

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Review of Fuel Adjustment Clause)	Case No. 10-479-EL-UNC
Guidelines)	

**INITIAL COMMENTS OF
THE DAYTON POWER AND LIGHT COMPANY**

I. INTRODUCTION

On June 23, 2010, The Public Utilities Commission of Ohio ("Commission") issued an Entry seeking initial comments by July 14, 2010, on the Commission Staff's ("Staff") proposed Fuel Adjustment Clause Guidelines ("Proposed Guidelines"). The Dayton Power and Light Company ("DP&L") respectfully submits the following initial comments for the Commission's consideration pursuant to that Entry.

II. GENERAL OBSERVATIONS

As a general observation with respect to the Proposed Guidelines, DP&L notes that a sizable portion of the guidelines are identical or largely identical to the guidelines that had previously been in effect. For the most part, that is an appropriate approach for Staff to take; some continuity in regulatory processes is generally a positive feature. In some instances, however, such an approach fails to capture significant and structural changes that may have occurred since the prior guidelines were established. For example, section II.A.(9) of the Proposed Guidelines relates to power purchases and is largely identical to the prior guidelines. As such, they do not appear to take into consideration the fundamental structural changes that have occurred as the result of market operations of PJM Interconnection, LLC ("PJM") and the Mid-West Independent Transmission System Operator, Inc. ("MISO") (each of which is also

known as a Regional Transmission Organization (“RTO”). As a result of these structural changes, questions as to how emergency power is purchased and priced are largely irrelevant – the RTO makes such purchases. Similarly, the phrases “economic power” and “economic energy” should be eliminated from the Proposed Guidelines and more general terms used whenever it is intended that the auditor examine whether transactions were economically efficient or justifiable. This is suggested because the phrases “economic power” and “economic energy” once were well-understood terms of art with very specific meanings. Given the existence of RTO markets where purchases through the RTO may be economical but may not fall within the previously defined term of economic power, the use of these prior terms of art is more likely to be confusing than helpful.

As an additional general observation, DP&L would suggest that several terms within the Proposed Guidelines should be explicitly defined. For example, subsections II.A.(6)(d)(i) uses the terms “long-term” and “short-term,” which may be viewed very differently by different people or at different times. At one point in time, a 20-year coal contract was not unusual and a one- or two-year coal contract might have been viewed as “short-term.” Today’s markets are vastly different and long-term to some auditors or utilities now might mean anything that extends for a year or more. Among the specific terms used within the Proposed Guidelines that DP&L believes should be defined are:

“Short-term” means a power purchase or sale or a fuel contract that is for a term of less than one year and is not a spot market transaction.

“Long-term” means a power purchase or sale or a fuel contract that is for a term of one year or more.

“Spot market” means a power purchase or sale or a fuel contract that is for the current month or the immediately subsequent month after execution, has a term of no longer than 31 days, and is transacted through a recognized clearinghouse or broker market. “Spot market” also includes real-time and day-ahead purchases of power through an RTO.

“Economic efficiency” in the context of a power purchase or sale or a fuel contract means a transaction whose overall costs, based on information known at the time the transaction was entered into, appeared to be reasonable and lower than the overall costs of readily available alternatives, taking into consideration reliability of supply, the operating and environmental characteristics of fuel, and other relevant factors including counterparty past performance and financial stability.

III. SPECIFIC COMMENTS

Consistent References Should Be Made to “Overall Cost” rather than “Price.”

DP&L believes that the Proposed Guidelines use an appropriate standard when, as in subsections II.A.(2)(e) and II.A.(6)(b), the evaluation focuses on “lowest reasonable overall cost.” For the sake of consistency and to avoid disputes that might arise from the use of a narrower phrase, DP&L would propose that the term “lowest reasonable price” be changed to “lowest reasonable overall cost” in subsections II.A.(2)(b) and (c). and in subsections II.A.(4)(a)(ii) and (iii). This change will bring more clarity in circumstances, for example, where a slightly higher price to procure coal may be offset by lower costs of emission allowances, lower environmental reagent costs, operational benefits, or reduced disposal costs. An emphasis on overall costs is also necessary given the increasingly sophisticated financial hedging instruments that are available in energy markets. The “price” of a particular fuel or power purchase may be only part of the equation if that transaction is paired with a hedge or is part of an optimization transaction where a previously purchased forward contract is sold and replaced by a different contract.

II.A.(5)(d). This subsection requires an auditor to review environmental compliance. DP&L assumes that the Commission does not intend that audit teams be hired that would include air, water, and solid waste environmental experts who could independently evaluate environmental compliance or substitute their judgment for that of the federal and state Environmental Protection Agencies. These are Proposed Guidelines for a fuel audit and their

scope should be confined to fuel cost related issues. Therefore, this subsection should be clarified to require only that the auditor review relevant documents and facts to ensure that the proper number of emission allowances was remitted in connection with a generating unit's annual emissions.

II.A.(5)(e). Given the existence of RTOs and their role in system dispatch, this subsection is ambiguous. The term "system dispatcher's policies" should be modified to clarify that the auditor is to review the policies of Ohio utilities rather than those of PJM or MISO. DP&L would further suggest that the term "interchange" be deleted, because in the era of RTOs, an interchange is just a power purchase or sale that crosses a seam between RTOs.

