BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Application of The Dayton Power and Light Company for Approval of its Market Rate Offer.	)))	Case No. 12-426-EL-SSO
In the Matter of Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	)))	Case No. 12-427-EL-ATA
In the Matter of Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority.	))))	Case No. 12-428-EL-AAM
In the Matter of Application of The Dayton Power and Light Company for Waiver of Certain Commission Rules.	)))	Case No. 12-429-EL-WVR
In the Matter of Application of The Dayton Power and Light Company to Establish Tariff Riders.	)))	Case No. 12-672-EL-RDR

POST-HEARING BRIEF OF OHIO PARTNERS FOR AFFORDABLE ENERGY AND THE EDGEMONT NEIGHBORHOOD COALITION

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I. Introduction

Ohio Partners for Affordable Energy ("OPAE") and the Edgemont Neighborhood Coalition ("Edgemont"), advocates for low-income residential customers of The Dayton Power and Light Company ("DP&L"), hereby submit to the Public Utilities Commission of Ohio ("Commission") this post-hearing brief in the above-captioned matters which are applications of DP&L for approval of an Electric Security Plan ("ESP"), revised tariffs, accounting authority, a waiver of certain Commission rules, and the establishment of tariff riders.

II. Argument

A. The new DP&L ESP must expand upon DP&L's commitment to bill-payment assistance for low-income customers in DP&L's service territory.

OPAE witness David C. Rinebolt urged DP&L to continue and expand the current fuel fund that DP&L has funded since 2009 to provide bill payment assistance to low-income residential customers. OPAE Ex. 1 at 3. The current funding for the fuel fund began in 2009 at $350,000 per year with the approval of DP&L's current ESP. Id. Mr. Rinebolt recommended an increase of $400,000 for a total of $750,000 per year. This need for an increased level of the fuel fund is due to the increase in poverty in DP&L's service territory, the declines in the average household income of poor families in the years since the fuel fund was first established, and the projected increase in the cost of electricity in the event that the proposed ESP is approved..

The current fuel fund was originally authorized in Case No. 08-1094-EL-SSO, DP&L's current ESP. The same level of funding was authorized for an additional year in DP&L's Case No. 11-3002-EL-MER. This year will be the final year of the fuel fund if it is not extended. Id. at 4. The need for a fuel fund for bill payment assistance for low-income households is even greater now than in the year the fund was first authorized.

In 2012, over 3,100 customers received assistance from the current fuel fund. The average sum necessary to prevent disconnection was $129. Id. at 5. A majority of beneficiaries of bill payment assistance programs are elderly or disabled. A sizable percentage of the families receiving assistance have children under the age of 5 in the home.

Mr. Rinebolt testified that on a statewide basis, poverty has increased by 57.7% in Ohio from between 1999 and 2011. In most of the counties in the DP&L service territory, more than 30 percent of all households are eligible for benefits from the existing fuel fund. Id. at 6. While the Ohio poverty level is 14.8% statewide, the poverty level in the DP&L service territory is even higher than the Ohio average. The poverty level in the city of Dayton is 32.5%. OCC Ex. 19 at 23.

In 2012, there were 33,478 residential customers in DP&L's service territory disconnected for nonpayment. Edgemont Ex. 1. The average disconnection amount for each DP&L customer disconnected in 2007 was $375, and in 2012 the amount for each DP&L customer disconnected had risen to $469. Id. In 2012, there were 78,502 DP&L residential customers participating in Commission-ordered payment plans to avoid disconnection. In 2012, there were 35,715 residential customers on the Percentage of Income Payment Plan ("PIPP") program in the DP&L service territory. Id. In 2012, there were 5,023 PIPP customers disconnected for non-payment in the DP&L service territory. Id. Although DP&L is one of the smallest electric distribution utilities in Ohio, it has the largest percentage of customers being disconnected for non-payment, on payment plans, and defaulting on payment plans when compared to the data for residential customers of the other Ohio electric distribution utilities. OCC Ex. 19 at 16.

