

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Dayton Power and Light Company for Approval of its Plan to Modernize its Distribution Grid.)	Case No. 18-1875-EL-GRD
)	
In the Matter of the Application of the Dayton Power and Light Company for Approval of a Limited Waiver of Ohio Adm. Code 4901:1-18-06(A)(2).)	Case No. 18-1876-EL-WVR
)	
In the Matter of the Application of the Dayton Power and Light Company for Approval of Certain Accounting Methods.)	Case No. 18-1877-EL-AAM
)	
In the Matter of the Application of the Dayton Power and Light Company for Administration of the Significantly Excessive Earnings Test Under R.C. 4928.143(F) and Ohio Adm. Code 4901:1-35-10 for 2018.)	Case No. 19-1121-EL-UNC
)	
In the Matter of the Application of the Dayton Power and Light Company for Administration of the Significantly Excessive Earnings Test Under R.C. 4928.143(F) and Ohio Adm. Code 4901:1-35-10 for 2019.)	Case No. 20-1041-EL-UNC
)	
In the Matter of the Application of The Dayton Power and Light Company for a Finding that its Current Electric Security Plan Passes the Significantly Excessive Earnings Test and the More Favorable in the Aggregate Test in R.C. 4928.143(E).)	Case No. 20-680-EL-UNC
)	

INITIAL POST-HEARING BRIEF OF THE SIERRA CLUB

I. Introduction

Sierra Club respectfully submits this brief in support of the Electric Vehicle (“EV”) Rebate Program included in the Joint Stipulation and Recommendation (“Stipulation”). If approved, the EV Rebate Program would create incentives for third parties to deploy EV charging stations where

they are needed most: at the home, at work, and along highway corridors. Lack of infrastructure is a critical barrier to EV adoption. The EV Rebate Program is thoughtfully designed to help surmount that hurdle and improve access to clean transportation options for all DP&L customers. The program would support charging stations for electric transit and school buses in addition to passenger cars; it targets key locations for infrastructure, including dedicating 20 percent of rebates to multi-unit dwellings—an underserved but critical segment; and it includes customer education.

The \$5.1M program is also modestly sized, particularly in light of the many ratepayer benefits that it will support. Increased EV adoption will support improved utilization of the electricity grid, resulting in benefits for all DP&L customers. The public health, energy security, economic and environmental benefits that result from transportation electrification will also accrue to ratepayers. Finally, and critically, the program’s emphasis on robust data collection, reporting, and continued stakeholder engagement makes it a true pilot. These provisions will ensure that the program supports learnings that will help maximize the benefits from this and future programs, and help the Commission continue its efforts carefully tailor the role for electric utilities in the EV marketplace. For these reasons, explained in more detail below, Sierra Club urges the Commission to approve the EV Rebate Program together with the Stipulation.

II. Argument

In reviewing a proposed stipulation, “[t]he ultimate issue for the Commission’s consideration is whether the agreement . . . is reasonable and should be adopted.”¹ In conducting this inquiry, the Commission has traditionally considered three criteria: (1) whether the settlement is a product of serious bargaining among capable, knowledgeable parties; (2) whether the

¹ *In The Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 16-1852-EL-SSO, *et al.*, Opinion and Order (Apr. 25, 2018) at 49.

settlement, as a whole, benefits ratepayers and the public interest; and (3) whether the settlement violates any important regulatory principle or practice.²

Sierra Club submits that the Stipulation easily satisfies each of the three criteria. The Stipulation is the product of lengthy, arms-length negotiations among capable parties. Those negotiations resulted in that significant modifications the Company's application, including the EV program. Next, the many electricity grid and societal benefits of the EV program are undoubtedly in the ratepayer and public interest, as well as the valuable learnings that the pilot will generate. Last, far from violating a regulatory principle or practice, the EV Rebate Program will advance state law objectives and the Commissions' own vision for grid modernization that was developed through the PowerForward process.

a. The EV Rebate Program was significantly modified and improved through a lengthy settlement process.

