

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Staff Proposal for)	
An Economic Development Tariff)	Case No. 11-4304-EL-UNC
Template)	
)	

**REPLY COMMENTS OF THE DAYTON POWER AND LIGHT COMPANY
TO THE PROPOSED ECONOMIC DEVELOPMENT TARIFF TEMPLATE**

The Dayton Power and Light Company ("DP&L" or "the Company") hereby submits these Reply comments in response to the Entry dated July 15, 2011 in which the Public Utilities Commission of Ohio ("Commission" or "PUCO") solicited interested parties' Comments and Reply Comments on the Commission Staff's proposed Economic Development Tariff Template.

I. THE TARIFF IS BUSINESS-FRIENDLY

DP&L commends the Commission Staff for taking the first step toward a state of Ohio Economic Development policy using the tools that are readily available to them through SB 221 as well as the Commission oversight powers contained in Ohio Revised Code Section 4905. DP&L believes the additional Economic Development mechanism of a standardized, statewide Economic Development tariff implemented in all Ohio electric utility service territories is the right approach for several reasons. First, a standardized tariff containing express rates provides prospective business customers evaluating whether to locate to Ohio the detailed information they need to make an informed decision as to whether locating their business in Ohio will be to their economic advantage. Second, the PUCO is empowered to implement (and modify, if experience proves it necessary) the tariff without the need for a lengthy and involved legislative process. Third, this tariff will permit Ohio to "move at the speed of business," by:

minimizing negotiation and approval processes; avoiding forcing customers to negotiate a two-way or even a three-way contract with regulators and other stakeholders; streamlining what has historically proven to be a relatively prolonged regulatory approval process; and dispensing with the need to have customers appear to testify before the Commission in order to obtain the benefits of Ohio economic development incentives.

II. DON'T BLUR THE LINES BETWEEN AN INCENTIVE AND COMPETITION

Economic Development incentives should not be confused with competitive retail electric service. Incentive rates by definition are intended to encourage someone to behave in a manner they otherwise may not. In this context, the tariff is designed to motivate prospective employers to select Ohio as a location for its business, rather than another state. The incentive is something beyond the existence of a competitive market. Competition in electric rates may provide an independent incentive to locate in the state, but the Economic Development tariff is designed to offer something that competitive markets cannot—rate predictability for a given period of time. This is a different type of incentive, which can appeal to different customer needs, and should operate as a complimentary alternative to retail competition, but should not be blended with retail competition. Thus, the Commission should disregard the comments submitted by several groups that argue that this Economic Development tariff does not further the Ohio competitive market¹. Truly, it was not intended to. Economic Development in Ohio has been and should continue to provide incentives to new or expanding business that they otherwise could not obtain through a competitive market. That is not to say that the customer's ability to choose a competitive offer in lieu of the Economic Development tariff service should be taken away. In competitive markets, customers have

¹ Ohio Partners for Affordable Energy (OPAE) at page 4

opportunities to make informed decisions. This tariff provides customers with an added choice. The Commission should not bog down this process with a cumbersome competitive bid process².

III. FORCING A UTILITY TO COMPETITIVELY BID A PORTION OF ITS LOAD WOULD VIOLATE THE LAW

The comprehensive energy reform enacted through Ohio Senate Bill 221 (SB 221) provided each Ohio utility with an ability to choose either a competitively bid Market Rate Option (MRO) or an Electric Security Plan (ESP) option in which to provide standard service offer (SSO) to its customers. Each utility is entitled under the law to make its own informed business decision as to whether to establish the SSO rate through a competitive bid or not. Those utilities that chose not to procure SSO supply through an ESP, should not now be required to supply economic development load through a competitive bid. Economic Development load is simply an extension of SSO load that is provided at an incentive rate discount. Forcing a utility authorized to offer its SSO through an ESP to competitively bid its Economic Development load violates the express provisions of R.C. 4928.141. Moreover, forcing Economic Development load to be competitively bid would violate several Stipulations adopted and approved in prior proceedings.³ Utilities that implemented competitive bids to supply their SSO load, should have the opportunity to run a separate competitive bid for their economic development load if they so choose. However, it should not be a requirement that all

² Several of the commenters (Office of the Ohio Consumers' Counsel (OCC), First Energy Solutions Corp, Industrial Energy Users-Ohio, First Energy Distribution Companies, the Ohio Energy Group) suggest the Commission should minimize delta revenues by requiring a competitive bid process.

³ *In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan*, Case No. 08-1094-EL-SSO, et al.; *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Approval of Its Electric Security Plan*, Case No. 08-917-EL-SSO, et al.; *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of Its Electric Security Plan*, Case No.08-920.

Ohio utilities implement competitive bids to supply increased SSO load that happens to have the label “Economic Development.”

