BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company for an Increase in its Electric Distribution Rates.	))))	Case No. 15-1830-EL-AIR .
In the Matter of Application of The Dayton Power and Light Company for Accounting Authority.	)))	Case No. 15-1831-EL-AAM
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	)))	Case No. 15-1832-EL-ATA

OBJECTIONS TO THE STAFF REPORT AND SUMMARY OF MAJOR ISSUES OF THE GREATER EDGEMONT COMMUNITY COALITION AND OHIO PARTNERS FOR AFFORDABLE ENERGY

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The Greater Edgemont Community Coalition and Ohio Partners for Affordable Energy ("Edgemont-OPAE") herein submit to the Public Utilities Commission of Ohio ("Commission") these Objections to the Staff Report of Investigation and Summary of Major Issues in the above-referenced applications made by The Dayton Power and Light Company ("DP&L") for an increase in electric distribution rates, accounting authority, and approval of revised tariffs. In its application for an increase in rates, DP&L requested that the test period begin June 1, 2015 and end May 31, 2016 and that the date certain for property valuation be September 30, 2015. DP&L requested a revenue increase of $65.8 million, a 30% increase. The Staff Report recommends a revenue increase in the range from $23.2 to $28.1 million. Edgemont and OPAE object to the Staff Report for the following reasons.

1. **Edgemont-OPAE object to the Staff Report recommendation that DP&L's revenue increase be in the range from $23.2 to $28.1 million. Staff Report at 53, Schedule A-1, Page 1 of 1.**

The Staff Report recommends a revenue increase from 10.58% at the lower bound and 12.80% at the upper bound of the increase. Staff Report Schedule A-1, Page 1 of 1 at 53. Edgemont and OPAE object that the Staff's recommended revenue increase is excessive given that it is based on excessive rates of return and costs of common equity. It is also based on costs that are not correctly attributed to the cost of rendering public utility service in the test period, June 1, 2015 through May 31, 2016.

2. **Edgemont-OPAE object to the Staff recommendation that the rate of return be set in the range of 7.33% to 7.82% and the cost of common equity set at a range of 9.59% to 10.61% because these ranges provide an excessive return when compared to the risk faced by DP&L as a provider of monopoly electric distribution service. Staff Report at 18, 19.**

The Staff Report fails to quantify the level of the rate of return that is appropriate given the minimal risk to DP&L as a provider of monopoly electric distribution service and as a recipient of cost recovery through various riders. In DP&L's case, the risk associated with generation investments, which have significant capital costs and face a volatile market, are no longer a component of regulated rates. The Staff Report errs in not recommending a rate of return that reflects the minimal risk faced by DP&L for purposes of establishing a return on DP&L's investment to provide monopoly electric distribution service.

In addition to providing monopoly electric distribution service, DP&L has benefited from distribution cost recovery riders that eliminate the risk of recovery for certain costs associated with the electric distribution system. The riders are designed to guarantee recovery of costs in a manner apart from traditional base rate recovery, i.e., the riders provide for current dollar-for-dollar cost recovery. As a result, the distribution utility faces little risk, as opposed to the traditional regulatory compact that had a risk premium because utilities were only provided with the opportunity to recover their costs, not guaranteed cost recovery. Because Ohio's current regulatory regime guarantees current recovery of certain costs, the appropriate allowed rate of return, along with the cost of equity, should be adjusted downward to reflect the assured current recovery of various costs through riders.

3. Edgemont-OPAE object to the Staff's computation of federal income tax adjustments to operating income and rate base using an obsolete federal income tax rate.

Schedule A-2, Page 1 of 1 presents the Staff's computation of the Gross Revenue Conversion Factor. The federal income tax rate used is 35%. Staff Report at 54. The Staff's federal income tax calculation is presented on Schedule C-4. An obsolete and no longer valid federal income tax rate of 35% is used to develop the federal income tax adjustment for rates to take effect as a result of this case. Staff Report at 125.

The Tax Cuts and Jobs Act of 2017 resulted in a federal corporate income tax rate reduction from 35 percent to 21 percent effective January 1, 2018. The Commission must reconcile the new federal income tax rate with the level of tax expense recovered through current base rates, riders containing a tax component, accumulated deferred income taxes ("ADIT"), and deferred assets that include tax components. The rates and riders set in these cases must reflect the current 21 percent tax rate.

Regardless of the test year in these applications, the Commission has statutory authority, confirmed by Supreme Court precedent, to ensure that utility rates are just and reasonable and not more than the charges allowed by law. Revised Code ("R.C.") Sections 4905.22 and 4905.26. The Commission should exercise its statutory authority to give DP&L ratepayers relief as soon as the rates determined in these cases go into effect. The Commission should address the impact of the rate reduction and provide relief in these pending cases.