The Office of the Ohio Consumers' Counsel ("OCC") presented the testimony of James D. Williams who recommended that the Commission examine ways to reduce the high number of disconnections being experienced by DP&L residential customers. Mr. Williams, like OPAE witness Rinebolt, also recommended additional bill payment assistance funding for residential customers. Mr. Williams testified that DP&L residential customers are currently struggling to afford electric service under the existing ESP rates. Any change in ESP rates that does not reduce the current rates and results in higher electric bills for residential customers will have a negative financial impact on residential customers. OCC Ex. 19 at 6.

Mr. Williams testified that 7.5% of DP&L's residential customers had been disconnected for non-payment in 2012, that 7.8% of DP&L's residential customers were on PIPP, and that 17.3% of DP&L's residential customers had been on payment plans in 2012. Id. at 6. Mr. Williams estimated that 32.6% of the total number of residential customers served by DP&L (up to 148,606 of the approximate 456,000 residential customers) were struggling or unable to pay their electric bills in 2012.

Moreover, the residential customers of DP&L are far more likely to be disconnected for non-payment than customers of other electric utilities. Whereas 7.5% of all DP&L customers were disconnected in 2012, disconnections for other electric utilities in Ohio averaged 4.8%. OCC Ex. 19 at 17. Whereas 32.5% of DP&L customers on extended payment plans defaulted on payments, the average default rate for the other Ohio electric utilities was 16.94%. In addition, for a three year period, DP&L disconnections were a much higher percentage of total customers than other Ohio electric utilities. Id. at 19.

One problem for DP&L's customers has been the increase in their electric bills in recent years. DP&L's residential customers went from paying electric bills that were below the average Ohio electric bill in 2008 to paying among the highest average electric bills in the state today. DP&L residential electric bills are now 10.9% higher than the average electric bill in the state. OCC Ex. 19 at 21. The impact of the pending ESP and DP&L's storm cost recovery case could result in a DP&L customer using 750 kWh in a month paying $112.31 per month, almost 16% higher than the state average bill. OCC Ex. 19 at 22.

There has also been a 90% increase in the number of PIPP customers being disconnected for non-payment in DP&L's service territory and a 140% increase in the number of customers who need the special Commission winter reconnection procedures to have services reconnected during the winter months in DP&L's service territory. The amounts owed at the time of disconnection have increased, as have the arrearage amounts. OCC Ex. 19 at 11. Enrollment on PIPP has increased by 68%. Id.

Mr. Williams also described how unaffordable electric service harms customers financially. Residential customers are subject to a delayed payment charge of 1.5% per month if the bill is not paid by the due date. Between 2010 and 2012, residential customers paid $10,283,015 in delayed payment charges in DP&L's service territory. Id. at 13. In addition, customers who are behind in payments can be assessed an additional security deposit. If customers are disconnected for non-payment, the security deposit can be another impediment to re-establishing service. In 2012, DP&L customers paid approximately $5,000,000 in security deposits to establish or re-establish creditworthiness. Id. Furthermore, customers who are disconnected for non-payment must pay reconnection charges. For the period 2010 through 2012, DP&L residential customers who were disconnected for non-payment paid approximately $1,623,154 in reconnection charges. Customers who pay their electric bill at an authorized agent are subject to an additional $1.50 charge, and bill payments made by credit card or electronic checks are subject to a $2.95 charge per payment. The Commission has not even approved the level of the additional credit card charge. OCC Ex. 19 at 15.

All major Ohio utilities are making fuel funds available to their customers. DP&L's fuel fund was first approved as part of its first ESP. It is logical to continue this important program. In addition, the authorization and funding for the fuel fund is consistent with the policies established by the Ohio General Assembly in Am. Sub. S.B. 221, specifically, R.C. Section 4928.02(L) that makes it the policy of the state of Ohio to "[p]rotect at risk populations, including, but not limited to, when considering the implementation of any new advanced energy or renewable energy resource". The policies articulated by the General Assembly in the legislation that established the standard service offer should be followed by continuation of the DP&L fuel fund.

