

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission Procedure)
for the Recovery of Emission Fees Levied)
Upon an Electric Light Company, Pursuant) Case No. 93-1000-EL-EFR
to Substitute Senate Bill 359.)

ENTRY

The Commission finds:

(1) Background:

On December 22, 1992, Substitute Senate Bill No. 359 of the 119th General Assembly enacted into law Section 3745.111, Revised Code. For the purpose of defraying the costs to administer and enforce the laws of the State of Ohio relating to prevention, control and abatement of air pollution, Section 3745.111, Revised Code, temporarily levied in fiscal years 1993 and 1994 a fee of eight dollars per ton for the first four thousand tons of the following air contaminants from stationary sources: particulates, sulfur dioxide, nitrogen oxides and organic compounds.

On October 29, 1993, Senate Bill No. 153 revised paragraphs (C) and (D) of Section 3745.11, Revised Code. For the purpose of providing funding for the Title V permit program, Section 3745.11(C), Revised Code, levies in fiscal years 1995 and thereafter fees per ton for the first four thousand tons of the following regulated air contaminants: particulate matter, sulfur dioxide, nitrogen oxides, organic compounds and lead. Section 3745.11(C), Revised Code, applies to owners or operators of a contaminant source required to obtain a Title V permit under Section 3704.036, Revised Code. Exempted, until calendar year 2001, from being assessed Section 3745.11(C), Revised Code, fees are electric generating units designated as a phase I unit under Title IV of the Federal Clean Air Act.

Section 3745.11(D), Revised Code, applies to owners or operators of an air contaminant source that is not required to obtain a Title V permit under Section 3704.036, Revised Code. Those subject to 3745.11(D), Revised Code, pay a single fee per year based upon the total tons of regulated pollutants.

Both Substitute Senate Bill 359 and Senate Bill 153 revised Section 4905.31, Revised Code, to specifically mention the fees levied in each bill as being recoverable through a variable rate schedule. A variable rate schedule provides for the recovery of the emissions fees by applying a uniform percentage increase to the base rate

charged each customer during the period that the variable rate is in effect.

- (2) By entries issued June 24, 1993 and November 24, 1998, in this case docket, the Commission established a process by which electric utilities could request recovery of Sections 3745.111, 3745.11(C) and 3745.11(D), Revised Code, emission fees through a base rate rider. Pursuant to those entries, if a utility wishes to recover the emission fees levied, it should submit for review by the Commission's staff (Staff) an application in this docket to place into effect a temporary rider. Unless the Commission takes specific action to suspend the proposed rider prior to 45 days following the application, the rider is to take effect on the 46th day.
- (3) On June 23, 1999, Dayton Power and Light Company (DP&L) filed an application for approval of a rider for the recovery of Section 3745.111 and 3745.11, Revised Code, emission fees.
- (4) On July 27, 1999, DP&L filed an amended application requesting authorization to institute its proposed Emission Fee Recovery Rider to be effective beginning for bills rendered in September 1999, subject to the provision that the customer has been notified of the rider via bill insert in their previous monthly bill.
- (5) On July 6, 1999, the Governor of the state of Ohio signed the electric restructuring act, Am. Sub. S. B. No. 3, into law. By entry issued August 6, 1999, the application in this case was suspended to allow the Commission to adequately determine the affect that this legislation may have on the application in this case.
- (6) Specifically within their application, DP&L requests authority to recover \$2,260,658.08 of jurisdictional emission fees incurred through 1997 over a three year period through an emission fee rider of .097% being applied to base rates. DP&L states that a subsequent application will be filed if there is an over-recovery of the fees and that any over-recovered amount will accrue interest at 10% per annum. DP&L also states that they may file a subsequent application if there is an under-recovery of the fees.
- (7) The Staff has reviewed the supporting detail provided with CG&E's June 23, 1999 application and recommends that the application, as amended, be approved.
- (8) The Commission wishes to make it clear that we are approving this application pursuant to Section 4905.31, Revised Code. That section states that after the emission fees, upon which a variable rate has been based, have been recovered, the rider will terminate. It is the Commission's belief that nothing in the implementation of electric restructuring will alter the commitment of DP&L to terminate the

rider once the emission fees, upon which the rider is based, have been recovered. Upon this condition, the Commission finds DP&L's application to be reasonable and should be approved.

It is, therefore,

ORDERED, That the application of Dayton Power and Light Company, as amended July 27, 1999, to recover emission fees through a base rate rider, is approved. It is, further,

ORDERED, That nothing in this Entry shall be binding upon this Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman


Ronda Hartman Fergus
Craig A. Glazer
Judith A. Jones
Donald L. Mason

MAC/LET:ct

Entered in the Journal

AUG 19 1999

A True Copy


Gary E. Vigorito
Secretary