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Ohio | **Public Utilities Commission**

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July 1, 2019

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus OH 43215

RE: *In the Matter of the Application of The Dayton Power and Light Company's Implementation of Certain Matters Relating to the Tax Cuts and Jobs Act of 2017, Case No. 19-572-EL-UNC; In the Matter of the Application of The Dayton Power and Light Company to Establish the Tax Savings Credit Rider, Case No. 19-568-EL-ATA.*

Dear Docketing Division:

Enclosed please find the Review and Recommendations of the Staff of the Public Utilities Commission of Ohio (Staff) in the Matter of the Application of The Dayton Power and Light Company's Implementation of Certain Matters Relating to the Tax Cuts and Jobs Act of 2017, Case No. 19-572-EL-UNC, et al.

Tamara S. Turkenton
Director, Rates and Analysis Department
Public Utilities Commission of Ohio

David Lipthratt
Chief, Research and Policy Division
Public Utilities Commission of Ohio

Enclosure
Cc: Parties of Record

Dayton Power and Light Company
Case No. 19-572-EL-UNC
Case No. 19-568-EL-ATA

SUMMARY

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 (TCJA) was signed into law. Among other changes, the TCJA lowered the federal corporate income tax rate from a maximum 35 percent to a flat 21 percent, effective January 1, 2018. Additionally, the reduction in the federal corporate tax rate may result in excess accumulated deferred income taxes (EDIT) balances because the amount of accumulated deferred income taxes (ADIT) that a public utility has recorded in its books will exceed the amount the public utility needs to pay its future federal income tax obligations.

On January 10, 2018, the Public Utilities Commission of Ohio (Commission) opened a Commission-ordered investigation (COI), Case No. 18-47-AU-COI, in order to study the impacts of the TCJA on the Commission's jurisdictional, rate-regulated utilities and determine the appropriate course of action to pass benefits on to ratepayers. By Entry issued January 10, 2018, the Commission invited all of the rate-regulated Ohio utilities, as well as other interested stakeholders, to file comments discussing the following: (i) those components of utility rates that the Commission will need to reconcile with the TCJA and (ii) the process and mechanics for how the Commission should do so.[1] Additionally, the Commission directed utilities to record on their books as a deferred liability, in an appropriate account, the estimated reduction in federal income tax resulting from the TCJA, effective January 1, 2018. The utilities were instructed to continue this treatment until otherwise ordered by the Commission.[2]

On November 30, 2015, The Dayton Power and Light Company (DP&L or Company) filed an application to increase its electric distribution rates, for accounting authority and for approval of revised tariffs. On June 18, 2018, a Stipulation and Recommendation was filed by DP&L and various parties. On July 12, 2018, a Supplemental Stipulation and Recommendation was filed, by which another party joined the original stipulation. An evidentiary hearing regarding the Stipulations and remaining objections to the Staff Report was held on July 23 and July 24, 2018. On September 26, 2018, the Commission issued its Opinion and Order approving and adopting the Stipulations.

On March 1, 2019, DP&L filed an application before the Commission to establish a rider to credit to its customers the remaining benefits of the TCJA (Application). DP&L initiated this proceeding in order to resolve issues related to the refund to customers of distribution-related EDIT and any regulatory liability associated with the Commission COI entry.

DP&L proposes to establish a rider, the Tax Savings Cost Rider (TSC Rider) to recognize the tax savings realized under the TCJA which have not yet been reflected in base distribution rates. This rider will provide the following benefits:

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[1] *In the Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Entry at 1-2 (Jan. 10, 2018).
[2] *Id.* at 2.

1) Normalized EDIT[3] (total balance of approximately $48.3[4] million net of the $668,381[4] amortized during 2018) will be amortized in accordance with the Internal Revenue Code (IRC) Average Rate Assumption Method (ARAM) as required to conform to tax normalization rules. The normalization rate will adjust annually in accordance with ARAM. DP&L proposes to credit the amortization of EDIT to customers as an offset to the calculation of the Company's Distribution Investment Rider (DIR) revenue requirement.

   a) Beginning January 1, 2018 and continuing until DP&L's rates are adjusted to begin crediting Normalized EDIT to customers, any amortization of Normalized EDIT will be deferred as a regulatory liability in accordance with the Commission COI entry.

   b) The actual amount of Normalized EDIT flowing back to customers through the DIR will reflect the final, audited balance, including a gross revenue conversion factor of 1.2751 established in the Rate Case Stipulation.[5] The Normalized EDIT will be allocated among customer classes using the DIR methodology that is calculated based on a percentage of base distribution revenues as set forth in the rate case.