DP&L's position on this issue is confusing. DP&L witness Philip R. Herrington testified that DP&L's proposed new ESP advances many of the state's policies set forth at Ohio Revised Code Section 4928.02. DP&L Exhibit 8 at 4. Mr. Herrington pointed to R. C. Section 4928.02(A), which states that it is the policy of the state to "ensure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service" and to R. C. Section 4928.02(B), which states that the policy of the state is to ensure the availability of retail electric service that provides customers with the supplier, price, terms, conditions and quality options they elect to meet their respective needs". Mr. Herrington testified that these policies of the state would be met because through the proposed ESP, DP&L will procure generation to satisfy a portion of its standard service offer obligations through a competitive bidding process. Through the competitive bidding process, consumers can be assured that electric generation will be adequate, reliable, safe, efficient and nondiscriminatory. Id. at 5. The generation procured from the auction will be market priced. Customers will also retain the right to shop. Id.

Mr. Herrington also referred to Revised Code Section 4928.02(L), quoted above, with respect to the policy of the state to protect at-risk population. He stated that DP&L's proposed ESP will protect at-risk populations by ensuring that they will receive the best available market price. Id. at 7.

Mr. Herrington recognized that at-risk populations are people who are having difficulty paying their bills. Transcript ("Tr.") IV at 1122. When asked how DP&L satisfies the state policy to protect at-risk populations but did not include any continued funding for the fuel fund in this ESP filing, Mr. Herrington stated that DP&L remains "committed to the level of funding that we have provided to our low-income customers and intend to continue that within this filing." Id. He testified that "we have money set aside as part of our ongoing operations to support low-income housing, assist those who can't pay their bills." Id. at 1125. He referred to the "roughly $400,000 a year . . . to assist those customers in paying their bills." Id. He testified that although there may be nothing about continuing that funding commitment in this ESP filing, "there's nothing that's inconsistent with that commitment within this filing." Id. at 1134. He agreed that making the commitment to the fuel fund was important but that it was not relevant to the new ESP filing. He stated that the best way to protect at-risk populations is by providing the lowest possible cost of power.

If this is DP&L's position, the Commission should recognize that this is no commitment to at-risk populations at all. The market-based offer merely allows low-income customers to receive the available market price like all other customers would receive. Id. at 1127. Without the inclusion of a continuation and expansion of the existing fuel fund, the state policy specifically to protect at-risk populations has not been met.

OPAE witness Rinebolt recommends continuing and expanding the fuel fund. The Commission should require DP&L to fund its fuel fund at $750,000 per year for each year of the new ESP. In addition, OCC witness Williams recommends that the Commission take action to improve the affordability of DP&L's electric service. Mr. Williams recommends that the Commission seek ways to reduce the number of DP&L's disconnections for non-payment. OCC Ex. 19 at 25. He also recommends that the Commission seek ways to enhance the current credit and collection policies of DP&L to reduce disconnections. Disconnections could be suspended during inclement weather; due dates could be adjusted; payment plan costs could be reduced; delayed payment charges could be suspended; and bill payment charges could be reduced. OCC Ex. 19 at 26. Individualized and customized payment plans could also reduce the number of defaults. Mr. Williams also recommends that the Commission encourage DP&L to initiate a shareholder-funded bill payment assistance program to help residential customers avoid disconnections. OCC Ex. 19 at 28.

The Commission should adopt the recommendations of OPAE witness Rinebolt and OCC witness Williams. First, the new ESP should include the provision for continued and expanded funding of the current fuel fund. The fuel fund should be funded at $750,000 per year for each year of the new ESP. The Commission should also consider other ways to reduce the number of disconnections and defaults of residential customers in DP&L's service territory.

B. The Commission should reject the proposed switching tracker.

DP&L proposes to set up a switching tracker account that would defer during the new ESP for later recovery the value of lost retail megawatt-hour sales above 62%, the current level at which retail load has switched to an alternative competitive retail electric service provider. Staff witness Choueiki recommended that the Commission deny DP&L's request for the establishment of a switching tracker account. Staff Ex. 10 at 7-10. The Staff's position is that the concept of a switching tracker is anti-competitive and violates the spirit of the state policy goals at Revised Code Section 4928.02. Id. at 9.

