

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of Application )  
of The Dayton Power and Light ) Case No. 96-406-EL-COI  
Company for Approval of a )  
Conjunctive Electric Service Pilot )  
Program Rate Schedule )

COMMENTS AND OBJECTIONS OF VOLUNTEER ENERGY SERVICES, INC.

I. INTRODUCTION

Volunteer Energy Services, Inc. ("Volunteer") is engaged in the business of natural gas and electricity marketing, aggregation and related services to end-users. Volunteer intends to offer aggregation services to customers located on The Dayton Power & Light Company's ("DP&L") system.

After careful review, Volunteer submits that DP&L filing in this case is deficient and should be rejected by the Commission. As Volunteer will discuss in these comments, DP&L's CES tariffs do not conform with the Commission's CES Guidelines ("Guidelines") issued pursuant to the Commission's December 24, 1996 Finding and Order ("F&O") and February 24, 1997 Entry on Rehearing ("Rehearing Entry") in Case No. 96-406-EL-COI and are, in a number of important respects, contrary to the Guidelines. As such, the tariffs are unjust and unreasonable under Ohio law and should be set for hearing as provided in O.R.C. Section 4909.18.

II. DISCUSSION

The following will describe the respects in which the DP&L tariff filing in this case do not conform with, or are contrary to, the CES Guidelines.

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1. CES Guidelines Eliminated Revenue Neutrality In The Negotiated Rates Between The Aggregator And The Utility

Paragraph 6 of the Guidelines specifically states that:

"In the absence of a rate case proceeding, the rates developed for conjunctive electric service shall be negotiated between the customer's group agent and the utility."

The Commission has stated that the negotiated CES rates:

"should reflect the cost savings to the utility from the provision of aggregation service including (a) cost savings resulting from service to a class of customers with a more homogenous load factor than the class as a whole; (b) cost savings from the provision of billing services and collection activities; (c) the potential for increased or retained load; and (d) other specialized factors that the Commission has considered in the past in its approval of special contract provisions as non-discriminatory pursuant to Section 4905.31, Revised Code."

(F&O at pp. 13-14.)

The Commission clearly contemplated that there would be individual aggregation contracts with rates negotiated between the utility and aggregator to be filed and reviewed pursuant to O.R.C. Section 4905.31. Revenue neutrality was rejected by the Commission in favor of the four factors referenced above reflecting cost savings to the utility. While DP&L's tariffs contemplate such individually negotiated contracts, in the Base Charges section, the tariff states that:

"Negotiations will yield a rate structure which provides for revenue neutrality when applied to the most recent twelve months of billing determinants. Included in this revenue neutrality consideration will be any additional expenses which DP&L incurs due to the implementation of CES or the addition of the Specific Group to CES."

The Commission specifically rejected, among others, DP&L's arguments in this regard in the Guidelines. F&O at pp. 2-3.

Unfortunately, it appears that DP&L chose to ignore the Commission's F&O. Accordingly, this provision must be deleted.

2. DP&L Has Impermissibly Limited The Availability Of CES Service

In the Guidelines, the Commission rejected the utilities' attempt to limit the availability of CES service and deleted language in the proposed Guidelines allowing utilities to reasonably limit this service. F&O at p.3. Paragraph 3 of the Guidelines requires the utility to ensure that such available conjunctive electric service shall be provided to all customer classes in a non-discriminatory manner.

While the Commission allowed for a petitioning process by a utility to suggest reasonable limitations after it had actual experience with the CES program, it stated that:

"we decline to impose upfront limitations on the availability of the service in terms of the total new contracted capacity or the number of customer groups since impacts on the utility, either positive or negative, are purely speculative . . . ."

F&O at p. 4.

DP&L's tariff contains a number of improper upfront limits. First, in the Participation section, the tariff states that:

"Each customer class can initially participate in CES at a level up to 1% of its share of Company's load. Once all three classes have filled their initial 1%, an additional 1% will be added for each. This process will continue for the term of the pilot, with no ultimate limitation on participation."

Regardless of how DP&L seeks to characterize this provision, it is an upfront limitation since, for example, an "oversubscribed" class could not take additional CES service until an "undersubscribed" class had reached its share. It is similar to the limitation advocated by the OCC in this proceeding, which was rejected by the Commission. This limitation is contrary to the Guidelines and should be rejected.

