

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The	)	
Dayton Power and Light Company to	)	Case No. 12-426-EL-SSO
Establish a Standard Service Offer in	)	
the Form of an Electric Security Plan.	)	
In the Matter of the Application of The	)	
Dayton Power and Light Company for	)	Case No. 12-427-EL-ATA
Approval of Revised Tariffs.	)	
In the Matter of the Application of The	)	
Dayton Power and Light Company for	)	Case No. 12-428-EL-AAM
Approval of Certain Accounting	)	
Authority.	)	
In the Matter of the Application of The	)	
Dayton Power and Light Company for	)	Case No. 12-429-EL-WVR
Waiver of Certain Commission Rules.	)	
In the Matter of the Application of The	)	
Dayton Power and Light Company to	)	Case No. 12-672-EL-RDR
Establish Tariff Riders.	)	

ENTRY ON REHEARING

The Commission finds:

- (1) The Dayton Power and Light Company (DP&L) is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On September 4, 2013, the Commission issued its opinion and order, approving DP&L's proposed electric security plan (ESP), with certain modifications.
- (3) Pursuant to Section 4903.10, Revised Code, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters

determined by the Commission, within 30 days of the entry of the order upon the Commission's journal.

- (4) On October 4, 2013, Ohio Partners for Affordable Energy and Edgemont Neighborhood Coalition (OPAE/Edgemont), the Office of the Ohio Consumers' Counsel (OCC), Industrial Energy Users–Ohio (IEU-Ohio), FirstEnergy Solutions Corp. (FES), the Ohio Hospital Association (OHA), Ohio Energy Group (OEG), the Kroger Co. (Kroger), and DP&L filed applications for rehearing.
- (5) On October 7, 2013, DP&L filed a motion and memorandum in support for an extension of time to file memoranda contra the applications for rehearing. By entry issued on October 8, 2013, the attorney examiner granted DP&L's motion and set the deadline for October 31, 2013.
- (6) Despite the extension, the Commission notes that, pursuant to our September 24, 2013 opinion and order, DP&L is required to conduct an auction by November 1, 2013, for 10 tranches of its standard service offer load (SSO). Therefore, we will address the assignments of error set forth by DP&L and FES that bear directly upon this first auction.

#### AUCTION PROCESS

- (7) DP&L argues in its fifth assignment of error that the Commission improperly ordered that the load associated with reasonable arrangement customers should be included in the competitive bidding process (CBP). DP&L argues that requiring DP&L to bid reasonable arrangement customer load, with the rest of its load, into the CBP auctions would unlawfully rewrite the parties' reasonable arrangement contracts. Further, DP&L adds that bidding the load into the auctions would not result in cost savings to customers. DP&L contends that its tariff rates are expected to decrease as a result of competitive bidding, which will decrease the delta recovery regardless of whether the load is bid into the auctions.

- (8) The Commission finds that DP&L's assignment of error should be denied. First, the Commission disagrees with DP&L's contention that requiring DP&L to bid the reasonable arrangement load into the auctions will rewrite DP&L's contracts with those customers. DP&L will still be providing full requirements electric service, including generation service, to its reasonable arrangement customers, despite sourcing a portion of the generation service from the wholesale market. Second, the Commission disagrees with DP&L's contention that bidding the reasonable arrangement load into the auction will not result in cost savings to customers. The additional load being bid into the auction should encourage active participation in the auctions by potential bidders. This additional participation should put additional negative pressure on auction prices, resulting in cost savings to customers. DP&L's contention that the delta recovery will decrease irrespective of whether the load is included in the CBP auction or not fails to take into consideration that there may be a greater decrease in the delta revenue if that load is bid into the auctions. That greater decrease in the delta will then be passed through as savings to customers. Accordingly, the Commission finds that the fifth assignment of error set forth by DP&L in its application for rehearing should be denied.
- (9) FirstEnergy Solutions Corp. (FES) contends in its sixth assignment of error that the Commission's opinion and order is unlawful in that it authorizes DP&L to participate in auctions through affiliates and subsidiaries while receiving a generation subsidy through the service stability rider (SSR). FES asserts that DP&L could use SSR revenues to subsidize its generating assets and offers in the competitive market, which could have a chilling effect on competition. FES argues that DP&L and its affiliates should be prohibited from participating in the auction.
- (10) The Commission finds that FES fails to raise any new arguments for the Commission's consideration in support of its sixth assignment of error. The Commission ordered

