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 the 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

BRIEF

SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

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INTRODUCTION

Rarely has the Public Utilities Commission of Ohio (Commission) been presented with a Stipulation with such breadth of support. Essentially all of the interests involved in the case either support or do not oppose the resolution of this complex matter. The only outliers are marketers who raise limited issues applying only to them and lacking in merit. The Commission should approve the Stipulation.

DISCUSSION

A. The Stipulation should be approved

The standard under which the Commission reviews stipulations is termed the three part test. Staff Ex. 6 at 2, OCC Ex. 1 at 2. Specifically, to be approved, a stipulation must: 1) be the product of serious bargaining among capable, knowledgeable parties; 2) as a package benefit ratepayers and the public interest; and 3) not violate any important regulatory principle or practice. The Stipulation in this case passes the test with ease.

1. The Stipulation is the product of serious bargaining among capable, knowledgeable parties.

That the parties in this case are capable and knowledgeable is quite beyond dispute. The list of parties supporting the Stipulation is huge. It includes Dayton Power and Light Company (Company or DP&L), the Staff of the Public Utilities Commission (Staff), the Ohio Consumers' Counsel (OCC), Ohio Energy Group, Kroger, Walmart and Sam's Club, Ohio Hospital Association, Natural Resources Defense Council, Ohio Environmental Council and Environmental Defense Fund, Environmental Law and Policy Center, Edgemont Neighborhood Coalition, and Ohio Partners for Affordable Energy. Staff Ex. 6 at 3. Those not opposing include Industrial Energy Users-Ohio, Ohio Manufacturers Association Energy Group, Buckeye Power, City of Dayton, and One Energy Enterprises. Staff Ex. 6 at 4. These are parties that have been involved in Commission proceedings for years, even decades. Likewise the opponents in this case, RESA and IGS, are capable and knowledgeable. There really can be no dispute about this aspect of the test.

Serious bargaining occurred as well. The procedural schedule was extended multiple times to accommodate settlement discussions. As eloquently put by Staff witness Lipthratt:

- Included in this reasonable resolution is a revenue requirement that benefits ratepayers, through a balanced approach by recognizing some of the objections to the Staff Report of Investigation raised by intervening parties, rejecting some of the objections, and considering alternative approaches.

Staff Ex. 6 at 4. The Stipulation itself shows the serious bargaining that led to its creation. It provides:

- An addition of $5,610,653 to reflect employee labor costs incurred by DP&L during the Test Period as shown on Exhibit 2–4 Schedules C-3.11, C-3.12, and C3.13;

- An addition of $1,910,790 to reflect property tax expense incurred by DP&L during the Test Period as shown on Exhibit 1 – Schedule 9 C-3.9;

- An addition of $5,000,000 included in the Stipulated Operating Expenses to reflect known increases in vegetation management as shown on Exhibit 7 – Schedule C-3.27;

- A reduction of $1,500,000 to test year revenues associated with Staff's adjustment for energy efficiency as shown on Exhibit 6 – 15 Schedule C-3.26; and

- A reduction of $329,774 to test year expenses associated with Miscellaneous General Expenses as shown on Exhibit 5 – Schedule 18 C-3.21.

Staff Ex. 6 at 6. All of this indicates that serious bargaining occurred between these capable, knowledgeable parties. The first prong of the test has been met.

2. As a package, the Stipulation is beneficial to ratepayers and the public interest.

The Stipulation provides a great variety of benefits to ratepayers and the public.

The Stipulation:

- Reduces the requested $65,771,725 revenue increase to a stipulated increase of $29,784,955.

- Reflects the lowered federal income tax rate of the Tax Cuts and Jobs Act of 2017 ("TCJA") and establishes a framework for returning excess accumulated deferred income taxes resulting from the TCJA and the full balance of the regulatory liability ordered by the Commission effective January 1, 2018 in Case No. 18-47-AU- COI to ratepayers.

- Establishes a rate of return of 7.27% that is lower than the range (7.33% - 7.82%) recommended as part of the Staff Report of Investigation.

- Establishes a $7.00 customer charge for DP&L's residential customers, which is lower than both the $13.73 customer charge recommended in DP&L's Application and the $7.88 customer charge recommended in the Staff Report of Investigation.