IV. AN ECONOMIC DEVELOPMENT LOAD COMPETITIVE BID PROCESS WOULD BE ADMINISTRATIVELY COMPLEX AND BURDENSOME

For the reasons more fully explained above, DP&L does not believe it is lawful to carve out a portion of the load a utility operating under a Commission-approved ESP and force it to be competitively bid. If however, the Commission is inclined to implement a separate competitive bid process to supply generation to an individual Economic Development customer it should consider the cumbersome and complex provisions that would need to be worked out which may include the following:

- If the Customer is required to competitively bid its own load what are the terms and conditions that the Customer should use to develop the Request for Proposals (RFP)? Is the PUCO going to help the Customer with the RFP process? Is the EDU expected to help with this process? Does the Customer have to have PUCO approval of the RFP before issuing?
- If the Customer is going to receive the price contained in the Economic Development Tariff, what incentive does the Customer have to ensure the competitive bid process is fair, reasonable, and produces a supplier that is safe, reliable, and credit worthy?
- What resolution process will the Commission put in place if the supplier is not safe, reliable and credit worthy and does not provide the capacity and energy to meet the customers load requirements? The EDU should not be financially or administratively harmed through this competitive bid process.
- Who decides who the winning bidder is and what are the evaluation criteria?
- What happens if the bids are longer or shorter in duration of the Economic Development arrangement with the customer, or if the bids have different price terms than the Economic Development contract between the EDU and the Customer?

- What are the contracting obligations of the competitive bid result? If the EDU and the Customer sign an agreement, who signs a contract with the supplier and under what terms and conditions? What if the supplier and the EDU cannot reach agreement on the terms and conditions? Is service to the Customer postponed until these details can be worked out? Is it a three way contract between the Customer, the EDU and the supplier? Negotiation of the terms and conditions of this three way contract could be protracted.
- Who does the billing for the competitively bid Economic Development arrangement? Who is the “retail supplier” of the generation and at what price? Who will pay to modify billing systems to implement this new three way contract?
- What happens if winning bidder defaults – does the Economic Development arrangement terminate? Does the EDU continue to serve the load at the stated price? If so, how will the EDU be compensated for standing ready to serve at a potentially below-market price in the event of default by the supplier?

V. COMMENTS OF AEP AND DUKE

In closing, DP&L would like to highlight select comments by AEP and Duke which DP&L strongly supports. First, DP&L agrees with AEP in that the level of incentives must be flexible and allow for negotiation on an individual basis. As DP&L proposed in its redline to the tariff template, the Economic Development tariff should not preclude a Customer and the EDU from entering into an individually negotiated Economic Development arrangement under section 4905.31 of the Ohio Revised Code with terms which vary from the terms set forth in the tariff, so long as the Customer is only permitted to elect either an individually negotiated Economic Development arrangement or the incentives set forth in the tariff—not both.

DP&L also agrees with AEP in that 100% of delta revenue should be recoverable in an Economic Development program, if the Customer retains the right to shop. DP&L

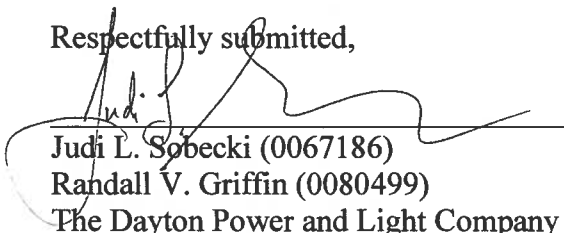
proposes a 90% / 10% allocation with 90% charged to customers and 10% charged to the EDU as long as the Customer waives its right to shop.

Finally, DP&L agrees with Duke in that DP&L does not support an economic development incentive that is devised to be evenly applied across all Ohioans, coupled with a mechanism that provides no guarantee that the EDUs customers will receive a commensurate benefit for their contribution. A statewide approach will create added complexities and it risks bad outcomes. A statewide Economic Development fund would add an additional layer burdensome rules and regulations governing how the fund would be implemented, when it would be modified, and how the regional “fairness” of the rate is established. In addition, ratepayers in one region could very well be “paying” for job creation in another region of the state hundreds of miles away and realizing no direct benefits from that subsidization.

VI. CONCLUSION

DP&L appreciates the opportunity to provide Comments and reply Comments on the Staff’s proposed economic development tariff template. For the reasons more fully explained in DP&L’s Comments and Reply Comments, DP&L respectfully requests that the Commission adopt DP&L’s proposals.

Respectfully submitted,



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Summary: Reply Comments to the Proposed Economic Development Tariff Template,
electronically filed by Mr. Tyler A. Teuscher on behalf of The Dayton Power and Light Company