

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's)	
Investigation of Ohio's Retail)	Case No. 12-3151-EL-COI
Electric Service Market)	
)	

INITIAL COMMENTS OF THE
DAYTON POWER AND LIGHT COMPANY

The Dayton Power and Light Company ("DP&L"), hereby provides comments on the Public Utility Commission of Ohio ("Commission") Entry dated December 12, 2012 requesting interested parties to address questions relating to retail electric market design and corporate separation. DP&L provides the following comments in general and responds to each question separately below.

The Commission Entry seems to infer that the local utility has an unfair advantage over Competitive Retail Electric Service (CRES) Providers operating in the state, but this is not the case. Ohio utilities are disadvantaged on a number of fronts. First, the current state policy is leaning toward requiring utilities to sell, divest, or transfer what has traditionally been (for some utilities) the largest and most profitable function of its business (generation assets) at a time when its product (energy) is facing among the lowest market prices in recent history. This has the same financially devastating effect of requiring someone to sell their home at the lowest point in the housing market. It places the utility in an unfair financial position and may cause more Ohio utility generating plants to be temporarily or permanently taken out of service, threatening Ohio jobs, Ohio tax revenues, and causing serious financial distress to Ohio utilities.

Second, Ohio generation (whether it is owned by the utility or not) should be permitted to be bid into the standard service offer (SSO) competitive bid auctions. This Commission should encourage as much generation as available to be bid into the competitive auction. Restricting some generation from the market places utility-owned generation (much of which is located in Ohio) at a competitive disadvantage. If all of Ohio's SSO service will be sourced through competitive bid structures, the competitive bid should result in an efficient market price, with all eligible providers authorized to participate, especially generation that is locally owned and operated.

Third, having as many viable retail providers in the market as possible will lead to an efficient retail electric market in Ohio. Ohio Revised Code §4928.146 states that Ohio Electric Distribution Utilities (EDUs) are not prohibited from providing CRES in the service territories of other Ohio EDUs. Utilities should be permitted to flex the price of competitive services they offer to reflect changes in market prices, just as CRES providers are permitted to do.

Fourth, the Commission should lead an effort to provide additional education and outreach to help customers understand the values and pitfalls of buying in the competitive retail market. It has been DP&L's experience that customers are confused by unfair and deceptive sales practices that are used when CRES providers are trying anything just to make a sale. This confusion is not just about which CRES provider is affiliated with the local utilities, because other non-affiliate CRES Providers often claim to have some sort of a "relationship" with the local utility, even though such a relationship does not exist. The Commission should continue actively investigating claims of misleading sales practices and to police the marketing practices of CRES providers that operate in the state. The Commission should consider providing a hotline where customers can call the Commission to specifically lodge a complaint about CRES provider actions, contract provisions, phone calls, or materials.

DP&L's comments with respect to the questions put forth by the Commission's

December 12th Entry are set forth below.

MARKET DESIGN

(a) Does the existing retail electric service market design present barriers that prevent customers from obtaining, and suppliers from offering, benefits of a fully functional competitive retail electric service market? To the extent barriers exist; do they vary by customer class?

Response

Based on the observed increase in customer switching activity in the DP&L service territory over the past three years, it appears that the existing retail market design presents few (if any) barriers that prevent customers from obtaining, and suppliers from offering, benefits of a fully functional competitive retail electric service market. As of September 30, 2012 Electric Choice Sales Switch Rates within the DP&L Service Territory averaged over 60% system-wide, and for Residential, Commercial, and Industrial classes were reported at rates of 24.48%, 75.5%, and 94.3% respectively¹. In comparison, the same Electric Choice Switch Rates three years prior (reported as of September 30, 2009) averaged only 11% system-wide, and for Residential, Commercial, and Industrial classes were 0%, 2%, and 29.1% respectively². Furthermore, DP&L currently has 22 suppliers registered in its service territory and the majority of these suppliers are actively enrolling customers. DP&L believes that these factors indicate that a robust competitive retail electric service market currently exists. DP&L believes that experience in other utility service territories support a similar conclusion. There are no barriers to competition for CRES providers.

(b) Does default service provide an unfair advantage to the incumbent provider and/or its generation affiliate(s)?

Response

No. Significant levels of customer switching, as substantiated by the DP&L-specific switching rates referenced above, suggest that there is not an unfair advantage that is preventing customers from switching away from default service.

¹ Summary of Electric Choice Switch Rate in Terms of Sales, www.puco.ohio.gov

² id

(c) Should default service continue in its current form?

Response

The recent rate plans approved by the Commission (or those currently pending) address modifications to default service such that a generic, statewide change to default service is unnecessary.

