901:1-35-10, for calendar year 2020.

{¶ 4} On May 27, 2021, the Ohio Consumers' Counsel (OCC) filed a motion to intervene in Case No. 21-588-EL-UNC.

{¶ 5} On May 16, 2022, in Case No. 22-514-EL-UNC, AES Ohio filed an application and supporting documents for the administration of the significantly excessive earnings test, as required by R.C. 4928.143(F) and Ohio Adm.Code 4901:1-35-10, for calendar year 2021.

{¶ 6} On June 9, 2022, OCC filed a motion to intervene in Case No. 22-514-EL-UNC.

{¶ 7} By Entry dated April 18, 2023, the attorney examiner determined that Case Nos. 21-588-EL-UNC and 22-514-EL-UNC should be consolidated for the purposes of hearing and issued a procedural schedule by which the evidentiary hearing was scheduled for August 1, 2023, and various filing deadlines were established. The Entry also granted OCC's pending motions to intervene.

{¶ 8} On May 12, 2023, Ohio Energy Leadership Council filed a motion to intervene in Case Nos. 21-588-EL-UNC and 22-514-EL-UNC.

{¶ 9} On May 19, 2023, AES Ohio filed an unopposed motion for a continuance of the hearing date and associated deadlines for filing witness testimony due to unavailability of counsel. The attorney examiner granted the motion by Entry dated May 22, 2023, and amended the procedural schedule such that all direct expert testimony by AES Ohio and intervenors shall be filed by September 5, 2023; Staff shall file testimony by September 8, 2023, and an evidentiary hearing is scheduled to commence on September 12, 2023.

{¶ 10} Meanwhile, on May 15, 2023, in Case No. 23-543-EL-UNC, AES Ohio filed an application and supporting documents for the administration of the significantly excessive earnings test, as required by R.C. 4928.143(F) and Ohio Adm.Code 4901:1-35-10, for calendar year 2022. With this application, AES Ohio also filed a motion for protective order.

{¶ 11} On August 18, 2023, OELC filed a motion to intervene in Case No. 23-543-EL-UNC.

{¶ 12} On August 22, 2023, AES Ohio filed a stipulation and recommendation (Stipulation) executed by the Company, Staff, and OELC (Signatory Parties). The Signatory Parties represent that the Stipulation resolves all issues raised in the three cases discussed above.

{¶ 13} On August 22, 2023, AES Ohio filed a motion to consolidate all proceedings, for which it requests an expedited ruling. For cause, AES Ohio states that the filed Stipulation is intended to resolve all issues raised in all three cases and, therefore, consolidation of the cases for hearing and consideration of the Stipulation serves administrative efficiency. Additionally, AES Ohio asserts that the Company circulated an original and an updated draft of the motion on August 16, 2023, and August 18, 2023, respectively, to determine whether any party would object to the requested relief. The Company certifies that OELC and Staff responded and do not oppose the motion, but OCC did not respond.

{¶ 14} The attorney examiner finds that AES Ohio's unopposed motion to consolidate all three above-captioned cases for the purposes of hearing is reasonable and should be granted. The hearing remains scheduled to commence on September 12, 2023. The attorney examiner additionally finds that OELC's motions to intervene are reasonable and should be granted.

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That AES Ohio's motion be granted and all three cases be consolidated for hearing. It is, further,

{¶ 17} ORDERED, That OELC's motions to intervene be granted as to all three cases in this proceeding. It is, further,

{¶ 18} 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

MJA/dh

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in

Case No(s). 21-0588-EL-UNC, 22-0514-EL-UNC, 23-0543-EL-UNC

Summary: Attorney Examiner Entry ordering that AES Ohio's motion be granted and all three cases be consolidated for hearing and that OELC's motions to intervene be granted as to all three cases in this proceeding electronically filed by Ms. Donielle M. Hunter on behalf of Patricia A. Schabo, Attorney Examiner, Public Utilities Commission of Ohio.