In addition to the improper 1% class limitation, there are other impermissible limitations in DP&L's proposed tariff. In the Qualification section, the tariff requires that "in order to be considered a Group for the purposes of rate design, members must take or be eligible for service under the same tariff prior to signing a service agreement." The beauty of aggregation service is the ability of an aggregator to group customers, regardless of what tariff they may presently be taking service under, to achieve cost savings for both the utility and the customers. This provision would eliminate this key benefit of aggregation, and should be deleted.

Further, DP&L's CES program is limited to a maximum of 100 DP&L customers or accounts per group. (Applicable section.) This kind of limitation is not permitted in the Guidelines as it limits the testing and potential success of the program, particularly for residential customers. (F&O at p. 4.)

Finally, the DP&L CES program is not available for interruptible service. (Qualification section, Paragraph 3.) There is nothing in the Guidelines that contains these restrictions.

All of the above-cited tariff provisions conflict with the Guidelines and should be deleted.

3. Unjustified Or Impermissible Utility Costs For CES Service

Paragraph 6 of the Guidelines provides that:

"The utility may include in rates only incremental costs directly incurred by the utility in implementing the pilot project. However, any such incremental costs included in rates shall be specifically identified as to their course and shall be just and reasonable."

DP&L's tariff filing is unclear on this point. The tariff states, in discussing DP&L's revenue neutrality concept, that any

"additional expenses which DP&L incurs due to the implementation of CES or the addition of the specific Group to CES" will be charged to the Customer. (Base Charge section.) This language is impermissibly vague as it does not specifically identify which costs DP&L is talking about or state the amount of the costs to determine whether or not they are reasonable. This language should be revised or deleted.

4. Inappropriate Metering Provisions Are Included In This Tariff

In the development of the Guidelines, much discussion took place regarding metering and local facilities. The Commission ultimately rejected the utilities' (including DP&L's) arguments that a customer who installed (at its expense) special metering and local facilities required for CES service could not own and maintain such equipment. Paragraph 5 of the Guidelines provides that:

"The customer shall also have the option to purchase, own, install, and maintain all special metering and local facilities required for conjunctive electric service from other vendors provided that (a) such special metering and local facilities meet reasonable specifications which are consistent with and are maintained according to industry standards, (b) the costs, if any, incurred by the utility in maintaining the special metering and local facilities are paid by the customer, and (c) protocols are established to protect the integrity and security of the billing information produced by the special metering equipment."

DP&L's proposed tariff is at variance with the Guidelines. In the Metering section, the tariff requires that "the Member shall install his metering equipment separate, distinct, adjacent to and immediately after the Company's metering equipment." This is an unnecessary and inappropriate limit, as technology currently exists and is being developed to allow for real-time metering devices to be installed in a seamless manner on the meter itself which, through telecommunication links, transmit the meter data directly without telephone lines. DP&L's

tariff would unnecessarily prohibit this kind of technological advancement from being used in the pilot program.

Volunteer believes that this language conflicts with the Guideline requirements and should be changed accordingly.

5. Other Tariff Provisions Should Be Revised

While Paragraph 3 of the Guidelines permits, upon mutual agreement, utilities to enter into reciprocal arrangements with other utilities permitting CES across their respective certified territories, there is nothing in DP&L's tariff that indicates DP&L is willing to enter into such reciprocal arrangements. Volunteer submits that such reciprocal arrangements would be most beneficial to customers, aggregators and utilities alike, particularly for customers with state-wide accounts. Volunteer would urge that such a provision be included in DP&L's CES tariff.

III. CONCLUSION


The clock is running on the CES pilot program. The market is geared up for CES and there should be no further delay from the utilities in moving forward with the pilot program.

The Commission promptly should reject DP&L's filed tariffs in this case. Volunteer is ready to work with the Staff and the Company to prepare a new CES tariff for filing that meets the letter and spirit of the Guidelines and the needs of DP&L's customers and aggregators. If DP&L, within a very short period of time, is not willing to file revised CES tariffs to eliminate all non-conforming, inconsistent and other provisions that are or may be contrary to the Commission's Guidelines, as Volunteer's comments have outlined, then the Commission promptly should find that the tariffs are unjust and unreasonable and set this

case for hearing as provided in O.R.C. §4909.18. Volunteer further reserves its rights to provide further comments in this proceeding.

