

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of The Dayton Power and)
Light Company's Annual Alternative) Case No. 10-489-EL-ACP
Energy Portfolio Status Report.)

**COMMENTS
BY
THE OHIO CONSUMER AND ENVIRONMENTAL ADVOCATES**

I. INTRODUCTION

On April 15, 2010, Dayton Power and Light Company ("DP&L" or "Company") filed an Alternative Energy Portfolio Status Report ("Report") for calendar year 2009. The Report is required by Ohio Adm. Code 4901:1-40-05(A) and shows what progress DP&L has made with regard to implementing alternative energy. The Office of the Ohio Consumers' Counsel ("OCC"), the Environmental Law & Policy Center ("ELPC"), and the Ohio Environmental Council ("OEC") (collectively OCC, ELPC, and OEC are referred to as "OCEA") jointly and individually file comments¹ addressing the Company's Report.

II. COMMENTS

According to Ohio Adm. Code 4901:1-40-05(A), "[E]ach electric utility and electric services company shall file...an annual alternative energy portfolio status report analyzing all activities undertaken in the previous calendar year to demonstrate how the applicable alternative energy portfolio benchmarks and planning requirements have or

¹ Ohio Adm. Code 4901:1-40-05(B).

will be met.” To comply with the rule, DP&L must submit the following information as part of the annual alternative energy portfolio status report:

(1) Beginning in the year 2010, the annual review will include compliance with the most recent applicable renewable- and solar-energy resource benchmark.

* * * *

(3) The annual compliance reviews shall consider any under-compliance an electric utility or electric services company asserts is outside its control, including but not limited to, the following:

- (a) Weather-related causes.
- (b) Equipment shortages for renewable or advanced energy resources.
- (c) Resource shortages for renewable or advanced energy resources.²

A. DP&L did not prove its Compliance with the 2009 Solar benchmark requirements because of a lack of documentation including with respect to the Company’s sharing of Renewable Energy Credits with DPLER.

DP&L asserts that it has complied with Ohio Adm. Code 4901:1-40-05(A) and met the 2009 renewable benchmarks established by Am. S.B. 221.³ DP&L states that it complied with the Ohio Solar benchmark requirements as a result of the Commission’s adjustment to lower that requirement for DP&L pursuant to Case No. 09-1984-EL-ACP.⁴ To the contrary, it is not clear that DP&L has complied with the benchmark requirements, as a result of its decision to combine its efforts with its affiliate, Dayton Power and Light Energy Resources (“DPLER”).

² Ohio Adm. Code 4901:1-40-05(A).

³ Status Report at 6.

⁴ Status Report at 6.

DP&L explained its relationship with DPLER by asserting in its Status Report that it meets the Solar benchmark requirements through a “proportionate share of Ohio-based Solar Renewable Energy Credits (‘RECs’) obtained to meet the Benchmarks of both DP&L and DPLER and which were in hand as of April 15, 2010.” The Status Report lacks an explanation of what the “proportionate share” is. It is unclear through this Status Report as to how DP&L and DPLER are allocating what they consider “a proportionate share” for each. In addition, DP&L provides no explanation in the Status Report as to why it is obtaining RECs to meet the benchmarks for DPLER.

The allocation of RECs between DP&L and DPLER should also mean a proportionate share of the costs associated with the procurement of the RECs is made. The Status Report does not address how the two companies divided the associated costs. Without knowing the specifics of this allocation process, it is not possible to determine that DP&L’s customers, including the residential class, are not paying compliance costs related to meeting DPLER’s annual benchmarks.

In addition to questions concerning the allocation of RECs between DP&L and DPLER to meet the Solar requirements, DP&L does not explain how it ensures that each REC is only counted once for purposes of meeting the Solar requirements under Ohio Adm. Code 4901:1-40-05(A)(1). DP&L has failed to identify the specific RECs it obtained – versus the RECs obtained for DPLER -- through either an account log or other identifier. As such, DP&L has not shown that the RECs allocated to DPLER are not also counted by DP&L for its annual compliance report.

B. The PUCO Should Establish a Procedural Schedule that Allows the Parties An Additional Opportunity for Comment After Further Discovery and, If Needed, an Opportunity for a Hearing.

The Company's Report lacks the requisite information for the Commission to determine whether DP&L met the Renewable and Solar Benchmarks required by R.C. 4928.64.⁵ The PUCO needs an adequate record for its decision-making, a record that DP&L has not provided.⁶

The Report also lacks the necessary information for the interested parties to make recommendations to the Commission for avoiding adverse effects⁷ on the public and for "significantly contribut[ing] to full development and equitable resolution of the factual issues."^{8, 9} The undersigned OCEA members, collectively and individually, respectfully request additional time to develop the record through discovery. Without further information to support DP&L's Report the Company has not demonstrated that its activities -- to meet the alternative energy benchmarks -- are distinguishable from DPLER's activities. Once the parties can obtain specific information about the "proportionate" split of RECs between DP&L and DPLER there should be an additional opportunity to comment and, if needed, a hearing.

III. CONCLUSION

DP&L's Status Report failed to provide the information needed to adequately assess the renewable benchmark efforts made by the Company in 2009. The RECs

⁵ Report at 3.

⁶ See R.C. 4903.09 (regarding the record to be used for PUCO decision-making).

⁷ See R.C. 4903.221 (allowing persons who may be adversely affected to intervene).

⁸ R.C. 4903.221(B)(4).

⁹ Report at 3.

obtained by DP&L must be distinguishable and separate from those of DPLER in order to determine the individual success of the Company in achieving its statutory benchmarks. Therefore, the undersigned OCEA members recommend that the Commission establish a procedural schedule that allows the parties an additional opportunity for comment after further discovery and, if needed, an opportunity for a hearing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has served a copy of the foregoing
Comments on the following counsel, via electronic transmission, this 17th day of May
2010.

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/17/2010 4:48:58 PM

in

Case No(s). 10-0489-EL-ACP

Summary: Comments Comments by the Ohio Consumer and Environmental Advocates electronically filed by Ms. Deb J. Bingham on behalf of Poulos, Gregory J.