There has been a sudden and dramatic reduction in the federal tax rate used to calculate the utilities' revenue requirements. In the ratemaking process, the equity component of the utility's rate of return is grossed up for federal income taxes using the federal income tax rate, formerly 35%, now 21%. When the income tax rate is reduced, the income tax expense must be reduced through a reduction in the gross up. As a result of the tax reduction, DP&L's base rates and riders have been unjust and unreasonable since January 1, 2018, when the tax reduction went into effect. The tax reduction is an extraordinary and rare change in the law which has made base rates recommended in the Staff Report unjust and unreasonable in violation of Ohio Revised Code 4905.22.

In its comments in Case No. 18-47-AU-COI, the Commission's investigation of the impact of the tax reduction on Ohio utilities, DP&L commented that the ratemaking process is not a purely mechanical exercise using actual numbers. DP&L Comments, Case No. 18-47-AU-COI at 5. According to DP&L, the adjustments for the tax reduction are "going to be substituting one set of tax-related numbers that are based on estimates with a different set of tax-related numbers that are based on different estimates." Id. DP&L commented that there have been hundreds of changes up and down to its costs and revenues, and that modifying rates to make one change, while ignoring other changes, is "single-issue ratemaking". Id.

The Staff Report demonstrates that DP&L's comments are wrong. The tax adjustment formulas used in the Staff Report are based on the statutory federal income tax rate, on December 31, 2017, 35%, and on January 1, 2018, 21%. DP&L is wrong to contend that the tax reduction is similar to an ordinary change in costs and revenues that would occur in the years after any base rate is set. The tax reduction is an extraordinary and rare change in the law which makes rates paid by customers using the 35% statutory rate no longer just and reasonable as required by R.C. 4905.22. The gross-up for federal taxes is based on the lawful federal tax rate; it is not part of the ratemaking process whereby individual utility revenues and expenses are considered.

In the gross up for federal taxes, no consideration is made of the actual amount of federal taxes the utility paid or is projected to pay in the test year. It is understood that customers may pay more to compensate a utility for federal taxes than the utility actually pays. A utility holding company may pay no federal income tax at all. Because the gross up is performed simply using the current federal income tax rate, base rates, riders, and carrying charges based on a tax rate no longer in effect cannot be lawful. Rates based on an incorrect gross up for taxes cannot be considered just and reasonable.

The rates set in this case should reflect the correct current statutory federal income tax rate as of January 1, 2018 and provide a monthly bill credit to customers through base rates of over-payments since January 1, 2018. All riders with tax components should also be reduced to reflect the 21% tax rate beginning on January 1, 2018. The Commission should order DP&L to update all riders that contain tax components to reduce the amount that customers pay for federal taxes, including carrying costs from January 1, 2018.

DP&L should also be required to return all excess ADIT to customers. Accelerated and bonus depreciation cause the amount of tax actually paid by utilities to be less than the tax expense recovered from ratepayers in the early years of an asset's life. If the tax rate remains the same, the process reverses itself; but a lower tax rate means that a portion of ADIT will never be paid in taxes. Ratepayers are paying a higher rate for taxes that will never be paid. Customers should receive relief for excess ADIT. The excess ADIT are revenues collected from ratepayers for federal taxes that DP&L will never actually pay. Therefore, excess ADIT must be refunded to ratepayers.

The benefits of the tax reduction should be returned to customers, who are currently funding DP&L's federal tax expense at the former 35% rate. There should be reductions to customers' bills so that customers are funding the tax at the current 21% rate. Only in this way will customers no longer be paying unjust, unreasonable, and unlawful rates.

4. Edgemont-OPAE object to the Staff Report's recommendations for Miscellaneous Charges because the Staff has accepted DP&L's excessive increases to some charges and accepted new charges proposed by DP&L.

The Staff Report makes the following recommendations for increases to Miscellaneous Charges: Meter Testing Charge from $35 to $54; Reconnection Charge at the meter from $20 to $25; Reconnection Charge at Service Line from $48.75 to $84. Staff Report at 27. The Staff Report also accepted the proposed new charges of Service Trip Charge $22 and Connection Charge at $16. Id. The Staff Report states that the Staff reviewed the proposed charges, found them reasonable, and recommends approval. Staff Report at 28.

It is not apparent what the Staff considered in making its recommendations for miscellaneous charges. The Staff Report states that the charges should reflect the actual cost incurred by DP&L in performing these functions. The charges should be recovered from customers who cause the expense, rather than from customers in general. Staff Report at 27. Because the Staff Report has not demonstrated that the miscellaneous charges to be recovered from customers who cause the expense are reasonably related to the cost, the Staff Report is unreasonable in recommending approval of DP&L's proposed miscellaneous charge increases.