Respectfully submitted,

CLIMACO, CLIMACO, LEFKOWITZ &  
GAROFOLI CO., L.P.A.

By: 

Glenn S. Krassen  
Suite 900, The Halle Building  
1228 Euclid Avenue  
Cleveland, Ohio 44115  
(216) 621-8484 (telephone)  
(216) 771-1632 (fax)

Attorney for Volunteer Energy Services,  
Inc.

CERTIFICATE OF SERVICE

A copy of the foregoing Comments and Objections of Volunteer Energy Services, Inc. was served upon Richard P. Reid, Manager, Regulatory Operations, and Kirk Guy, Associate General Counsel, Dayton Power & Light Company, P.O. Box 8825, Dayton, Ohio 45401, and upon the following parties this 30th day of April, 1997 by regular U.S. mail, postage prepaid:

Tony Ahern  
Buckeye Power  
6677 Busch Boulevard  
Columbus, Ohio 43266-0036

Robert Burns  
NRRI  
1080 Carmack Road  
Columbus, Ohio 43210

James B. Gainer  
CINERGY Corporation  
139 East Fourth Street  
Cincinnati, Ohio 45202

Bruce Holtz  
Reduced Energy Specialists  
7095 B. East Market Street  
Warren, Ohio 44484

Catherine Morris  
415 Woodbine venue  
Baltimore, Maryland 21204-4245

Jeffrey L. Small  
Chester, Willcox & Saxbe  
17 S. High Street  
Columbus, Ohio 43215

Leila Vespoli  
Ohio Edison  
76 S. Main Street  
Akron, Ohio 44308

Robert Winter  
Monongahela Power Company  
P.O. Box 1392  
Fairmont, WV 26555-1393

Mark Kempic  
Centerior Energy Corporation  
6200 Oak Tree Boulevard  
Cleveland, Ohio 44101

Brady Bancroft  
10270 Sylvania-Hetamore Road  
Berkey, Ohio 43504

Colleen L. Mooney  
Assistant Consumers' Counsel  
Ohio Consumers' Counsel  
Columbus, Ohio 4326-0550

Denis George  
Stand Energy Corporation  
Brookwood Building  
Suite 110  
1077 Celestial Street  
Cincinnati, Ohio 45202

Barbara Hueter  
Ohio Council of Retail  
Merchants  
50 W. Broad Street  
Columbus, Ohio 43215

Mark I. Wallach  
Kevin M. Sullivan  
James F. Lang  
Calfee, Halter & Griswold  
1400 McDonald Investment Ctr.  
800 Superior Avenue  
Cleveland, Ohio 44114

Marvin Resnik  
AEP Service Corporation  
1 Riverside Plaza  
Columbus, Ohio 43266-0101



Omar Farouq  
Ohio Department of Development  
77 S. High Street  
P.O. Box 1001  
Columbus, Ohio 43266-0101

Robert Reilly  
ENRON  
6105 Twin Ledge Clve  
Austin, Texas 78731

David Rinebolt  
Ohio Partners for Aff. Energy  
P.O. Box 1793  
Findlay, Ohio 45839-1793

Christine Ericson  
Verner, Liefert, Bernhard,  
McPherson & Hand  
901 15th Street, N.W.  
Washington, DC 20005-2301

Mark Smalz  
Ohio State Legal Services  
861 N. High Street  
Columbus, Ohio 43215

Howard Petricoff  
Vorys, Sater, Seymour &  
Pease  
52 E. Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008

Sheldon Taft  
Vorys, Sater, Seymour &  
Pease  
52 E. Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008

Gary Jack  
Monongahela Power Company  
1310 Fairmont Avenue  
P.O. Box 1793  
Fairmont, WV 26555-1392

Mary Christensen  
Brickler & Eckler  
100 S. Third Street  
Columbus, Ohio 43215

Samuel C. Randazzo  
Emens, Kegler, Brown, Hill &  
Ritter  
65 E. State Street  
Suite 1800  
Columbus, Ohio 43215

Robert A. Wilkinson  
The Ohio Aggregates Association  
20 South Front Street  
Suite 200  
Columbus, Ohio 43215

Louis R. Jahn  
Southern Energy International  
4844 Crazy Horse Lane  
Westerville, Ohio 43081

Barry Cohen  
Office of Consumers' Counsel  
77 S. High Street  
15th Floor  
Columbus, Ohio 43266-0550

  
Glenn S. Krassen