The record clearly indicates that the Stipulation is product of serious bargaining among capable and knowledgeable parties. Settlement negotiations spanned more than a year, with eight formal settling meetings, including one technical conference, and countless bilateral communications.³ The Stipulation is supported by twenty parties representing various utility customer, technology provider, business, and environmental interests, as well as Commission Staff.⁴ Sierra Club has significant experience in the design of EV-related utility programs and transportation electrification issues. Many other signatory parties share in that expertise.

² *Id.* (explaining that “the standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings” and identifying these three criteria).

³ DP&L Ex. 4 (Schroder Direct) at 13-14.

⁴ *Id.* at 12.

Underscoring the seriousness of the settlement process, the EV Rebate Program in the Stipulation is significantly changed from the Company's application. The Company's original proposal included only a vague description of a Company plan to own and operate 40-50 EV charging stations.⁵ In the EV Rebate Program contained in the Stipulation, the Company would not own any stations.⁶ More importantly, the *grid modernization* purpose for its EV program is now clear. The detailed terms in the Stipulation for the EV Rebate Program set common-sense rebate amount limits and goals for deployment by market segment; establish customer and technology provider rules that will foster innovation; and spell out what data must be collected and where and when it will be reported. These significant changes and improvements reflect the collective input and expertise of all settling parties.

b. The EV Rebate Program supports ratepayer and public interest benefits that have been previously recognized by the Commission.

In April 2018, the Commission evaluated and approved an EV program that was included in a Joint Stipulation submitted in Case No. 16-1852-EL-SSO et al., an electric security plan matter involving several smart grid programs. There, the Commission approved a \$10M EV program in recognition of "the modest cost of the [EV program], the benefits to be afforded to customers, and the vast array of benefits provided to the public interest...."⁷ The Commission identified the

⁵ See Direct Testimony of Kevin C. Hall at page 33, lines 9-20 (explaining the Company's proposal: "[a]s a commitment to the promotion of EV technology, DP&L plans to install, own, and operate between 40 and 50 charging stations throughout its service area over a three-year period. These charging stations will be a combination of Level 2 chargers and DC fast chargers.").

⁶ DP&L Ex. 4 (Schroder Direct) at 13-14 (explaining that, in the current program, "DP&L agreed not to own EV charging stations but instead will implement a rebate program to promote installation of such stations.").

⁷ *In The Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 16-1852-EL-SSO, et al., Opinion and Order (Apr. 25, 2018) at 75.

following benefits to utility customers and the public interest: “fostering the goal of increasing the number of electric vehicles,” “facilitating the travel of electric vehicles to and through the state,” “reducing carbon emissions,” and “help[ing] prepare Ohio for advances in the transportation and electric market, position the state for new industry, and balance the needs of AEP Ohio's customers throughout the Company's service territory....”⁸ The EV Rebate Program at issue in this case supports each of these benefits.

First, the EV Rebate Program is well-designed to foster the adoption of EVs and facilitate their use. The program will support charging infrastructure for multiple market-ready electric technologies: electric cars, transit buses and school buses, among others.⁹ And the EV Pilot targets deployment of stations in market segments (i.e. multi-unit dwellings, workplaces, fast charging) that will comprehensively meet the needs of EV drivers.¹⁰ This means that the stations will actually be used and will enable EV adoption by new drivers, in turn accelerating EV adoption and placing downward pressure on rates to the benefit of all DP&L customers.

Second, the program will reduce transportation emissions while also driving customer savings. DP&L Witness Schroder explains that EV Rebate Program will reduce greenhouse gases by “encourage[ing] adoption of EVs, which will reduce use of gasoline” and will support fuel cost savings for customers that are EV drivers, given the higher efficiency of EVs relative to internal combustion engine vehicles and the relative fuel costs.¹¹ The EV Rebate Program will also support

⁸ *Id.* at 78.

⁹ Stipulation at 14 (explaining that public Level 2 and fast charging stations will be available to “customers who provide transportation to the public such as mass transit, school buses, shuttle buses, taxis, and other public-serving transportation.”).

¹⁰ Stipulation at 14. (establishing that Level 2 rebates will be available as follows: 30 percent available for public charging; 50 percent available for workplace charging; and 20 percent available to multi-unit dwellings).

¹¹ DP&L Ex. 4 (Schroder Direct) at 22.

many benefits not quantified or analyzed by the Company, including improved public health and energy security.