Staff notes that retail generation service has been deemed competitive for more than ten years in Ohio. DP&L's request for relief for a service that has been deemed competitive for more than a decade is based on flawed logic. DP&L should have been planning for the long term and becoming more adaptable to the price uncertainties in the energy and capacity competitive markets. In addition, DP&L's unregulated affiliate, DPL Energy Resources, is a significant competitive provider in DP&L's service territory. A request for relief by DP&L for lost retail sales to its unregulated affiliate is an unreasonable request. Therefore, the Staff recommended that the Commission deny DP&L's request for the establishment of a switching tracker account. Staff Ex. 10 at 10.

OCC witness Daniel J. Duann agrees with the Staff that the switching tracker represents a subsidy to a particular market participant in a competitive market, that no Ohio law or regulatory principle authorizes or supports a switching tracker, and that the policies of the state of Ohio are not promoted by a switching tracker. OCC Ex. 28 at 1-2, 24-28. DP&L is asking the Commission to provide it a guarantee that DP&L will maintain a certain market share of competitive retail electric service within its service territory or collect the revenues associated with the guaranteed market share. OCC Ex. 28 at 24. There is no justification for providing such a guarantee when the market for generation within DP&L's service territory is competitive. There is also no cost incurred or service provided for the revenues to be collected by the switching tracker. Id. The switching tracker is also unrelated to DP&L's distribution and transmission business and any costs incurred by DP&L, the distribution utility. Thus, the switching tracker is unfair to ratepayers; it is also anti-competitive, unjust and unreasonable.

OPAE and Edgemont agree with the Staff, OCC, and practically every consumer and marketer intervenor in these proceedings that the proposed switching tracker is anti-competitive, unfair, unlawful, illogical, and unreasonable. The establishment of such a tracker for DP&L could also lead to similar requests from other distribution utilities with affiliates in the generation business. This is simply the wrong road and runs counter to Ohio law. The Commission must deny DP&L's request for a switching tracker account.

C. The Commission should reject the proposed Service Stability Rider ("SSR").

DP&L also proposed to recover a fixed non-bypassable charge to ensure its financial integrity. DP&L believes that its returns on equity will decrease during the new ESP period due to declining energy and capacity market prices, significant increases in customer switching, and the transition to procurement through an auction of 100% of the generation necessary to provide a standard service offer supply.

The Staff took no position of DP&L's financial integrity claim or on the SSR, but did recommend that the SSR charge, if approved, be for a period of only three years, i.e., during the Staff's recommended ESP period. Staff Ex. 10 at 12. Staff also recommended that, if approved, the revenues collected under the SSR stay with DP&L, the distribution utility, and not be transferred to any of DP&L's current or future affiliates.

OCC witness Duann found DP&L's financial integrity claims, which ostensibly justify the SSR, to be irrelevant, speculative, and unreliable. First, the financial integrity claim is irrelevant because DP&L's alleged financial integrity claim is not related to its provision of distribution service. The justifications for the SSR, such as future commodity price decreases, increased customer shopping, and the transition to auctions for generation supply, are all related exclusively to DP&L's competitive generation business. The Commission is responsible to assure the financial integrity of DP&L's distribution business only, but not the competitive generation business. The Commission does not have the statutory authority to protect shareholders from a decline in the profits of the competitive generation business.

If DP&L's distribution service was in any way facing a financial problem in the future, DP&L would have the remedy to file a distribution rate case under the traditional cost-based regulation to which the distribution business is still subject. DP&L has not filed a distribution base rate case or request for emergency relief, giving the impression that there are no financial integrity issues with DP&L's distribution service at all. OCC's witness Duann demonstrated that the financial performance of DP&L in recent years does not justify the inclusion of the SSR charge in the ESP. To the contrary, the financial performance of DP&L over the last eight years (since 2004) provides a strong argument that DP&L should not be given any additional revenues such as the SSR. OCC Ex. 28 at 42-43.

