

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The AES )  
Corporation, Dolphin Sub, Inc., DPL Inc. and )  
The Dayton Power and Light Company for )  
Consent and Approval for a Change of )  
Control of The Dayton Power and Light )  
Company. )

Case No. 11-3002-EL-MER

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COMMENTS OF THE OMA ENERGY GROUP

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I. BACKGROUND

On May 18, 2011, the AES Corporation ("AES") and its subsidiary, Dolphin Sub, Inc. ("Merger Sub"), as well as DPL Inc. and its subsidiary, The Dayton Power and Light Company ("DP&L"), jointly filed an application for approval of a merger of Merger Sub and DPL Inc., with DPL, Inc. emerging as a wholly-owned subsidiary of AES (the "Merger Agreement"). On June 1, 2011, the Commission issued an Entry requesting comments that "specifically identify and discuss the issues which the Commission should consider." The Commission established a July 18, 2011 deadline for the filing of initial comments and a deadline of August 18, 2011 for filing reply comments. In accordance with the Commission's request, the OMA Energy Group provides the following comments.

II. COMMENTS

As the Commission noted in its June 1, 2011 Entry, it must ensure that the proposed merger promotes the public interest and does not adversely affect any of DP&L's customer classes subject to the Commission's jurisdiction. Specifically, Section 4905.402(B), Revised Code, requires the applicant to demonstrate, and the

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Commission to find, that the merger/acquisition will promote the public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge.

AES and DP&L have identified seven distinct benefits of the proposed merger:

1. AES commits to maintain the use of DP&L's operating headquarters in Dayton, Ohio and DP&L's name for at least two years following the merger.
2. Customers will continue to receive the same high-quality service at reasonable rates that they received before the merger. DP&L's rates are currently fixed through 2012 and were approved by the Commission. Rates after 2012 will also be subject to Commission approval.
3. AES is committed to meeting customers' energy demands, and contributes to communities' capability to grow by providing reliable and responsible electric power. Customers will benefit from AES' extensive technical expertise and resources.
4. The merger will not result in further consolidation among Ohio utilities.
5. AES will not cause DPL Inc. and DP&L to implement any involuntary workforce reductions that would result in DPL Inc. and DP&L employing substantially fewer individuals in the aggregate than are employed immediately before the merger and through December 31, 2013.
6. For at least two years following the merger, DP&L will continue to provide corporate contributions and community support in the Dayton, Ohio area at levels substantially consistent with its current levels of corporate contributions and community support.
7. Upon consummation of the merger, DP&L's credit rating will remain investment grade.

The OMA Energy Group offers its comments on these commitments as well as several recommendations for the Commission's consideration to ensure that the proposed merger promotes the public interest and convenience, and does not have a detrimental impact on customers.

**A. Reliability, Power Quality and Price.**

AES and DP&L have committed to providing high-quality electric service at reasonable rates, meeting customers' energy demands, and providing reliable and responsible electric power to Ohio customers. Reliability, power quality and price are components of electric service that are of paramount importance to manufacturers in DP&L's service territory.

The Commission has performance metrics and safety and service standards governed by Commission rule. The OMA Energy Group recommends that Commission closely monitor DP&L for an extended period to ensure that the new company is maintaining the level of performance necessary to ensure that reliability and power quality are acceptable, and that customer demand is being met.

In regards to price, the OMA Energy Group acknowledges that DP&L's rates are currently fixed through 2012 pursuant to a Commission-approved electric security plan ("ESP"), and that the rates after 2012 will also be subject to Commission approval. However, the OMA Energy Group recommends that the Commission specifically instruct AES and DP&L not to pass through any merger-related costs to Ohio customers. Moreover, AES and DP&L have not committed to sharing any potential cost savings resulting from the merger with Ohio customers. The OMA Energy Group recommends that the Commission consider including a requirement that at least a portion of any cost savings resulting from the merger be returned to Ohio customers, particularly if the commitment to maintain the Ohio workforce is not extended.

**B. DP&L's Headquarters and Name.**

With regards to AES' and DP&L's commitments that DP&L's headquarters and name shall be retained for at least two years after the merger, the OMA Energy Group recommends that the Commission direct AES and DP&L to extend this commitment for five years. As the Commission knows, Dayton, Ohio has been hit particularly hard by the economic recession and lost several major employers as a result. DP&L has been a committed community partner that Dayton has come to rely upon. Just as importantly, the commitment that customers will continue to receive high quality service is more likely to be met if the headquarters and existing employees remain located in Dayton. Accordingly, the OMA Energy Group recommends that the Commission extend this commitment from two years to five years.

**C. Workforce Reductions.**

The OMA Energy Group also recommends that the Commission direct AES and DP&L to clarify and extend the commitment to not implement any involuntary workforce reductions that would result in DPL Inc. and DP&L employing substantially fewer individuals in the aggregate than are employed immediately before the merger through December 31, 2013. Specifically, it is not clear what is meant in this commitment by the terms "substantially" and "immediately." The Commission should define both terms in a manner that is consistent with the public interest. Initially, the Commission should extend the commitment from approximately two years to five years.

**D. Corporate Contributions and Community Support.**

Additionally, it is not clear what is meant by the language "substantially consistent with its current levels" in the commitment to continue to provide corporate contributions and community support in Dayton. The Commission should define this

phrase in a manner that is consistent with the public interest and should extend the commitment from two years to five years.

**E. Consolidation of Ohio Utilities.**

The final alleged “benefit” resulting from the merger is that it will not result in further consolidation among Ohio utilities. This does not appear to be a direct or indirect benefit of the merger for Ohio or Ohio ratepayers, and should not be given any weight in the Commission’s decision of whether the merger is in the public interest.

**III. CONCLUSION**

The Commission must ensure that the proposed merger will promote public convenience, result in the provision of adequate service for a reasonable rate, rental, toll, or charge, and not cause a detrimental impact on customers. The OMA Energy Group believes that its recommendations, if adopted, would further those goals. Accordingly, the OMA Energy Group respectfully submits these comments for the Commission’s consideration and requests that the Commission adopt the OMA Energy Group’s recommendations.

Respectfully submitted on behalf of  
The Ohio Manufacturers’ Association



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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Comments of the OMA Energy Group was served upon the parties of record listed below this 18th day of July 2011 via first class mail and electronic mail.

  
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