BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan.	:	Case No. 16-0395-EL-SSO
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	:	Case No. 16-0396-EL-ATA
In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority.	:	Case No. 16-0397-EL-AAM

INITIAL BRIEF AFTER WITHDRAWAL SUBMITTED ON BEHALF OF THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

Dave Yost
Ohio Attorney General

John H. Jones
Section Chief

Thomas W. McNamee
Thomas G. Lindgren
Assistant Attorneys General
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215-3414
614.466.4395 (telephone)
614.644.8764 (fax)
thomas.mcnamee@ohioattorneygeneral.gov
thomas.lindgren@ohioattorneygeneral.gov

April 10, 2019

TABLE OF CONTENTS

Page

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan.	:	Case No. 16-0395-EL-SSO
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	:	Case No. 16-0396-EL-ATA
In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority.	:	Case No. 16-0397-EL-AAM

INITIAL BRIEF AFTER WITHDRAWAL SUBMITTED ON BEHALF OF THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO

INTRODUCTION

This case is unusual in that the Commission has already reviewed the amended stipulation in this case. This review was thorough and resulted in its approval with modifications. The only thing that has changed is that a party, IGS, formerly in support is now in opposition. This changes nothing. The support of IGS was not pivotal to the approval, and its opposition is just as lacking in impact. The amended stipulation still passes the three part test and is more favorable in the aggregate than an MRO would be if we had one.

As virtually nothing has changed, there would be no purpose served by a re-examination of the Commission's earlier decision. Hence this brief will dispense with a

re-examination of the earlier Opinion and Order. Rather the balance of this brief will be devoted to a rebuttal of the various assertions in the testimony filed by IGS. In the event that IGS presents arguments in its initial brief not included in its testimony, these will be addressed in reply.

ARGUMENT

I. Hess

IGS witness Hess makes a number of assertions all of which should be, or already have been, rejected by this Commission.

First he claims that the DMR receipts are being booked incorrectly. He believes that these funds should be recorded as contributions in aid of construction or customer contributed capital. This is incorrect. As indicated in the examination of Staff witness Donlon, those items are created for a specific project. Tr. Vol. VII at pp. 1343-1344. Typically it is a way for the customer to be billed for an expansion of service lines that otherwise would not be economical for the utility to construct itself. *Id.* Obviously this has nothing to do with the DMR, which is intended to shore up the financial position of DP&L so that it will be positioned to make the investments in the future to implement smart grid and other initiatives. The DMR does not fund a service line extension. In addition it is the Commission's role to define the proper accounting for a utility. R.C. 4905.13. A utility must book an item as the Commission directs.

Next witness Hess claims that the DMR is anti-competitive because DP&L Inc. has competitive generation. This information is out of date. All of the generation

facilities previously owned by DP&L have been either sold to third parties or closed. Tr. Vol. VII at 1139, 1208. As there is no competitive generation, there can be no effect on the competitive market. Even the FERC agrees. *See* Opinion and Order, October 20, 2017, at 51. If there had been a concern, it would no longer exist.

Witness Hess then claims that DP&L does not need the DMR to remain financially healthy. This argument has already been presented to, and rejected by, the Commission. The OCC made this argument previously in this case. See Opinion and Order, October 20, 2017, at 23. The Commission has already rejected this. See Opinion and Order, October 20, 2017, at 25-28. The Commission reasoned that, in the absence of the DMR, DP&L would face significant obstacles in accessing financial markets to implement grid modernization. The DMR is the mechanism necessary to remove this road block.

The witness claims that a DMR would not be permitted under an MRO and therefore, the amended stipulation would fail the MRO/ESP test. Again the Commission has already rejected this argument. See Opinion and Order, October 20, 2017, at 44-45. This is eminently reasonable. The same financial limitations would exist regardless of the form of the standard service offer, whether ESP or MRO. The limitations would still need to be addressed to position DP&L to move forward with grid modernization if there were an MRO. Whether that happened through the MRO order itself or some other mechanism, or combination of mechanisms, the need is what it is. It would have to be addressed and the Commission would address it. As either the DMR or an equivalent

would exist means that the provision is a wash and makes no difference in the ESP/MRO test just as the Commission determined.

The witness asserts that the DMR is a transition cost. The Commission has already determined the DMR is not transition revenue. See Opinion and Order, October 20, 2017, at 49-51. The simple fact is that DP&L is no longer in the generation business. The DMR is, as the Commission found, tied to distribution modernization, not generation.

The witness claims that the RR constitutes stranded cost recovery. This argument has already been considered by the Commission. The result could not be more clear. The Commission said "[t]he Commission rejects the argument that the Reconciliation Rider is a transition charge." See Opinion and Order, October 20, 2017, at 55. There is no reason to revisit this matter. The Commission established this rider to provide a hedge for customers as it has indicated multiple times.

The witness believes that the Commission's decision violates a regulatory compact. The notion of a regulatory compact arises from the traditional ratemaking statute, specifically R.C. 4909.15. Tr. Vol. VIII at 1463. The current case is a standard service offer case under R.C. 4928.143. Under subsection B of that provision R.C. 4909.15 does not apply. Thus even if there were a violation of some regulatory compact, it would be irrelevant.

In sum, the objections raised by IGS witness Hess should be rejected.

II. Crist

IGS witness Crist objects to DP&L requiring collateral of IGS. The issue exists because IGS has no rating from a credit agency. If they had a rating, and it were sufficient, no collateral would be required. IGS reasons that it is large and financially sound, as sound as other rated companies that do not have to post collateral. It believes that it should not have to post collateral.