- Facilitates incremental distribution system investments through DP&L's Distribution Investment Rider (DIR), subject to annual caps which include a $2.0 million reduction for failure to meet certain reliability standards.

- Commits DP&L to develop innovative electric vehicle charging infrastructure and a non-wires pilot program.

- Implements Revenue Decoupling through DP&L's existing Decoupling Rider.

- Provides deferral authority, with no carrying costs, for incremental annual expenses for vegetation management performed by third-party vendors.

Staff Ex. 6 at 4-5. These benefits are extensive and unique. The revenue requirement goes down, the tax adjustment problem is fixed to the extent possible currently, the rate of return is reduced, the customer charge decreases, the successful DIR initiative is expanded to include DP&L, the decoupling initiative is expanded, and even electric vehicles are given a boost.

There is one aspect of the Stipulation that requires clarification. The Stipulation provides that any matters not directly addressed in the document should be treated as recommended in the Staff Report. Joint Ex. 1 at 5. The Staff Report recommended that a portion of the PUCO/OCC assessment should be recovered through a by-passable rider. Tr. Vol. 2 at 308. That was the view of the Staff at the time of the drafting of the Staff Report. Tr. Vol. 2 at 307. That view has subsequently changed. Upon further examination gained during the proceedings, it is now apparent that the level of the assessments is not directly tied to revenues in a causal way., therefore the Staff no longer supports that recommendation. Tr. Vol. 3 at 309. This evolution of the Staff's view should have been reflected in both testimony and the Stipulation but it was not. As a consequence of this, the approval of the Stipulation will include the recommended by-passable rider although the Staff no longer believes that this is the correct treatment of this single item. Despite this, the Staff still recommends the approval of the Stipulation. Under the three part test stipulations are to be reviewed *as a package* and as a package the Stipulation still reflects tremendous benefits to ratepayers and the public as has been discussed previously.

In the final analysis, the Stipulation is a great boon for the public and it should be approved.

3. No regulatory policy or principle is violated.

Far from violating any regulatory policy or principle, the Stipulation furthers many. Needed investment in infrastructure will be facilitated. Reliability will be improved, rates will be adjusted rationally[1], there are even environmental benefits. The record shows that the third prong of the test has been fulfilled. Staff Ex. 6 at 7, OCC Ex. 1 at 9.

SUMMARY

In sum, the Stipulation passes the three part test easily and should be approved by the Commission.

B. RESA and IGS Issues

1. Credit and Collateral requirements for IGS

IGS complains that its collateral requirements are too demanding. Staff takes no position regarding this issue. Staff Ex. 5 at 14.

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1 It must be remembered that this utility has not had a rate case in this century.

2. There is no evidence that Standard Service Offer (SSO) customers are subsidized by non-SSO customers.

RESA and IGS labor under the belief, unsupported by fact, that non-SSO customers subsidize the rates paid by SSO customers. In simplest terms there is no evidence for this under these facts. To make such a determination one would need a class cost of service study and none was performed in this case. Staff Ex. 5 at 4. The cost of service study that was performed in this case is not adequate for this purpose. Indeed it appears that it would not be possible to perform such a study. The accounting system utilized by the Company simply does not track costs with the level of granularity that would be needed to perform this type of study. Staff Ex. 5 at 5. The record does not reveal what it would cost to develop a new accounting system that would accomplish what RESA/IGS want. It is difficult to imagine that such an accounting system would not be expensive, but, regardless, it does not exist now. The Company does track some costs that are directly attributable to the SSO offering but these are already included in SSO rates. Staff Ex. 5 at 10. Further the Company identified some types of costs that it incurs for non-SSO customers but not for SSO customers, the opposite of the situation that RESA/IGS posit. These include interacting with competitive suppliers, calculating and collecting collateral, providing bill ready and rate ready billing and administering the TCRR-N opt-out program. Staff Ex. 5 at 6. At the end of the day, it is simply impossible to directly identify the costs that RESA/IGS imagine to exist.

