

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of)	Case No. 09-702-EL-AEC
The Dayton Power and Light Company and)	
Airgas, Inc. for Approval of a Reasonable)	Case No. 09-1700-EL-EEC
Arrangement to Incorporate Customer)	
Participation in PJM's Demand Response)	
Programs into DP&L's Demand Reduction)	
Program		

**THE DAYTON POWER AND LIGHT COMPANY'S COMMENTS ON MOTION TO
INTERVENE BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

The Dayton Power and Light Company ("DP&L" or "the Company") and Airgas, Inc. ("Airgas") filed a Joint Application for approval of a reasonable arrangement under which Airgas would commit its participation in PJM demand response programs into DP&L's demand reduction program in exchange for a one time payment of \$46,500 to Airgas ("Agreement"). The OCC has moved to intervene ("Motion to Intervene"), claiming that as the representative of 460,000 residential customers of DP&L, it is entitled to participate in this proceeding because residential customers "may be adversely affected by this case, especially if the consumers are unrepresented in a proceeding where a special arrangement DP&L has with Airgas could result in a failure by DP&L to reduce actual peak demand."

The OCC bases its Motion to Intervene on the false premise that because PJM's demand response programs do not require an actual peak demand reduction, then "the future need for new generation capacity or third party electric purchases becomes more

likely.”¹ This underlying assumption is simply incorrect, and in fact PJM’s demand response programs do offer an effective means for reducing the need for construction of additional generation capacity within the PJM region, and Airgas’ participation in the program reduces the demand for electricity within the DP&L zone.

Although DP&L does not believe that residential customers are impacted in any way by this filing, DP&L does not oppose OCC’s motion to intervene. However, several statements contained in OCC’s motion to intervene are either incorrect or misleading and therefore the Company requests the Commission consider its comments with respect to these important issues.

II. COMMENTS

A. Residential Customers Do Not Have a Direct, Pecuniary Interest in the Outcome of this Proceeding.

The costs associated with this special arrangement with Airgas will never be allocated to residential customers. Pursuant to paragraph 5 of the Stipulation and Recommendation in *In the matter of the Application of the Dayton Power and Light Company for Approval of its Electric Security Plan*, Case No. 09-1094-EL-SSO (“ESP Case”), DP&L will allocate cost recovered under its Energy Efficiency Rider (“EER”) based upon the cost of programs for the respective customer classes. Consequently, the costs of the incentive in this Agreement with Airgas, and any others relating to a customer’s commitment of its PJM demand response program participation for integration into DP&L’s demand response program portfolio will be allocated to non-residential customers—not the residential customers represented by the OCC. Perhaps because the OCC understands that residential customers will not bear any direct costs

¹ Motion to Intervene, at 2.

associated with this special arrangement, the OCC has attempted to find some indirect costs that could conceivably affect a residential customer under certain speculative circumstances. But the OCC's arguments with respect to these indirect costs are strained and based on false premises. The OCC strains even to allege that its constituency "may be adversely affected by this case, especially if the consumers are unrepresented in a proceeding where a special arrangement DP&L has with Airgas could result in a failure by DP&L to reduce actual peak demand. Such a failure to reduce DP&L's peak demand ultimately could result in a significant economic impact on customers."² The OCC's own words demonstrate the speculative nature of the claim.

B. The OCC Erroneously Claims that Demand Reduction Programs Must Actually Reduce Demand on the System.

In its review of SB 221, OCC overlooks §4928.66(A)(1)(b) which requires Ohio electric distribution utilities to "implement peak demand reduction programs that are *designed to achieve*" reductions in load. The PJM demand response programs are clearly designed to achieve reductions in peak load within the PJM system, and within DP&L's zone in the case of Airgas' participation in this program. There is no requirement in SB 221 that in order to meet the demand response targets contained in the law, the utility must actually interrupt load. Furthermore, it is not in the state's economic best interest, nor DP&L's customers' best interests, to physically interrupt electric service where there is no electrical emergency on the system, and when there is more than sufficient supply to meet customer electrical demands. OCC's claim that actual interruption must take place is incorrect interpretation of the law, costly to all customers, and misplaced in today's economic environment.

³ Joint Application, at 8.

