

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the	:	
Reconciliation Rider of The Dayton	:	Case No. 20-165-EL-RDR
Power and Light Company	:	
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**INITIAL BRIEF SUBMITTED ON BEHALF OF
THE STAFF OF THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**On Behalf of the Staff of the
Public Utilities Commission of Ohio**

November 13, 2023

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INTRODUCTION

This case concerns Vantage Consulting, LLC’s (“Vantage” or “Auditor”) independent audit of The Dayton Power and Light Company d/b/a AES Ohio (“AES Ohio” or the “Company”) Reconciliation Rider for the period spanning November 1, 2018, through December 31, 2019. The final Audit Report for this proceeding was filed on October 7, 2020, and detailed Vantage’s review of costs associated with AES Ohio’s contractual entitlement to a share of the electrical output of generating units owned by the Ohio Valley Electric Corporation (“OVEC”). Though the Audit Report recommends continued and/or further evaluation of certain practices by the Company related to the Rider, the Auditor found no instances of imprudence.

The existence of the Reconciliation Rider has already been approved by the Commission. Stated differently, whether or not there should be a Reconciliation Rider is not up for re-litigation in this proceeding. Despite that fact, many of the arguments made

by intervenors throughout the duration of this case (including during the evidentiary hearing) focus on the existence of the Reconciliation Rider, and not the actual audit performed for this proceeding. Moreover, the Commission recently reaffirmed the operation of a similar rider in another case involving the same OVEC plants.¹

BACKGROUND

On February 22, 2016, AES Ohio filed its third electric security plan (“ESP”) application (“ESP III”). On October 20, 2017, the Commission issued an Opinion and Order modifying and approving an amended stipulation and establishing ESP III with an effective date of November 1, 2017.² As part of the approved ESP III, the Commission authorized AES Ohio to recover or credit the net proceeds of selling OVEC energy and capacity into the PJM Interconnection, LLC (“PJM”) marketplace and OVEC costs through a Reconciliation Rider. The Reconciliation Rider became effective as part of ESP III and is subject to annual true-ups.³

On September 14, 2018, in Case No. 18-1379-EL-RDR, AES Ohio filed an application to update the Reconciliation Rider for the period spanning November 1, 2018, through October 31, 2019. The application proposed an increased rider rate of \$0.68 per month (for a typical residential customer using 1,000 kilowatt hours) and new tariff language clarifying that the Reconciliation Rider is subject to reconciliation, including refunds to customers, based upon the results of audits as approved and ordered by the

¹ *In re Duke Energy Ohio, Inc.*, Case No. 20-167-EL-RDR, Opinion and Order (September 6, 2023).

² *In re the Application of The Dayton Power and Light Co. to Establish a Std. Serv. Offer in the Form of an Electric Security Plan*, Case No. 16-395-EL-SSO, et al. (ESP III Case), Opinion and Order (Oct. 20, 2017).

³ *Id.*

Commission. Ultimately, the Commission issued a Finding and Order approving the Company's application.⁴

On January 29, 2020, the Commission issued an Entry directing Staff to issue a request for proposal ("RFP") for audit services to assist with a prudency and performance audit of AES Ohio's Reconciliation Rider for the period of November 1, 2018, through December 31, 2019. By Entry dated March 11, 2020, the Commission selected Vantage to conduct the audit. Pursuant to the RFP, the final audit report was due to be filed with the Commission on September 16, 2020. The deadline for filing the final audit report was later extended to October 7, 2020, and the final report was filed on that date.

ARGUMENT

A. The Audit Report Should Be Adopted by the Commission.

Vantage was selected by the Commission to conduct an independent audit of AES Ohio's Reconciliation Rider for power provided by OVEC for the period of November 1, 2018, through December 31, 2019.⁵ Vantage prepared a report containing the results of its Audit Report that was filed on October 7, 2020. The public version of the Audit Report was admitted as evidence during the hearing as Staff Exhibit 2, while the confidential version of the Audit Report was admitted as Staff Exhibit 2C.

The Audit Report was sponsored at the hearing by Michael C. Boismenu, P.E. The direct testimony of Mr. Boismenu was admitted into evidence as Staff Exhibit 1. Mr.

⁴ *In re The Dayton Power and Light Co.*, Case No. 18-1379-EL-RDR, Finding and Order (Oct. 24, 2018).

⁵ Case No. 20-165-EL-RDR, Entry (March 11, 2020) at 1.

Boismenu is a licensed Professional Engineer and has over 50 years of experience in the electric power industry.⁶

As explained in the Audit Report, AES Ohio is a Sponsoring Company of OVEC, meaning that AES Ohio, under a contract known as the Amended and Restated Inter-Company Power Agreement, is entitled to a share of OVEC's electricity generation, and must also pay that same share of OVEC's costs.⁷ AES Ohio's net costs (its share of OVEC's costs less sales of energy and capacity) are passed on to AES Ohio's ratepayers through the Reconciliation Rider, established in the Commission's decision in Case No. 16-395-EL-SSO.⁸ The purpose of the audit was to establish the prudence of all the costs and sales flowing through the Reconciliation Rider, and to investigate whether AES Ohio's actions were in the best interest of its retail ratepayers.⁹

In the course of its audit, Vantage considered the following items: disposition of energy and capacity, fuel and variable costs, capital expenses, environmental compliance, power plant performance, and utility perspective, as required by the RFP.¹⁰ Vantage used data obtained from AES Ohio, as well as publicly available sources such as the U.S. Energy Information Administration.¹¹

⁶ Staff Ex. 1 at 2.

⁷ Staff Ex. 2 at 7.

⁸ *Id.*

⁹ *Id.* at 1.

¹⁰ Staff Ex. 2 at 7-8.

¹¹ *Id.*

Vantage concluded that, in general, the processes, procedures, and oversight applied by AES Ohio with respect to its OVEC participation were not imprudent.¹²

Vantage did make several recommendations, including:

1. AES Ohio should prepare a report for the Commission detailing the potential ancillary services that these plants could provide to PJM, along with the projected annual revenue for these services. If these plants are not suitable for certain ancillary services, the report should explain why.
2. AES Ohio should examine small projects to clearly determine whether they are capital in nature.
3. AES Ohio should formally document the procedures for the calculation of cost recovery of OVEC capital costs and expenses in the Reconciliation Rider.
4. The OVEC Operating Committee should continue to monitor the projected implementation of environmental regulations and their impact on OVEC operations.

The Audit Report prepared by Vantage complied with the Commission's directives. No evidence at the hearing showed that the Audit Report was inaccurate. While certain parties may prefer a different outcome, the audit was conducted appropriately and consistent with the Commission's directives. Therefore, the Commission should adopt the Audit Report.

¹² Staff Ex. 2 at 7.

CONCLUSION

The scope of this proceeding was clearly defined by the Commission. The Commission determined that the audit would review any retail charges flowing through AES Ohio's Reconciliation Rider. The purpose is not to relitigate the existence of the Rider. The Auditor completed its audit as directed by the Commission. The Commission should adopt the conclusions and recommendations made by the Auditor.

Respectfully submitted,

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**On Behalf of the Staff of the
Public Utilities Commission of Ohio**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the **Initial Brief**, on behalf of the Staff of the Public Utilities Commission of Ohio, has been served upon the below-named counsel via electronic mail, this 13th day of November 2023.

/s/ Thomas G. Lindgren

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Summary: Brief Initial Brief Submitted on Behalf of the Staff of the Public Utilities
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PUCO.