Third, several provisions of the EV Rebate Program will help prepare Ohio for market advances and new industry while balancing the needs of DP&L customers. As a significant part of the pilot, DP&L will collect usage data from charging stations that will be used to analyze grid reliability, load growth, demand response potential, as well as a number of electricity pricing issues.¹² DP&L has agreed to share all of this data on an annual basis, and to work with stakeholders to make ongoing improvements to the pilot.¹³ As the Commission recognized in the AEP Ohio decision, this data will help the Commission “to be aware of and prepare for the potential impact on the electric market; the impact on the electric grid, electric distribution, and distribution infrastructure; and the effect, if any, on other [DP&L] customers.”¹⁴

In addition, the program strikes an appropriate balance between fostering an innovative and sustainable EV technology market while meeting the needs of EV drivers and protecting DP&L ratepayers. The terms establish minimum specifications for EV charging stations deployed under the program (e.g., requiring that all charging infrastructure shall be networked, demand-response capable, and able to record critical data and metrics), but do not dictate to charging station providers *how* they must meet those terms.¹⁵ Additionally, by requiring that all stations be demand-response capable, the Stipulation supports a future-proofed system and lays the groundwork for advanced load management programs and the delivery of grid services. Similarly, hosts or

¹² Stipulation at 16.

¹³ Stipulation at 16-17.

¹⁴ *In The Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Case No. 16-1852-EL-SSO, *et al.*, Opinion and Order (Apr. 25, 2018) at 78.

¹⁵ Stipulation at 15.

providers EV charging have the flexibility to set pricing to EV drivers, but must report on those prices as a precondition of receiving rebates.¹⁶ This preserves flexibility for site hosts to set pricing that matches on-site needs, while ensuring data is collected to promote fairness, transparency and support future intelligent charging programs.

c. The EV Rebate Program is consistent with the principles articulated by the Commission in its PowerForward report and supports state law objectives.

At the conclusion of its PowerForward process, the Commission issued “guidance to interested stakeholders regarding the future of grid modernization in the state.”¹⁷ The Commission’s policy document “represents the Commission’s vision for grid modernization and outlines a process for moving forward....”¹⁸ In it, the Commission explained that “the grid modernization plans developed by the EDUs must address how the existing distribution grid will adapt to meet the anticipated energy and power needs of EVs, so that the societal benefits associated with EV charging can be maximized.”¹⁹ As part of that effort, “the EDUs must address the need for both urban and corridor travel charging stations.” The Commission also identified several general guiding principles for grid modernization, including: careful spending of ratepayer dollars that delivers eventual net value customers; developing opportunities “to foster innovation in technology and regulation;” and ensuring that “investments and the environment fostered create societal benefit and allow for an enhanced customer electricity experience accessible to all customers.”²⁰ The EV Rebate Program proposed here is plainly consistent with the Commission’s specific, EV-related policy guidance and its general PowerForward principles.

¹⁶ Stipulation at 16.

¹⁷ OCC Ex. 66 (PUCO PowerForward Roadmap) at 5, fn. 1.

¹⁸ *Id.*

¹⁹ *Id.* at 20.

²⁰ *Id.* at 8.

In addition, the deployment of additional charging stations advances Ohio's statutory policy goals. The State's goals include a "diversity of supplies and suppliers," the provision of "appropriate incentives to new technologies" and "facilitating the state's effectiveness in the global economy."²¹ Providing support for transportation electrification facilitates each of these goals.

IV. Conclusion

For the reasons stated above, Sierra Club urges the Commission to approve the EV Rebate Program together with the Joint Stipulation.

Dated: February 12, 2021

Respectfully submitted,

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²¹ R.C. 4928.02 states in part: "It is the policy of this state to do the following throughout this state: [...] (C): Ensure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers... [...] (J): Provide coherent, transparent means of giving appropriate incentives to new technologies that can adapt successfully to potential environmental mandates; [...] (N) Facilitate the state's effectiveness in the global economy."

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Initial Post-Hearing Brief of the Sierra Club* was served by electronic mail, upon the following Parties of Record, this 12th day of February, 2021.

/s/ Joseph Halso

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