(d) Does Ohio's current default service model impede competition, raise barriers, or otherwise prevent customers from choosing electricity products and services tailored to their individual needs?

Response

No. Please also see the response to question (b) above.

(e) Should Ohio continue a hybrid model that includes an ESP and MRO option?

Response

Ohio should keep multiple options available for standard offer service.

(f) How can Ohio's electric default service model be improved to remove barriers to achieve a properly functioning and robust competitive retail electric service electricity market?

Response

As noted in the response to question (c) above, DP&L believes that modifications to the default service model can be accommodated through Commission approval of utility-specific rate plans.

(g) Are there additional market design changes that should be implemented to eliminate any status quo bias benefit for default service?

Response

DP&L recognizes and supports state policy with the intent of improving and ensuring effective competition in the electricity markets. Any consideration for alternative default service models should be thoroughly evaluated to ensure that customers are provided safe and reliable default service, and that any additional actions or changes do not place any undue financial harm on the utilities subject to the PUCO's jurisdiction.

(h) What modifications are needed to the existing default service model to remove any inherent procurement (or other cost) advantages for the utility?

Response

The recent rate plans approved by the Commission (or those currently pending) will have the broad based effect of creating a market structure whereby wholesale electricity prices and tariff utility rates more closely track one another. At the same time, the recent rate plan structures should have the effect of minimizing procurement costs. The combined effect will likely translate into lower prices for customers.

(i) What changes can the Commission implement on its own under the existing default service model to improve the current state of retail electric service competition in Ohio?

Response

See responses to (f) and (h) above.

(j) What legislative changes, if any, including changes to the current default service model, are necessary to better support a fully workable and competitive retail electric service market?

Response

Senate Bill 221 and specifically the requirement that a certain portion of the utility's load be served from a renewable energy source are currently bypassable through the Alternative Energy Rider (AER). The implication of making the AER a bypassable rider provides a disincentive to both distribution utilities and CRES providers from investing in renewable energy projects or entering into long term renewable energy credit contracts due to the fact that customer switching causes fluctuation in the EDU or CRES providers renewable requirements. A change to the default service model that would make renewable and alternative energy requirements a non-bypassable charge recovered through distribution rates would incentivize utility investment in renewable energy generation assets and/or long term renewable energy credit contracts.

(k) What potential barriers, if any, are being created by the implementation of a provider's smart meter plans? Should CRES suppliers be permitted to deploy smart meters to customers? Should the Commission consider standardizing installations to promote data availability and access?

Response

CRES suppliers should not be permitted to install smart meters for billing purposes. The utility has the responsibility for metering services, and for safety reasons, no other provider should be permitted to offer metering that would be used for billing of utility services. EDUs follow strict metering guidelines established by the National Electric Safety Code and American Standards National Institute to which CRES suppliers are not subject.

The Commission should not consider standardizing installation to promote data availability and access to smart meters. Electric service configurations in the field are not standard and companies utilize different equipment. It would be extremely difficult for the Commission to implement and cost prohibitive for the EDU and the customer with very little or no benefit.

(l) Should the Commission consider standardized billing for electric utilities?

Response

The Commission already has a form of standardized billing in place for electric utilities. O.A.C §4901:1-10-22 and §4901:1-10-33 have very specific requirements regarding bills that are issued by the EDU. Additionally Commission approval is required before an EDU implements a bill format change. Any standardization that deviates from current requirements would increase the cost to the EDU, increase distribution costs that customers must pay, and potentially provide the customer with very little incremental benefit. If the billing enhancement is to benefit the CRES provider then they should bear the cost for implementing billing changes. Prior to considering any changes to billing for electric utilities, the Commission should thoroughly study the costs and benefits of any billing change, as well as, consider how that change will ultimately increase costs to the end user.

(j) Do third-party providers of energy efficiency products, renewables, demand response or other alternative energy products have adequate market access? If not, how could this be enhanced?

Response

With regard to energy efficiency, DP&L has been implementing programs since 2009 and it is our experience that there is a very active and competitive market. Through 2012, DP&L has spent almost \$50 million in energy efficiency program implementation and rebates, which serve to further promote market activity. In addition, DP&L has 60 energy efficiency contractors and distributors participating in its “Channel Partner” program, which is a marketing relationship DP&L has with these companies to promote energy efficiency programs.

In terms of demand response products, an active market in DP&L’s service area is driven by the PJM Demand Response program and the market price for PJM Demand Response. A high market price drives high participation and conversely, during times of low prices, market activity declines. As an example of recent market activity, in the 2011/2012 PJM delivery year, 13 curtailment service providers enrolled 241 customer sites, totaling 171 megawatts of demand response.