As an alternative to a direct identification of costs the Staff considered an allocation methodology. Staff Ex. 5 at 6. However, in considering the situation Staff could not justify allocating any level of distribution cost solely to SSO customers. It appears to the Staff that any costs solely attributable to SSO customers as SSO customers would be so small as to be insignificant. Ibid. The simple fact is that all customers, whether SSO or non-SSO, utilize the call center, communications channels, accounting resources, IT, legal, and administrative and regulatory resources. Staff Ex. 5 at 8. As all customers use these services, all should pay for them as they do today. Even where there is a difference between SSO and non-SSO customers, for example disconnection rates are higher for SSO customers, no allocation can be justified. The payment priority system in place assures that non-SSO providers are not disadvantaged. Staff Ex. 5 at 7. In short, Staff could not identify any reason to believe that costs to serve SSO and non-SSO customers are different and therefore had no reason (or basis) to make an allocation. Furthermore, all customers have SSO service available to them as a default generation option at any time.

RESA/IGS were not deterred by the complete lack of any information upon which to treat SSO and non-SSO customers differently. Rather, without any analysis of embedded costs, they assumed that the costs were different. Staff Ex. 5 at 11. Then they arbitrarily identified FERC accounts that they, again without any analysis, assumed might contain costs that they imagined were different and allocated these accounts based on revenue. Ibid.

While in proper circumstances revenue can be an appropriate basis on which to allocate, that is not the situation here. Indeed there is no reason presented in this case to allocate at all. What RESA/IGS has done is to assume a problem exists, assume that they can locate where that problem resides and assume that the problem has a clear correlation with revenues. None of this supposition is tied to any analysis of actual costs. This is not a sound basis on which to determine rate responsibility.

The real flaw in the RESA/IGS analysis begins at the very start, the assumption that there is a difference in the costs imposed by SSO and non-SSO customers. A priori there is just no reason to think this is true. All customers use the distribution services of the Company in essentially the same way with the limited exceptions already discussed. Indeed customers move from non-SSO to SSO and back again. Staff Ex. 5 at 13. The distinction that RESA/IGS wish to draw between SSO and non-SSO customers is just not a definable classification. Dividing costs on this basis is just arbitrary.

Even more fundamentally, if one were to assume that there was some sort of difference in cost that is not problematic. The tacit assumption in the RESA/IGS position is that SSO service is the equivalent of non-SSO service and should, therefore, be treated the same. They are not the same. SSO service is the provider of last resort. Non-SSO is not. All customers benefit from the availability of provider of last resort service whether they currently take the service or not. Statute requires the company to maintain both SSO and Choice options and to make them available to all. Sections 4928.141 and 4928.03 Revised Code. The cost to do this is collected from all because it benefits all.

3. Non-SSO customers do not pay costs twice

RESA/IGS claim that non-SSO customers pay some costs twice, once through base rates and again through non-SSO charges. Little time need be wasted with this objection. As shown previously, distribution rates are properly paid by all customers. Non-SSO providers presumably[2] recover their costs through their own charges. The two are simply different. Staff Ex. 5 at 13. Different charges, collected differently, to recompense for different expenses. This RESA/IGS argument flows directly from the incorrect assumptions already debunked in the prior section.

4. RESA/IGS's arguments[3] should be rejected.

RESA/IGS's claims that distribution rates improperly support the SSO should be rejected. As has been shown all customers use the Company's distribution services in essentially the same ways. There is no evidence that there is any difference in costs associated with SSO and non-SSO customers other than the costs already directly attributed to the SSO and collected through SSO rates. The Company's current accounting system has no way to attempt to track any such imagined difference. Nor should it. As all customers benefit from the services provided, all customers benefit from the existence of the SSO, and any customer may change from SSO to non-SSO and back ad infinitum, the distinction that RESA/IGS attempt to draw is simply not a relevant classification on which to base rates. RESA/IGS ask this Commission to imagine there is

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2 Obviously there is no way to know this directly. Non-SSO charges are not regulated and there is no information as to how they might develop pricing strategies. However entities must recover their costs in the long run or they will go out of business.

3 Excepting IGS's argument regarding collateral about which Staff takes no position.

a problem, imagine that this problem can be measured and imagine a fix. This is not proper ratemaking and should be rejected.

CONCLUSION

The Stipulation in this case should be approved. It easily passes the three part test being the product of serious bargaining among knowledgeable, capable parties, violating no regulatory policy or practice, and providing great benefits for ratepayers and the public at large.

RESA/IGS's claims that distribution rates improperly favor SSO customers are based on supposition and guesswork and fly in the face of customer behavior and the purposes of the SSO. They should be rejected.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Brief** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic mail upon the following Parties of Record, this 17th day of August, 2018.

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