2) The total balance of Non-Normalized EDIT[6] as of December 31, 2018 was approximately $11,886,952[4], which was net of the $3,160,000 amortized on the Company's books during 2018.

   a) Non-Normalized EDIT will be amortized in accordance with the Rate Case Stipulation.

   b) The amortization of Non-Normalized EDIT will be grossed up using the gross revenue conversion factor of 1.2751 established in the Rate Case Stipulation.

3) In compliance with the Commission COI Entry, DP&L calculates a total 2018 deferred liability (Deferred Liability) of $3,828,381[4] through December 31, 2018. Such amount includes $3,160,000 for amortization of Non-Normalized EDIT; $668,381 for amortization of Normalized EDIT; and $0 in taxes savings related to the change in current federal income tax rates not reflected in base rates or riders.

   a) DP&L calculates the deferred liability related to the change in current income tax rates (Stub Period) to be $0 because DP&L's 2018 jurisdictional operating revenues prior to implementing new base rates were less than its jurisdictional expenses, yielding a taxable loss. Because the effect of the TCJA on a taxable loss would be a regulatory asset, DP&L recorded a $0 liability.

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[3] DP&L refers to Normalized EDIT as "Protected Excess ADIT". For purposes of this Staff Letter, "Normalized EDIT" and "Protected Excess ADIT" are intended to have the same meaning.

[4] The EDIT balances and amount amortized in 2018 were updated in the Company's supplemental response to Staff DR #1.

[5] *In the Matter of the Application of The Dayton Power and Light Company to Increase Its Rates for Electric Distribution,* Case No. 15-1830-EL-AIR, Stipulation and Recommendation (June 18, 2018).

[6] DP&L refers to Non-Normalized EDIT as "Unprotected Excess ADIT". For purposes of this Staff Letter, "Non-Normalized EDIT" and "Unprotected Excess ADIT" are intended to have the same meaning.

b) The 2018 Deferred Liability is proposed to be amortized and refunded to customers in accordance with the Rate Case Stipulation.

c) The amortization of the 2018 Deferred Liability will be grossed up using the gross revenue conversion factor of 1.2751 established in the Rate Case Stipulation.

4) Both the Non-Normalized EDIT and the 2018 Deferred Liability is proposed to be amortized and refunded through the TSC Rider. Pursuant to the Rate Case Stipulation, the aggregate refund of the amortization of Non-Normalized EDIT and the 2018 Regulatory Liability will be no less than $4.0 million per year for the first five years of the amortization period, unless fully returned within the first five years. The remaining unamortized balance of Non-Normalized EDIT and 2018 Deferred Liability, if any, will be amortized over a maximum of an additional five years.

5) The TSC Rider will be allocated to customer classes based on a percentage of base distribution revenues, and will be trued-up annually. The TSC Rider will be populated with an amount calculated on a projected level for the calendar year.

STAFF REVIEW AND RECOMMENDATION

Refund of Normalized EDIT:

Staff recommends that Normalized EDIT include only such balance that are required to be amortized in accordance with ARAM pursuant to IRC requirements. Staff further recommends that the Commission reject the Company's proposal to refund the Normalized EDIT through the DIR. Instead, Staff recommends that the Company refund the Normalized EDIT through the TSC Rider. Staff recommends that the amortization of Normalized EDIT be grossed up using a gross revenue conversion factor 1.2751, which should be updated to reflect any changes in the prevailing tax rates.

Staff disagrees with the Company's decision to remove the unamortized balance of EDIT from the calculation of the DIR revenue requirement. Therefore, Staff recommends that upon approval of this Application, the Company should immediately recognize as a reduction to the DIR rate base, the unamortized balance of both Normalized and Non-Normalized EDIT attributable to DIR investments.