Moreover, the range of expected returns on equity projected by DP&L for future years cannot be proven to be reasonable; they are speculative and unreliable. OCC Ex. 28 at 1-2. DP&L justifies the SSR charge on the alleged deteriorating financial integrity projected in the ESP application. DP&L claims that its financial integrity will be threatened by the declining market price of electricity and increased shopping by its customers over the next five years. DP&L also projects future declining returns on equity, but these projections cannot be known or measured now. Id.

A utility's rates should recover costs and ensure financial integrity based on known and measurable expenses, revenues, and investments. DP&L's claim of deteriorating financial integrity based on projected long-term financial statements and expected returns on equity are nothing but unreliable speculation. OCC Ex. 28 at 10, 33-43. Projections cannot be verified or checked or audited. Moreover, the projected financial statements are related to competitive retail generation service and are therefore irrelevant to these proceedings. The only relevant standard for setting rates and terms of an ESP is that the Commission must find that the ESP is more favorable in the aggregate compared to a market rate option for generation service. R.C. 4928.142 and 4928.143. The financial integrity issue of a utility's generation service is irrelevant. OCC Ex. 28 at 32.

The SSR as proposed by DP&L would guarantee DP&L $687.5 million in revenues over five years, yet the ESP application is devoid of any explanation regarding how the amount of the proposed SSR was calculated. OCC Ex. 28 at 4. There is also no assurance that SSO customers who will pay the SSR will receive savings over a market rate option because the auction-based rates over the term of the ESP are not known and any future blended SSO rates are not known. Thus, SSO customers do not have any guarantee of savings under DP&L's ESP and request for collection of SSR revenues. OCC Ex. 28 at 5. It is asymmetrical for DP&L to be guaranteed revenues while customers are not guaranteed savings. A faster transition to market rates when market rates are low and less reliance on market rates if they increase would at least put customers in a similar position of achieving guaranteed savings that DP&L seeks to achieve through guaranteed recovery of the SSR. The ESP fails to balance the needs of customers with DP&L's desire to maintain its extraordinary level of profit.

The SSR also does not comport with the policies of the state of Ohio as set forth at Revised Code Section 4928.02. The SSR is a subsidy to a particular market participant, DP&L, in a competitive market. Like the switching tracker, the SSR, as a non-bypassable generation-related charge on distribution customers, is inconsistent with regulatory principles and the policy of the state of Ohio that prohibit such subsidies. The SSR is a subsidy from the regulated operation of the distribution utility to the non-regulated generation operations of DP&L. It is unjust and unreasonable for DP&L's distribution customers to provide a guaranteed profit to DP&L's competitive generation business. OCC Ex. 28 at 9.

Obviously, the SSR fails the state's policy by providing an anti-competitive subsidy to DP&L's competitive generation service. The claim for a need for the SSR based on DP&L's deteriorating financial integrity is based on DP&L's competitive generation business, yet there is also no set date in the ESP for the transfer of DP&L's generation assets to a separate affiliate. Id. at 16. Thus, the SSR violates the policy of the state by providing subsidies to the competitive generation business. Id. at 15.

DP&L's SSR is also unreasonable when market prices for generation service are lower than DP&L SSO generation rates and projections of the blended SSO rates in the next few years. The SSR is inconsistent with the state policy of ensuring the availability of reasonably priced retail electric service. DP&L's claim that its ESP ensures the availability of reasonably priced retail electric service in conformance with the state policy as its witness Herrington testified, at 5, is therefore false if the SSR is approved. DP&L's own projections show that the additional cost of the SSR will not be offset by potential generation rate savings as a result of the limited blending plan in the ESP application. OCC Ex. 28 at 14.

Another serious problem, as discussed above by OPAE witness Rinebolt and OCC witness Williams, is that DP&L's current rates are already among the highest in the state. DP&L's rates are unaffordable for approximately one-third of its residential customers. Given the unaffordability of its current electric service, it is unreasonable for DP&L to continue to charge even the same rates for electric service, much less higher rates. If the SSR is approved, the total monthly bill for a typical DP&L residential customer will increase, and, due to the flawed allocation and rate design discussed below, low-use residential customers will see an even higher bill increase than high-use customers.