5. Edgemont-OPAE object to the Staff Report's recommendation that the cost associated with Regulatory Expense be recovered through an appropriate bypassable rider.

The Staff Report states that in Case No. 16-395-EL-SSO, it was determined that there would be in this rate case an evaluation of costs contained in distribution rates that may be necessary to provide standard service offer ("SSO") service. Staff Report at 28. DP&L was unable to quantify different costs between shopping and non-shopping customers and expressed that it would be prohibitively expensive to track costs for the functions of administering the competitive retail market or providing SSO service. DP&L stated that all the costs DP&L incurs to provide particular services to or on behalf of shopping and non-shopping customers are appropriately assigned to the distribution function because a distribution utility is required by law to offer a standard service and has obligations with regard to administering aspects of the competitive market. Staff Report at 28. Nevertheless, the Staff identified one potential area, the cost associated with Regulatory Expense, which contains the PUCO/OCC assessment expense. The Staff recommended that the SSO generation revenue percentage of the PUCO/OCC assessment expense be recovered though an appropriate bypassable rider. Id.

Edgemont-OPAE object to this Staff recommendation as it is obvious from the Staff Report discussion that DP&L did not quantify different costs to provide service to or on behalf of shopping and non-shopping customers and stated that it would be prohibitively expensive to do so. While a search for such expenses in this rate case may have been required pursuant to another case, if DP&L were unable to identify any such expenses, then the requirement to search for them, having failed, does not mean that some random expense must be identified and recovered through a bypassable rider. There is no indication in the Staff Report what the amount of the expense included in some unidentified bypassable rider would be. Therefore, this recommendation is unreasonable and should be rejected.

6. Edgemont-OPAE object to the discussion of the Residential Customer Charge and Straight Fixed Variable ("SFV") Rate Design and to the Staff's recommended increase in the residential customer charge from the current $4.25 to $7.88.

The Staff Report states that in most cases distribution system costs are fixed costs and classified as demand and customer-related. The customer charge recovers some of the fixed costs that are directly attributable to serving an individual customer. These fixed costs are recovered through a flat charge per customer. According to the Staff Report, the customer charge provides a price signal to the customer that there are costs associated with serving the individual customer, independent of the customer's consumption of energy. Staff Report at 36.

In its application, DP&L proposed to shift a significant portion of the fixed demand costs into the customer charge and away from volumetric charges. The Staff Report rejected this DP&L proposal and recommended that the current rate design methodology be maintained until sufficient individual customer demand data are available and collected through the Commission's smart grid initiative. Id. Once the data are collected and evaluated, Staff believes an appropriate rate design should be developed based on the data. This approach would avoid unnecessary cost shifting and result in a rate design that not only incorporates the data collected, but also incorporates additional rate design considerations. Staff Report at 36. Thus, while DP&L was proposing to increase the current residential customer charge from the current $4.25 to $13.73, the Staff Report recommends a customer charge of $7.88. Staff Report at 36.

Edgemont-OPAE oppose high customer charges because lower-income households live in smaller housing structures and may have lower consumption than higher-income households. Lower-income households also live in higher density housing and impose a lower distribution cost. Therefore, any move to higher customer charges would shift costs from higher-income to lower-income households. The move to higher customer charges would result in the placement of an unjust burden of revenue responsibility upon low-income and low-use households. In addition, with fixed charges, customers are inclined to consume more rather than conserve because the increased cost of consumption may be minimal compared to the fixed charge. Volumetric charges are preferable to fixed charges, because customers see a benefit in conservation.

Edgemont-OPAE appreciate that the Staff has recommended a lower customer charge than DP&L proposed. However, the Staff's increase from $4.25 to $7.88 is still an 85% increase. Edgemont-OPAE object to this Staff recommendation and recommend that the current $4.25 residential customer service charge be maintained. In addition, Edgemont-OPAE are skeptical of the practicality of the Staff recommendation that an individual residential demand charge based on actual data from smart grid technology can or should be developed in the future. This issue should be left to future Commission proceedings.

5. Edgemont-OPAE object that the Staff did not consider the new burdens on PIPP customers.

The Staff Report considered the Commission's customer call center contacts with Percentage of Income Payment Plan ("PIPP") customers. The Staff Report noted that new PIPP rules went into effect in November 2015 and may have contributed to the quantity of contacts. Staff Report at 51.