Staff believes that IGS misses the point of the requirement. The availability of a credit rating is not simply a box to be checked off. Rather it represents an estimate by a sophisticated third party as to the financial wherewithal of a company. Without that credit rating we do not really know the stability of a company. While IGS represents that it is financially strong, there is no independent verification of this. In the words of a former United States President "trust but verify." In the absence of a credit rating, the collateral is the required verification. This is reasonable, and Staff sees no reason to change the status quo.

III. Haugen

IGS witness Haugen makes a simple point. The FERC is considering a variety of changes to its capacity markets. This is true, but not significant. It cannot be known currently what, if anything, the FERC will ultimately do. Changes in the capacity market might or might not affect the performance of the RR. Many things could affect the performance of the RR. This is why a hedge is valuable. The future is unknown. Things

will happen that were not anticipated. Some will be good; some will be bad. A hedge helps to limit the variability in this unknown future. That is the benefit of the RR.

IV. White

IGS witness White claims that the RR is not a hedge. This argument has been rejected many times by the Commission, and there is no reason to give it weight here. The witness cannot even give an example of a hedge. Tr. Vol. VIII at 1459. Further he does not even claim to follow energy markets. Tr. Vol. VIII at 1460.

The witness complains about charges for switching and historic usage. Particularly the witness complains that the costs have not been justified. This confuses the situation. The costs do not need to be justified in this docket. They have already been established. One who wishes to change the status quo must bear the burden of proof. In this case IGS must make a showing, and they have not as can be seen from an examination of the record. Tr. Vol. VIII at 1387-1390. Further it is difficult to understand why this matter is presented in this docket at all. The appropriate way to challenge a rate believed to be too high is to file a complaint under R.C. 4905.26. This is not such a case.

The witness expresses a variety of concerns about the consolidated billing pilot. None of these are worthy of comment. This is a pilot. Its purpose is to find out how the program works in practice. The parties to the amended stipulation have agreed to an approach. It should be allowed to develop. Tweaks can be developed as problems are

identified in practice. There is no need to speculate about what sort of details are preferable. The pilot is the means to actually find out.

CONCLUSION

In summary, IGS has presented nothing that warrants any change in the Commission's Opinion and Order. The vast majority of arguments have already been considered. The Commission was correct the first time. It remains so.

Respectfully submitted,

Dave Yost
Ohio Attorney General

John H. Jones
Section Chief

/s/ Thomas W. McNamee

Thomas W. McNamee
Thomas G. Lindgren
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 16th Floor
Columbus, Ohio 43215-3414
614.466.4397 (telephone)
614.644.8764 (fax)
thomas.mcnamee@ohioattorneygeneral.gov
thomas.lindgren@ohioattorneygeneral.gov

PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Initial Brief After Withdrawal** 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 15th day of May, 2019.

/s/ Thomas W. McNamee

Thomas W. McNamee
Assistant Attorney General

Parties of Record:

jessica.blevins@dplinc.com
william.michael@occ.ohio.gov
debra.bingham@occ.ohio.gov
brigner@occ.ohio.gov
jay.goyal@gmail.com
sechler@carpenterlipps.com
paul@carpenterlipps.com
smith@carpenterlipps.com
dressel@carpenterlipps.com
gaunder@carpenterlipps.com
bojko@carpenterlipps.com
smith@carpenterlipps.com
ejacobs@ablelaw.org
glpetrucci@vorys.com
mjsettineri@vorys.com
mdortch@kravitzllc.com
jdortch@kravitzllc.com
lhawroot@spilmanlaw.com
dwilliamson@spilmanlaw.com
charris@spilmanlaw.com
dparram@bricker.com
torahood@bricker.com
jsharkey@ficlaw.com
chollon@ficlaw.com
suzette.krausen@monitoringanalytics.com
jeffrey.mayes@monitoringanalytics.com
schmidt@sppgrp.com
dianne.kuhnell@duke-energy.com
debbie.gates@duke-energy.com
mpritchard@mwncmh.com
vleach-payne@mwncmh.com
fdarr@mwncmh.com
mkurtz@bkllawfirm.com
mfleisher@elpc.org
jstock@beneschlaw.com
regan.donoughe@igsenergy.com
hsweeney@igsenergy.com
ebetterton@igsenergy.com
joliker@igsenergy.com
mnugent@igsenergy.com
mkeaney@calfee.com
talexander@calfee.com
mlandes@isaacwiles.com
anorris@dickinson-wright.com
cpirik@dickinsonwright.com
trent@theoec.org
mleppla@theoec.org
tdougherty@theoec.org
cmooney@ohiopartners.org
schuhart@wrightlaw.com
rsahliattorney@columbus.rr.com
mkurtz@bkllawfirm.com

cmooney@ohiopartners.org
tony.mendoza@sierraclub.org
greg.wannier@sierraclub.org
jdoll@djflawfirm.com
kspencer@aando.com
dseger-lawson@aep.com
barbara.doseck@daytonohio.gov
oma@ohiomfg.com
gthomas@gtpowergroup.com
stephen.chriss@wal-mart.com
mhester@enel.com

Attorney Examiners:

gregory.price@puco.ohio.gov
patricia.schabo@puco.ohio.gov

Summary: Brief Initial Brief after Withdrawal electronically filed by Ms. Yvette L Yip on behalf of the Public Utilities Commission of Ohio