The SSR also fails the state policy of protecting at-risk populations. For SSO customers, the SSR is an additional charge of approximately $6.51 per month for a residential customer using 750 kWh, on top of the DP&L proposed blended generation rate. According to DP&L's own projections, the proposed blended generation rates will already be significantly higher than the market-based auction prices during the ESP period. OCC Ex. 28 at 17. The SSR will increase the financial burdens on all customers, and particularly on those low-income residential customers who are at great risk of losing electric service. Low-income residential customers with low usage will be hit especially hard with increases in monthly total bills ranging from 4.51% to 37.38% in the first blending period under the proposed ESP with the SSR. OCC Ex. 28 at 17.

Already many DP&L residential customers have problems paying their bills. The SSR will make electric service even less affordable for at-risk customers in DP&L's service territory. Disconnections, extended payment plans, and defaults on extended payment plans will continue to be among the highest in the state. The SSR will only make a bad situation worse. Additional charges such as the SSR will clearly not protect at-risk populations as the state's policy provides.

Contrary to DP&L's witness Herrington, the DP&L ESP with the SSR will not assure at-risk populations that they will receive the best market prices. With the partial blending of market prices during the first three years of the ESP and the SSR over the entire ESP period, DP&L's customers will always pay an above-market price for SSO service during the term of the ESP. OCC Ex. 28 at 19. By DP&L's own estimate, the potential savings in generation rates ($120 million) to DP&L's customers as a result of its blending schedule in the proposed ESP is far below the amount of the SSR ($687.5 million) to be collected from all customers during the term of the ESP. Id.

OPAE and Edgemont agree that there is no legal or financial basis for the Commission to adopt the SSR. It is a charge based on generation, a competitive service that is not a concern to the Commission. Even if the Commission did consider the SSR, the evidence demonstrates that, as far as is known and measurable at this time, DP&L has no financial basis for the SSR. DP&L's economic performance over the last eight years does not support the need for an SSR or any claims of problems with DP&L's financial integrity. The SSR causes DP&L's ESP to run counter to the state's policies set forth at Revised Code Section 4928.02. It does not promote just and reasonable rates; it provides a subsidy from the regulated to the unregulated business; it does not protect at-risk populations.

While OCC witness Duann opposed the SSR and would not recommend its approval, he recommended modifications to the proposed SSR in the event that the Commission approves it. Even if an SSR is approved, it should not prevent customers from receiving savings from an accelerated blending of auction-based generation rates. The ESP should not extend beyond the end of the last blending period when the SSO rates will be entirely based on the results of a competitive auction. He also recommended that the blending ratio for auction-based prices in setting the SSO rates be 100% over the entire ESP period. He also recommended that the setting of SSO rates based on auction-based prices continue after the end of the ESP in the event a new SSO plan has not been approved at that time. Finally, he recommended that, if the SSR is approved, DP&L should not be allowed to pay a dividend to its parent companies, DPL Inc., and AES Corporation, during the term of the ESP without prior Commission approval. OCC Ex. 28 at 45-47.

OPAE and Edgemont urge the Commission to reject the SSR. If the Commission were to approve some sort of SSR, the Commission should adopt OCC's recommendations to ensure that the SSR provides value to customers, not shareholders, by limiting the purpose of the SSR to protecting the balance sheet of the regulated utility. As proposed by DP&L, the SSR guarantees revenues to DP&L but does not guarantee customers savings. DP&L's low-income residential customers cannot afford the SSR as proposed. Given that the SSR is asymmetrical and without lawful or evidentiary foundation, the least the Commission should do, if it approves an SSR, is to limit its destructive impact on low-income residential customers by allowing them to bypass the rider as provided for in Revised Code Section 4928.02(L).

D. If the Commission approves a Service Stability Rider ("SSR"), any revenues authorized should be allocated to the customer classes and to customers in proportion to each class's and each customer's consumption of electricity.