that all SSR revenues should remain with DP&L and may not be transferred to any of DP&L's current or future affiliates through dividends or any other means. The Commission further ordered that DP&L may not provide any competitive advantage to any affiliate or subsidiary participating in the CBP auctions. Therefore, FES's argument that DP&L may collect SSR revenues and then compete in the auctions through its affiliates or subsidiaries has already been addressed by the Commission. Moreover, the Commission notes that the Commission has not precluded affiliates of other utilities from participating in CBPs held by the electric distribution utility. For example, the Commission has not precluded FES, which is the unregulated generation affiliate of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, from participating in those electric distribution utilities' CBP auctions. *In re Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case Nos. 08-935-EL-SSO, 10-388-EL-SSO and 12-1230-EL-SSO. Moreover, we note that, in Case No. 08-835-EL-SSO, the Commission authorized the electric distribution utilities to collect a Delivery Service Improvement Rider, which was similar in effect to the SSR authorized in this proceeding, but FES was not precluded from participating in auctions in that ESP.<sup>1</sup> *In re Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case Nos. 08-935-EL-SSO et al., Second Opinion and Order (March 25, 2009) at 11-12. Likewise, we did not preclude affiliates of Duke Energy Ohio from participating in CBPs in its most recent ESP. *In re Duke Energy Ohio*, Case No. 11-3549-EL-SSO et al., Opinion and Order (November 22, 2011) at 13. Accordingly, FES's sixth assignment of error in its application for rehearing should be denied. The Commission notes that numerous assignments of error

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<sup>1</sup> The Commission notes that the parties to the stipulation in Case No. 08-835-EL-SSO agreed that the stipulation was binding only in that case and was not to be offered or relied upon in other proceedings. However, the Commission has consistently held that we are not bound by such agreements among the signatory parties to a stipulation.

have been asserted regarding the SSR, and at this time the Commission's finding is limited only to the extent that the Commission believes that subsidiaries and affiliates of DP&L may participate in the auction. The remaining assignments of error regarding the SSR will be addressed in a subsequent entry on rehearing.

- (11) Accordingly, the Commission finds that, by November 1, 2013, DP&L should conduct the auction for 10 tranches of a 41-month product commencing on January 1, 2014. The Commission notes that this auction will not be affected by any subsequent determinations made by the Commission on rehearing, including, but not limited to, the timing of and products to be offered in any subsequent auctions.
- (12) Further, the Commission believes that sufficient reason has been set forth by OPAE/Edgemont, OCC, IEU-Ohio, OHA, OEG, and Kroger, as well as DP&L and FES in their remaining assignments of error, to warrant further consideration of the matters specified in the applications for rehearing. Accordingly, the applications for rehearing filed by OPAE/Edgemont, OCC, IEU-Ohio, OHA, OEG, and Kroger should be granted for further consideration of the matters specified in the applications for rehearing. Further, the applications for rehearing filed by DP&L and FES should be granted, to the extent their assignments of error on rehearing were not already denied in this entry on rehearing, for further consideration of the matters specified in the applications for rehearing.

It is, therefore,

ORDERED, That the applications for rehearing filed by DP&L and FES be granted, in part, for further consideration of the matters specified in the applications for rehearing, and denied, in part, as set forth above. It is, further,

ORDERED, That the applications for rehearing filed by OPAE/Edgemont, OCC, IEU-Ohio, OHA, OEG, and Kroger be granted for further consideration of the matters specified in the applications for rehearing. It is, further,

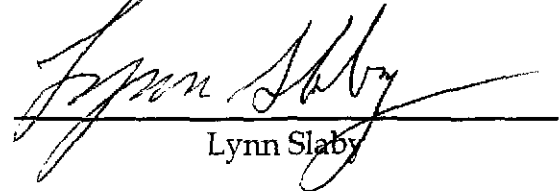
ORDERED, That DP&L should conduct the auction for 10 tranches of a 41-month product by November 1, 2013, in accordance with the Commission's Opinion and Order and finding (11). It is, further,

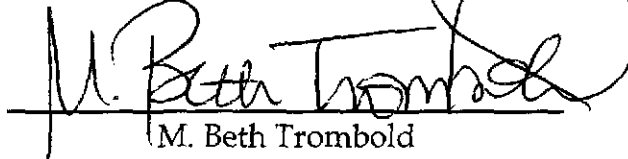
ORDERED, That a copy of this entry on rehearing be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Steven D. Lesser

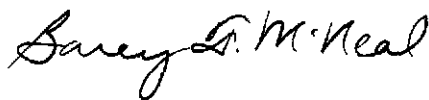
  
Lynn Slaby

  
M. Beth Trombold

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Asim Z. Haque

BAM/sc

Entered in the Journal  
**OCT 23 2013**



Barcy F. McNeal  
Secretary