

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)
Dayton Power and Light Company for)
Authority to Recover Certain Storm-) Case No. 12-3062-EL-RDR
Related Service Restoration Costs)

In the Matter of the Application of The)
Dayton Power and Light Company for) Case No. 12-3266-EL-AAM
Approval of Certain Accounting)
Authority.)

**REPLY COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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I. INTRODUCTION

In these cases The Dayton Power and Light Company (“DP&L” or “the Utility”) is requesting authority to charge customers over \$65 million for Operation and Maintenance (“O&M”) expenses and capital expenditures related to major event storms in 2008, and 2012, as well as the Utility’s request for deferral of 2011 storm costs and the institution of a Storm Cost Recovery Rider¹ (“Storm Rider”). The Office of the Ohio Consumers’ Counsel (“OCC”), the Staff of the Public Utilities Commission of Ohio (“PUCO Staff”) and the Kroger Company filed Comments on June 17, 2013, in response to DP&L’s requests. OCC now takes this opportunity (provided by the May 23, 2013 Entry) to respond to some of the comments of the PUCO Staff.²

¹ Application at 2.

² OCC does not concede any issues in Comments filed by other parties that are not specifically addressed in this Reply.

As explained in OCC's Comments, the PUCO should reject DP&L's request to establish a Storm Rider.³ But if the Commission does authorize a Storm Rider for the collection of future storm costs from customers, then the Commission should require an annual baseline⁴ amount of \$4 million—not the \$2.6 million proposed by the PUCO Staff in this proceeding.⁵

OCC fully supports the PUCO Staff's position that customers should not have to pay for any costs for the storms of 2008 and 2011 that DP&L is seeking in these cases. Customers should only have to pay for the reasonable and prudently incurred O&M costs associated with the major storm event that occurred in June of 2012, less the three-year average of O&M major storm costs and all transmission costs (to be determined in the course of a future audit).

Furthermore, OCC supports the Utility's suggested rate allocation based upon distribution revenue less customer charge revenue. Finally OCC advocates that the PUCO adopt the Utility's proposed rate design for residential customers which is based upon kWh usage, thereby minimizing the impact on low-usage residential customers.

The PUCO should adopt the recommendations in OCC's Comments and Reply Comments, toward the result of protecting DP&L's customers from paying imprudent and unreasonable storm costs. If the PUCO does not reject the Application in its entirety, then the PUCO should conduct an evidentiary hearing in order to fully examine the claims made by DP&L for charging its customers.

³ OCC Comments at 20-21.

⁴ DP&L's deferrals in a regulatory asset would increase when actual annual storm costs exceed the "baseline" amount, and would decrease when actual storm costs are less than the "baseline" amount.

⁵ PUCO Staff Comments at 7.

II. REPLY COMMENTS

A. If The PUCO Authorizes DP&L To Charge Customers For A Storm Damage Recovery Rider, Then The Storm Rider Should Include A \$4 Million Annual Baseline.

The PUCO should deny DP&L's request to establish a Storm Cost Recovery Rider for the future collection of storm costs from its customers for the reasons specified in OCC's Comments⁶ However, if the PUCO does authorize the establishment of a Storm Rider on a going-forward basis, then it should include an annual baseline amount of \$4 million.

In DP&L's recent Electric Security Plan ("ESP") proceeding, the PUCO Staff correctly testified that the amount of the baseline should be \$4 million.⁷ But now in its Comments—filed just 3 months later—the PUCO Staff takes the position that the baseline should be \$2.6 million.⁸ The PUCO Staff calculated the \$2.6 million baseline amount by using the ten-year average of O&M storm costs but excludes the 2008 Hurricane Ike costs.⁹ Such a methodology should be rejected by the Commission because the PUCO Staff used a ten-year average rather than the 5-year average adopted by the PUCO in a recent case.

Instead, to protect consumers for paying too much for storm restoration efforts, and to maintain consistency in how the Commission determines an appropriate Storm Rider baseline amount, the Commission should calculate the baseline using the same

⁶ OCC Comments at 20-21.