II.A.(6)(b). As drafted, this subsection could be interpreted to allow the auditor to delve into areas such as transmission and distribution design and maintenance practices because it refers to the utility's ability to "procure fuel and provide reliable electric service." Adding the word "generation" after "reliable" would remove this ambiguity.

II.A.(6)(d)(vii). After the phrase "cash flow problems, capital availability problems," the following should be added: "capital prioritization." DP&L suggests this addition because capital may be "available" to the utility, but there may be other, higher priority projects that may cause an otherwise salutary project to be deferred for some period.

II.A.(6)(e)(vi). New language has been proposed by Staff here that appears to suggest that Ohio utilities should be evaluating coal companies' compliance with OSHA standards and water quality standards. As a technical point, the drafters of this language probably meant MSHA, the Mine Health and Safety Administration, rather than OSHA, whose jurisdiction is limited when another federal agency is given the specific authority to regulate employee safety practices in a particular area. The more substantive concern, however, is that DP&L is not in a

position to make such evaluations and believes that there should be no implication that it is required to. The language in the guidelines previously in effect directed auditors to determine whether and how a utility evaluates the “performance and business respectability” of coal companies. That is still an ambiguous standard but appears to focus more on the matters that are within the realm of what a utility should be expected to evaluate; i.e., if a particular coal company has a business reputation of late shipments, non-conforming shipments, defaults on obligations, or strategically timed demands to renegotiate agreements, those are factors that a utility can evaluate and use in its consideration as to whether or not to execute an agreement with the coal company. In contrast, a utility has no special expertise or ability to weigh the implications of past coal company safety or environmental citations that the coal company may be disputing or may have resolved going forward. DP&L proposes that this subsection be reworded to state: “what checks are run and how coal companies’ financial stability and past performance in meeting their contractual obligations are evaluated by the company.”

II.A.(7)(g). It is unclear what is meant by the term “level of review” in this subsection. Is the auditor being asked to determine who within an organization looks at a generating unit’s performance and how often? Or, is there some other meaning intended by this term?

II.A.(8)(c)(i). This subsection should be removed. It is internally inconsistent in that it contemplates the use of emission allowances as a mechanism to maximize the use of Ohio coal, “consistent with least-cost principles.” But the use of emission allowances is not limited in application only to Ohio coals. If the overall costs of procuring, delivering, and combusting Ohio coal (including any necessary emission allowances or environmental reagents) is higher than alternatives that are available, its use cannot become consistent with least-cost principles through the use of emission allowances. In such a circumstance, least-cost principles would

suggest that the emission allowances be used instead in connection with the alternative that has the lower overall costs.

II.A.(9)(a). As noted in the General Observations section of these comments, the formation of RTOs and the markets they administer makes this language drawn from the prior guidelines outmoded and largely irrelevant. Emergency energy is purchased by the RTO and priced by the RTO. And the RTO is responsible for ensuring that each of its members provides an appropriate amount of reactive and spinning reserve power and that its members maintain the appropriate level of reliability within the interconnected system. DP&L would suggest that the Staff revisit this section and focus more on utility policies and procedures relating to negotiating and executing bilateral agreements with other members of the RTO and with entities outside the RTO that can deliver power to the RTO.

II.B.(2)(e). The word “forms” should be changed to a more inclusive and broader phrase such as “filings or schedules.” The same change should apply to II.B.(9)(b).

II.B.(5)(e). As explained above, the term “interchanges” should be deleted.

II.B.(8)(b)(iii). DP&L would request that it be clarified that the Commission is not implicitly requiring that utilities engage in a two-step process of using both “approved purchased requisitions” and subsequent “purchase orders.” DP&L would propose that this subsection begin with the phrase: “For a company that, for fuel procurement purposes, uses both approved purchased requisitions and purchase orders, . . .”

II.B.(8)(f). The word “unloading” should be “unloaded.”

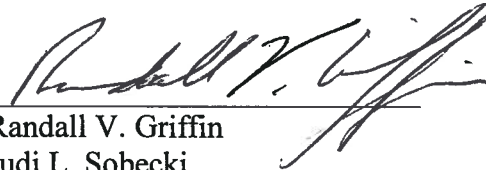
II.B.(9)(a). As previously discussed, several phrases within this section relating to power purchases are largely outmoded, irrelevant, or confusing given the existence and roles played by RTOs. DP&L suggests that II.B.(9)(a)(i) through (iv) be deleted and II.B.(9)(a) be rewritten to

state: “Obtain a description of the policies of the company relating to purchasing power and making sales for resale.” Subsection (b), as currently proposed by Staff, then appropriately ties back to the subsection (a) policies by requiring the auditor to ensure that economic efficiency is the determinative criteria for power purchases and sales for resale and fuel utilization. As noted above, the term “economic efficiency” should be defined. Once defined, it will be a more descriptive and better term to use in this context than terms like “economic power” or “economic energy” that once had very specific meanings that do not fit well within the current market structures that include RTO markets.

VI. CONCLUSION

DP&L appreciates the opportunity to provide these comments relative to the Proposed Fuel Adjustment Clause Guidelines. DP&L urges the Commission to adopt the modifications suggested herein.

Respectfully submitted,



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Summary: Comments Initial Comments of The Dayton Power and Light Company on Proposed Fuel Adjustment Clause Guidelines electronically filed by Mr. Randall V Griffin on behalf of The Dayton Power and Light Company