Stub Period:

Staff disagrees with the Company's assertion that the Stub Period balance is $0. Instead, Staff recommends that the Stub Period be based on the annual FIT impact of $7,546,940 as recognized in the Rate Case[7], and that the Stub Period balance be refunded through the TSC Rider. Staff believes this approach is a reasonable representation of the FIT savings recognized by the Company. Staff recommends that the annual FIT impact be pro-rated over a period of 9 months, which represents the period of 2018 for which previous rates (i.e., base rates that included the previous FIT rate) were in effect. Staff further recommends that that carrying charges, based on

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[7] See *In the Matter of the Application of The Dayton Power and Light Company to Increase Its Rates for Electric Distribution* Testimony of Jonathan J. Borer at 4 (July 16, 2018). [Note that the testimony references an approximate tax impact of $7.5 million].

the long-term debt rate approved in the Rate Case, be applied to the monthly balance of the revised Stub Period deferrals, and that such carrying charges cease to accrue once the TSC Rider becomes effective. This results in a Stub Period balance as of December 31, 2018 of $5,832,556, as illustrated on Staff Attachment A.

Refund of Non-Normalized EDIT and 2018 Deferred Liability:

Staff recommends that the Company refund the balances of Non-Normalized EDIT and the 2018 Deferred Liability pursuant to the Rate Case Stipulation. Incorporating the revised Stub Period balance of $5,832,556 to the grossed-up balances of Non-Normalized EDIT and 2018 Deferred Liability of $15,157,052 and $4,881,569, respectively, will result in a total pre-tax balance of $25,871,177 to be refunded through the TSC Rider. Given that the Rate Case Stipulation required no less than $4.0 million per year to be amortized over the first five years, this results in a balance of $5,871,177 remaining after the five-year period, assuming an annual amortization of exactly $4.0 million. The Rate Case Stipulation required this remaining balance to be refunded over a maximum of the next five years. Staff recommends that 50 percent of the remaining balance be refunded in year 6 and 50 percent in year 7.

Rate Design and General TSC Rider Recommendations:

Staff recommends that the Commission adopt the Company's proposal to allocate the TSC Rider, including the refund of Normalized EDIT, based on a percentage of base distribution revenue. Staff recommends that the TSC Rider be trued up annually, and that it continue until the EDIT, 2018 Deferred Liability, and Stub Period balances have been fully refunded.

Staff Attachment A
Stub Period With Carrying Charges

Line		January	February	March	April	May	June	July	August	September	October	November	December
1	Monthly Beginning Balance (Previous Month Line	-	(630,169)	(1,262,860)	(1,898,081)	(2,535,842)	(3,176,155)	(3,819,029)	(4,464,475)	(5,112,502)	(5,763,122)	(5,786,174)	(5,809,319)
2	Monthly Income Tax Savings (Line 10 ÷ 12)	(628,912)	(628,912)	(628,912)	(628,912)	(628,912)	(628,912)	(628,912)	(628,912)	(628,912)	-	-	-
3	Balance Subject to Interest	(314,456)	(944,625)	(1,577,315)	(2,212,536)	(2,850,298)	(3,490,611)	(4,133,485)	(4,778,931)	(5,426,958)	(5,763,122)	(5,786,174)	(5,809,319)
4	Carrying Charges (Line 3 * (Line 8 ÷ 12))	(1,258)	(3,779)	(6,309)	(8,850)	(11,401)	(13,962)	(16,534)	(19,116)	(21,708)	(23,052)	(23,145)	(23,237)
5	End Month Balance (Line 1 + Line 2 + Line 4)	(630,169)	(1,262,860)	(1,898,081)	(2,535,842)	(3,176,155)	(3,819,029)	(4,464,475)	(5,112,502)	(5,763,122)	(5,786,174)	(5,809,319)	(5,832,556)
6													
7												Total Stub Period	**$ (5,832,556)**
8	Cost of Debt	4.80%											
9													
10	Annual FIT Savings from Rate Case	$ 7,546,940											