OCC witness Scott J. Rubin recommended that, if the Commission approves the SSR, any revenues authorized should be allocated to the customer classes in proportion to each class's consumption of electricity. OCC Ex. 20 at 4. DP&L proposes to collect the SSR from all customers through a combination of increases in customer charges, charges for consumption in kilowatt hours (kWh), and charges for billing demand in kilowatts (kW). Specifically, DP&L proposes to set the customer charge component of the SSR equal to the existing distribution customer charge. Thus, DP&L would effectively double the cost-based customer charge that is currently in effect. It then increases the kWh and kW charges by approximately equal percentages to recover the remaining SSR revenues. The result of this allocation is a disproportionate burden on residential customers and particularly low-use residential customers.

Through DP&L's allocation method, the residential class is being asked to pay a substantially greater percentage of SSR revenues than the proportion of electricity consumed by the residential class. DP&L proposes that the residential class pay 35.4% of the SSR, while the residential class uses only 25% of the electricity on DP&L's system. OCC Ex. 20 at 8

DP&L has not prepared a cost of service study for this ESP case and has not provided any cost-based analysis to support its proposal. There is no policy justification for DP&L's proposal. A residential customer who uses 200 kWh per month would face a 12% increase while a high-use customer using more than 2,000 kWh would receive a decrease. All residential customers using less than 2,000 kWh per month would see their overall bills increase. There is no justification for the result of small users receiving bill increases when they have little to do with causing the alleged cost to be incurred. OCC Ex. 20 at 15. .

Because the SSR is solely related to costs associated with the kilowatt hours of electricity sold to customers, it is properly allocated to each customer class on a kWh basis. OCC Ex. 20 at 18. Doubling the customer charge and allocating a portion of the charge based on customer class capacity peaks simply shifts costs from the industrial class and mercantile customers to small business and residential customers. If the Commission approves some form of SSR revenues to DP&L, which OPAE and Edgemont do not recommend, the least the Commission should do is to allocate the costs of the SSR fairly on a per kWh basis.

Conclusion

The proposed ESP should not be approved. The Commission should make the following additions and modifications to the DP&L proposed ESP in order to comply with statutory requirements.

First, DP&L's proposed ESP includes no provision to continue or expand the existing fuel fund approved in DP&L's current ESP. While DP&L contends that its commitment to its low-income residential customers remains, there is nothing in the proposed ESP to back up that commitment. The Commission should order DP&L to expand its support for low-income bill payment assistance. The evidence shows that there is a great and increasing need for low-income bill payment assistance in DP&L's service territory. DP&L should be ordered to contribute at least $750,000 annually to a fuel fund for bill payment assistance for low-income residential customers.

Second, there is no basis at all for a switching tracker. Even the Commission's staff finds it unlawful, anti-competitive, and illogical. It is a blatant attempt by DP&L to guarantee a certain level of revenue even if customers cease purchasing generation from DP&L's power plants and exercise their right to shop. The Commission must reject the switching tracker.

Third, the Commission should reject the SSR. Like the switching tracker, it is unlawful and anti-competitive. There is also no demonstration of any financial need for an SSR. DP&L's recent economic performance does not support the need for additional guaranteed revenues. Projections of the future deterioration of DP&L's financial condition cannot be verified or measured. Although the SSR should be rejected, in the event the Commission finds some basis upon which to grant DP&L additional revenues through an SSR, the Commission should modify the proposed SSR so that it does not make it even more difficult for residential customers to afford DP&L's electric service. Data shows that almost one-third of DP&L customers cannot currently afford their bills. Poverty has increased in DP&L's service territory as has the number of low-income customers. The proposed ESP will make that bad situation even worse. The Commission should adopt the recommendations of OCC witness Duann in order to lessen the impact of an SSR on residential customers.

Fourth, residential customers and particularly low-use residential customers will fare the worst under the proposed ESP. The allocation to the customer classes and the rate design for the residential class of the proposed SSR rely on excessive customer charges, i.e., per customer charges, charges not justified by the alleged purpose of the SSR. If the Commission awards DP&L SSR revenues, the collection of the revenues from customers should be based solely on their electric usage, i.e., a per kWh charge.

The policy of the state of Ohio is to protect at risk customers. The ESP as proposed by DP&L clearly does not conform to the state's policy. The Commission must modify the ESP to assure that it conforms to Ohio law.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Brief was served electronically upon the parties of record identified below in these cases on this 20th day of May 2013.

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