BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of a Mercantile Application Pilot Program Regarding Special Arrangements with Electric Utilities and Exemptions from Energy Efficiency and Peak Demand Reduction Riders.	)))))	Case No. 10-834-EL-EEC

SECOND APPLICATION FOR REHEARING AND MEMORANDUM IN SUPPORT OF THE DAYTON POWER AND LIGHT COMPANY

The Dayton Power and Light Company ("DP&L"), pursuant to Section 4903.10, Revised Code ("R.C."), and Rule 4901:1-35 of the Ohio Administrative Code ("O.A.C"), hereby respectfully requests rehearing of the Commission's Entry dated May 25, 2011 ("Entry") in the above-captioned proceeding. In its Entry, the Commission addressed certain concerns raised by various interested parties to this proceeding—including DP&L—in Applications for Rehearing of the Commission's September 15, 2010 Entry in this case, which adopted an 18 month pilot program which establishes an automatic approval process for applications filed by mercantile customers under O.A.C. §4901:1-39-05(G). DP&L appreciates the Commission's efforts to address concerns and clarify issues raised in the applications for rehearing; however, rehearing is requested with respect to two new components to the pilot program that were introduced for the first time in the Commission's May 25, 2011 Entry. Specifically, DP&L seeks rehearing on that portion of the Entry which sets a maximum commitment payment not to exceed $.005/KW demand reduction and the second part of that provision that further limits the program by permitting even this amount to be paid only up to the level of 100% of its demand reduction benchmarks for a given year.[1] The maximum payment level is so low that it would not even compensate for the cost of preparing an application. As a result, these requirements effectively terminate the programs, which would be contrary to the statutory mandate to implement such programs.

DP&L requests that the Commission reconsider and modify its Entry as described in the attached memorandum.

Respectfully submitted,

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1 May 25, 2011 Entry at ¶18.

MEMORANDUM

I. FACTS

On September 15, 2010, the Commission issued an Entry in which it set forth a conceptual framework around a pilot program designed to more efficiently and effectively evaluate and approve of mercantile customers' commitments of the results of energy efficiency and demand response measures for inclusion in an electric distribution utility's program portfolio. Several parties moved for rehearing on October 25, 2010, and on November 10, the Commission issued an entry granting the various applications for rehearing. On May 25, 2011, the Commission issued its Second Entry on Rehearing. While DP&L appreciates the Commission's continuing efforts to simplify the process, rehearing is sought on the newly developed and inappropriate requirement that caps commitment payments permitted to be made to customers who commit their Demand Response programs for integration with an electric utility's programs.

II. ARGUMENT

A. Capping The Maximum Payment Which Can Be Made To A Customer Wishing To Commit The Results Of Its Peak Demand Reduction Programs For Integration With A Utility's Programs At $.005/KW Until Such Time As The Electric Utility Has Achieved 100 Percent Of Its Demand Reduction Benchmarks In A Given Year Is Unreasonable.

The monetary commitment payment cap imposed by the Commission in its Entry is so low that it effectively terminates the programs. There is no statutory basis for imposing this requirement and because it would effectively terminate the programs it conflicts with the Commission's mandate to implement the programs permitted and, in fact, encouraged by the statute.

The Commission found in its Entry that R.C. §4928.66 places the decision to commit a mercantile customer's energy efficiency or demand response programs for integration into the utility's programs wholly within the discretion of the mercantile customer. The Commission specifically found that the language of R.C. §4928.66 "implies that the right of a mercantile customer to commit its program to the electric utility lies with the customer, not with the utility; and that in order for the utility to count the program, the customer must file an application in accordance with Rule 4901:1-39-05(G), O.A.C."[2] The Commission went on to hold:

> With respect to the creation of a commitment payment program designed to offset the administrative burden of the commitment process and provide such customers with an incentive to commit, the Commission believes that such a program could offer a maximum payment not to exceed . . . $.005/KW reduction until such time as the electric utility has achieved 100 percent of its demand reduction benchmarks in a given year.[3]