The renewables market is active as well in DP&L’s service area. From 2008 through 2012, the number of renewable installations in the DP&L’s service area has grown from 8 to 167. Likewise, the capacity of renewables on the DP&L distribution system has nearly doubled each year, from 42 kW at the end of 2007 to 4,756 kW at the end of 2012.

The net metering provisions that are in place today provide subsidies for customer-owned renewable generation projects, allowing them to avoid paying their fair share of transmission and

distribution services, as well as their share of low income program costs. Non-net metering customers ultimately pay for this subsidy through higher transmission, distribution, and universal service fund rates. The state of Ohio should question whether this is a subsidy it wants to continue to promote or if customer-owned renewable generation projects should stand on their own with respect to financial feasibility.

DP&L believes there is currently an active market in place for energy efficiency, demand response and renewable energy appropriately driven by competitive market forces, and no additional incentives are necessary.

(k) Does an electric utility have an obligation to control the size and shape of its native load so as to improve energy prices and reduce capacity costs?

Response

An electric utility's obligation to control the size and shape of its native load is defined by the energy efficiency requirements of Ohio Senate Bill 221. Specifically, utilities are required to offer customers programs to reduce energy usage by more than 22% by 2025 and reduce demand by 7.75% through 2018. Beyond this, in a competitive market structure such as Ohio's, the market should be permitted to balance demand, energy prices and capacity costs. As energy prices and capacity costs rise, market signals will increase the incentive for customers to save energy and participate in demand response programs. Further, in an electric choice market, electric utilities have fewer and fewer generation customers and thus do not control the market offerings, market price, nor have any incentives or disincentives to shape its native load.

CORPORATE SEPARATION

(a) Whether an electric utility should be required to disclose to the Commission any information regarding the utility's analysis or the internal decision matrix involving plant retirements, capacity auction, and transmission projects, including correspondence and meetings among affiliates and their representatives?

Response

No, the utility should not be required to disclose internal decisions or analysis related to its generation businesses. Utilities are required to notify PJM when they will not be bidding in a generating unit, often this becomes the initial notification that a generating unit may be permanently taken out of service.

(b) Should a utility's transmission affiliate be precluded from participating in the projects intended to alleviate the constraint or should competitive bidding be required?

Response

No, the utility's transmission affiliate should not be precluded from building projects in the utility's service territory. Often the transmission affiliate is familiar with the system, power

flows, knows the terrain, any right of way concerns, typical weather conditions, and is in the best position to build a transmission project.

(c) How long should a utility be permitted to retain their injection rights?

Response

Generators should be permitted to retain injection rights for as long as they own the generation.

(d) As fully separate entities, does a utility's distribution affiliate have a duty to oppose the incentive rate of return at FERC?

Response

No. Transmission costs are passed through to retail customers on a dollar for dollar basis through Transmission Costs Recovery Rider (TCRR). The distribution affiliate should be indifferent as to whether the transmission affiliate was granted an ROE incentive.

(e) Is there a potential for consumers to be misled by a utility's corporate separation structure?

Response

As with any transition the potential for periods of uncertainty and confusion will exist. As a means of alleviating both of these effects the Commission should establish a comprehensive consumer education campaign that explains the impacts of choosing a CRES provider as well as the potential pitfalls to avoid. O.A.C. §4901:1-24 details CRES certification and marketing rules in addition to other requirements. Clarity and transparency in marketing material and sales approach for all CRES suppliers, and not solely on CRES affiliates of the local utility, should be ensured to foster a fair and robust competitive marketplace.

(f) Are shared services within a 'structural separation' configuration causing market manipulation and undue preference?

Response

No. Utilities and their affiliates are required to comply with the rules as outlined in O.A.C. §4901:1-10-37. The purpose of these rules is to ensure a competitive advantage is not gained solely because of corporate affiliation. In a competitive deregulated market any incremental requirements in addition to those outlined in the above stated rule should not place any CRES Supplier at a competitive disadvantage as a result of their corporate affiliation.

(g) Should generation and competitive suppliers be required to completely divest from transmission and distribution entities, maintain their own shareholders and, therefore, operate completely separate from an affiliate structure?

Response

DP&L defers comment on this topic, in light of the ESP the Company currently has pending.

(h) Are there PJM tariffs or FERC rules that would mitigate market power and/or facilitate retail electric service competition?


Response

To DP&L's knowledge there are not current or pending PJM rules that specifically would help or hurt retail competition in Ohio.

CONCLUSION

DP&L appreciates the opportunity to comment in response to the Commission's investigation into this topic, and respectfully requests that the Commission adopt the Company's proposals set forth above.

Respectfully submitted,


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Summary: Comments of The Dayton Power and Light Company electronically filed by Mrs. Jessica E Kellie on behalf of The Dayton Power and Light Company