Under the new PIPP rules, effective February 15, 2015, if a PIPP customer fails to pay the monthly PIPP payment and such failure results in disconnection, the customer ceases to be a PIPP customer and is ineligible to participate in PIPP until the customer pays any delinquent amounts through the date the customer was removed from PIPP including any past due monthly PIPP payments and the PIPP payments for those months that the customer was not enrolled in PIPP including payments for any months the customer was disconnected, not to exceed the account balance. The customer must pay the delinquent amounts and reconnection charges as a condition to re-enroll in PIPP. To be eligible to continue in PIPP, for the subsequent twelve months, the PIPP customer must be current on the PIPP payment on the customer's anniversary date. If a customer is not current on the anniversary date, the customer has one billing cycle to pay past due PIPP payments, and, if such payments are not timely made, the electric utility will drop the customer from PIPP. The utility shall reinstate the customer into PIPP when the customer pays all missed PIPP payments and current monthly charges for those months when the PIPP customer was not enrolled. Ohio Administrative Code 122:5-3-02(H)(1)(a) and (b).

Income eligibility for PIPP is subject to annual verification every twelve months. 122:5-3-03(C). If a PIPP customer fails to submit information sufficient to verify continuing eligibility within sixty days of the annual verification date, the customer will be ineligible to continue in PIPP and will be dropped from the program. The customer may re-enroll in PIPP after all missed PIPP payments have been made and monthly charges for any months the customer was not enrolled have been paid. This includes PIPP payments for any months that the customer was disconnected, but the amount due shall not exceed the amount of the customer's arrearage.

DP&L's average annual PIPP enrollments for the period October 2016 through September 2017 were 26,251. Case No. 17-1377-EL-USF, Amended Application (November 22, 2017) Ex. A.2. DP&L's average annual PIPP enrollments for the period October 2015 through September 2016 were 32,350. Id. DP&L's average annual PIPP enrollments for the period October 2014 through September 2015 were 39,178. Id. Thus, the trend is that fewer customers are enrolled in PIPP each year. The new PIPP rules, which were effective in February 2015, served to diminish the success of PIPP to allow low-income customers to maintain their electric service. The Staff Report should have considered whether the new PIPP rules result in too high a burden for low-income customers of DP&L to stay enrolled in PIPP and to maintain their electric service. If maintaining PIPP eligibility is too high a burden for low-income customers, the Staff Report should have considered alternatives to allow low-income customers to maintain their electric service.

6. Edgemont-OPAE object that the Staff Report did not recommend solutions for problems discovered in the Customer Service Assessment.

In March 2016, the Staff completed an audit of DP&L's customer service performance, practices, and procedures. Staff Report at 51. Staff reviewed the 1,642 customer contacts to the Commission's call center for the period July 1, 2014 through January 7, 2016. Customers wanted information about how to prevent disconnection or about payment arrangements and the winter reconnect order. Customers also called the Commission with issues of high bills, back billing, or final/initial billing questions. There were also contacts regarding PIPP and customer assistance programs. The new PIPP rules that went into effect in November 2015 may have contributed to the quantity of contacts. Some callers also expressed concerns about the quality of DP&L's customer service. There were also calls about security deposits and outages. Id.

In spite of these customer complaints and the Staff Report's discussion of the complaints, the Staff Report made no recommendations to improve DP&L's customer outreach and payment plan offerings. The number of DP&L's residential electric customers disconnected for non-payment for the period June 2016 through May 2017 was 31,152; and for the period June 2015 through May 2016, the number of disconnections was 31,806. Case No. 17-1069-GE-UNC and Case No. 16-1224-GE-UNC. DP&L should be required to improve its customer service and also to work to assure that its customers are able to maintain service through reasonable payment arrangements.

7. Edgemont-OPAE object to the failure of the Staff Report to require that DP&L offer affordable service and payment plans based on the customer's income and the resulting burden on the customer.

Customers are not well served by service and payment plans which are unaffordable and put customers in danger of disconnection. Customers should be directed to service tariffs that are most favorable to them. Bill payment plans should work to decrease disconnections and arrearages. Payment plans should be customized based on a customer's income and the resulting burden on the customer. Payment plans should consider the percentage of a customer's income spent on utility bills. The Staff Report erred in failing to require DP&L to offer favorable service tariffs and affordable payment plans based on the customer's income and the resulting burden of utility service payments on the customer.

SUMMARY OF MAJOR ISSUES

Pursuant to Revised Code Section 4903.083, Edgemont-OPAE propose the following summary of major issues:

1. The appropriate level of revenues that DP&L should be authorized to collect through rates;
2. The appropriate rate design and customer charges for residential and small commercial customers;
3. The appropriate rate of return for ratemaking purposes;
4. The appropriate level of test-year revenues;
5. The appropriate level of operating and maintenance expenses;
6. The appropriate level of rate base;
7. The existence of distribution cost recovery riders that undermine the ratemaking process herein;
8. The correct current federal corporate income tax rate used.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of these Objections to the Staff Report of the Greater Edgemont Community Coalition and Ohio Partners for Affordable Energy will be served electronically by the Commission's Docketing Division on the persons who are electronically subscribed to these cases on this 11th day of April 2018.

/s/Colleen Mooney
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