This limitation is unworkable and should be modified for two reasons. First, the $.005/KW cap is entirely too low to create a sufficient financial incentive to encourage a customer to commit its demand response results to the utility. By way of concrete example, as filed in DP&L's 2010 Portfolio Status Report, Case No. 11-1276-EL-POR, DP&L's demand benchmark for 2010 was 50.3 megawatts. DP&L intends to achieve its Peak Demand benchmarks through a number of initiatives including energy efficiency programs and mercantile contracts. However for illustrative purposes only, if the entire benchmark was met through mercantile contracts alone under the commitment payment cap imposed by the Entry, DP&L would be limited to paying a total of $251.50 to all customers combined, to obtain commitments allowing it to meet its demand benchmark for 2010. [$.005/KW x 1000 x 50.3MW = $251.50]. This amount isn't sufficient to cover the administrative burden of filing a single Application

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2 Id. (Emphasis added).

3 Id.

pursuant to O.A.C. §4901:1-39-05(G), let alone create an additional financial incentive for several Customers to make that commitment.

Second, the Commission's Entry would allow such payments to be made only until the utility has achieved 100% of its demand reduction benchmarks in a given year. This provision, too, is unworkable and should be reconsidered. DP&L is not in a position to know the total demand savings realized from its energy efficiency programs until the first quarter of the year following the reporting year—after the utility has collected all the data and the evaluation and measurement is complete. In addition, since DP&L doesn't file its annual Energy Efficiency and Peak Demand Reduction program portfolio status report pursuant to O.A.C. §4901:1-39-05(C) until March 15th of each year for the prior reporting year, the utility cannot even be certain that all the demand savings it believes in good faith to have committed to it will be "counted." The Commission's evaluator's work is not complete until even later in the year. Consequently, in order to ensure the targets are met, and take into account some of the accumulated demand savings possibly being reduced during the course of the Evaluation, Measurement and Verification ("EM&V") process, DP&L—if being prudent—must secure commitments exceeding 100% of its demand benchmark during the reporting year. As written, the Entry would prohibit payments for additional commitments beyond 100% of its benchmark, which may leave the utility in a position where it will be unable to meet its Ohio Peak Demand Reduction targets.

B. Recommended Modifications.

DP&L respectfully requests that on rehearing, the Commission modify its Second Entry as described herein. First, DP&L submits that the commitment payment for a customer's demand reduction should be capped at $5.00/KW. This figure is derived using an "avoided program cost" approach to determine an appropriate value of the commitment payment for PJM

Demand Response. Conceptually, this figure is based upon the cost of implementing a program to achieve the benchmark target in the absence of the PJM Demand Response commitment. In setting the $5.00/KW amount, DP&L reviewed several regional interruptible rate programs, which are comparable programs to PJM's Demand Response. Based upon this review of interruptible rate programs, an average annual program cost per kilowatt of $25.48 would be a reasonable estimate. The recommended payment of $5.00/KW represents 20% of the average cost per kilowatt ($25.48). In offering this payment to customers in 2010, this 20% payment proved to be reasonable, yet not overly generous. This was demonstrated by the fact that not every customer DP&L offered $5.00/KW of demand savings was motivated to participate.[4]

With respect to the period of customer eligibility for the payment, DP&L proposes that customers should be eligible for this commitment payment until the electric utility has achieved 150% of its assumed demand reduction benchmark for a given year. This will allow the utility to secure commitments which take into account the potential for savings being reduced in the course of the EM&V process.

III. CONCLUSION

For the reasons described above, the Commission's May 25, 2011 Entry is unreasonable, and rehearing is appropriate to make the modifications proposed above.

[4] One of four customers that was offered a PJM Demand Response Commitment payment in 2010declined to "commit" its savings to DP&L for the $5.00/KW payment. Although we do not know why the Customer made the decision that it did, one may conclude that the Customer believed the benefit (commitment payment) did not compensate them sufficiently for their perceived risk or future obligations (reporting requirements) for making such a commitment.

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served electronically this 24th day of June, 2011 upon the following:

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