OCC's claim of a potential "economic impact to customers" is based upon the false premise that only an actual peak demand reduction will allow electric utilities to avoid building new peak generation facilities or purchasing power. The OCC ignores the fact that demand reduction through commitments by customers to reduce energy usage is an effective means by which to reduce the need (and cost) to construct new generation facilities. The benefits of PJM demand response programs have been integrated into the overall planning of the electric needs of the region. Integration occurs in that the generation capacity procured within PJM in order to meet DP&L's peak load obligation is reduced by the amount of capacity savings that is procured through the load reduction program in which Airgas and others participate. Encouraging arrangements such as the one for which approval is sought through this application will result in the need for *less generation capacity* necessary to meet DP&L's peak load obligation. The essential concept that OCC overlooks is that a *commitment* to a peak demand reduction is far more relevant when planning how best to meet a projected future peak load than an *actually occurring but uncommitted* peak demand reduction.

C. Customers Will Not Pay Twice for Administration of the PJM Demand Response Program.

The OCC next claims that approval of the agreement between DP&L and Airgas would result in all of DP&L's customers—including residential customers—paying twice for PJM's administration of its peak demand reduction programs. This claim, too, is false. First, while the OCC correctly points out that PJM's costs to administer its demand reduction programs are charged to DP&L,³ the OCC fails to recognize that DP&L and its customers realize significant benefits from these PJM programs, which benefits are

³ Joint Application, at 8.

discussed in detail in the Joint Application.⁴ There is nothing inappropriate about DP&L customers sharing in the administrative costs of programs from which it realizes a direct benefit.

Second, the OCC incorrectly views the \$46,500 incentive payment under the Airgas contract as a cost of PJM administration of its programs.⁵ One need look only to the contract language to see that the incentive payment is being made in consideration for all of the many customer commitments made pursuant to paragraph 1 of the Agreement. It is not a payment in any way related to PJM administrative costs.⁶ The OCC's efforts to characterize the incentive payment as a second payment of PJM administrative expenses is baseless. Regardless of how the incentive payment is characterized, the fact remains that the OCC's constituency will not face any impact to rates as a result of the payment because such costs will not be allocated to residential customers.

D. Intervention by the OCC Will Unduly Prolong or Delay the Proceedings.

As DP&L stated at the outset, it does not oppose the OCC's intervention in this proceeding. DP&L would point out however that since residential customers simply will not see a direct pecuniary impact from the outcome of this case, the mere participation by a non-interested party will inherently cause unnecessary delay. In addition, the potential of setting precedent for the OCC's intervention in these types of proceedings presents a risk of delay in similar proceedings for all utilities in the future, by creating a bottleneck

⁴ Id.

⁵ Motion to Intervene, at 3.

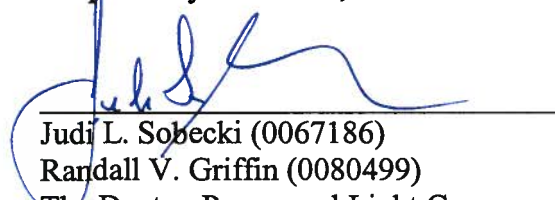
⁶ It also bears noting that it is plain from the contract language that the incentive payment is made to Airgas, not PJM. A payment for PJM Administrative fees would not be made to Airgas.

in the system which will be detrimental to the mercantile customers seeking to commit both their energy and demand, and seriously impede the utilities' ability to meet their statutory energy and demand reduction targets.

III. CONCLUSION

For the reasons described earlier, the Agreement itself between DP&L and Airgas and those like it, represents an effective means in accomplishing the goal of minimizing the need for the construction of additional generation capacity, thereby ensuring a demand reduction benefit accrues to all customers. In addition, as explained in great detail in the Joint Application, DP&L customers as a whole will benefit in many ways from encouraging PJM demand response program participation.⁷ All customers will benefit as a product of this Agreement and those like it.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Judi L. Sobecki', is written over a horizontal line.

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⁷ Joint Application, ¶ 16.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served via first class mail, postage prepaid, this 2nd day of October, 2009 upon the following:

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Summary: Comments The Dayton Power and Light Company's Comments on Motion to Intervene by the Office of The Ohio Consumer's Counsel electronically filed by Mrs. Karen M Boman on behalf of Sobecki, Judi L. Ms.