⁷ Direct Testimony of PUCO Staff witness David M. Lipthratt at 6, PUCO Case No. 12-426-EL-SSO (March 12, 2013).

⁸ PUCO Staff Comments at page 7.

⁹ PUCO Staff Comments at page 7.

methodology used to calculate the Storm Rider baseline for AEP Ohio.¹⁰ Under that methodology, which was approved by the PUCO,¹¹ the baseline for DP&L is \$4 million. Like the PUCO Staff's baseline calculation in the AEP Ohio ESP II case, OCC's baseline calculation for this DP&L case is based on the average annual level of costs incurred by DP&L for storm damage for the most recent five-year period (2008-2012) for which major storm expense information is available. Also, similar to the manner in which the PUCO Staff calculated AEP Ohio's baseline, OCC excluded (from its baseline calculation) storm costs for 2008 due to an unusually high level of expense in that year.¹²

The methodology that OCC used in this case to calculate a \$4 million Storm Rider baseline has been established in PUCO precedent. If the PUCO approves the Storm Rider, then DP&L's customers should be afforded the similar protections as AEP Ohio's customers. OCC's calculation of the five-year average of storm costs that should be used to establish a baseline amount in this case is shown below:

¹⁰ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO *et al.*, Opinion and Order at 68 (Aug. 8, 2012).

¹¹ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO *et al.*, Opinion and Order at 68 (Aug. 8, 2012).

¹² In the AEP Ohio case, the PUCO Staff also excluded 2007 storm expense from its calculation of the AEP Ohio annual baseline amount because that year showed only \$53 in major storm restoration expense. OCC did not eliminate storm costs from any year included in its five-year average baseline calculation based on its determination that no annual storm costs were too small to warrant exclusion from the baseline calculation.

Calculation of DP&L Storm Rider Baseline Amount

Five Year Average (2008 – 2012)

| DP&L Major Event | |
|---------------------|-------------------|
| Year | Storm O&M |
| 2008 | \$ 15,950,806 (1) |
| 2009 | 774,841 (1) |
| 2010 | 302,919 (1) |
| 2011 | 10,035,297 (1) |
| 2012 | 4,763,244 (2) |
| \$ 31,827,107 | |
| (15,950,806) | |
| 15,876,301 | |
| | ÷ |
| | 4 |
| | \$ 3,969,075 |

- (1) Direct Testimony of PUCO Staff witness David M. Lipthratt, PUCO Case No. 12-426-EL-SSO at Attachment A (March 12, 2013)
- (2) Case No. 12-3062-EL-RDR, Company Response to OCC RPD 16 & 17

B. The PUCO Should Not Allow DP&L To Charge Customers For 2008 Storm Costs.

To allow DP&L to collect the costs associated with storms in 2008 from its customers would result in an unfair and unreasonable rate of return for DP&L.¹³ The PUCO Staff aptly pointed out that DP&L “has spent approximately \$149.4 million less

¹³ R.C. 4909.15(A)(2) (A utility may only recover a “fair and reasonable rate of return”).

than the amount allowed in base rates.”¹⁴ And since 1999, DP&L has earned an equity return that far exceeds what was previously approved by the Commission.¹⁵ According to the PUCO Staff, DP&L was last approved to earn a return on equity in the range of 12.06 – 13.19%.¹⁶ The Utility claims an even lower approved return on equity at 11.30%.¹⁷

But since 1999, DP&L has earned an average return on equity of 19.65%.¹⁸ In fact, in its Comments, OCC demonstrated that DP&L earned a 14.05% return on equity in 2011 alone.¹⁹ DP&L should not be granted authority to recover \$15,950,806²⁰ in storm costs for 2008 when the Utility has enjoyed excessive returns for well over a decade. Therefore, OCC agrees with the PUCO Staff’s conclusion that “the 2008 deferred expenses for Hurricane Ike and other major storms previously deferred are not appropriate for recovery.”²¹ Alternatively, the Commission should, at a minimum, deny DP&L its requested recovery of the costs of storms in 2008, other than for Hurricane Ike. And the Commission should reduce DP&L’s recovery of Hurricane Ike costs by the three-year average of major storms and all transmission related costs as discussed in OCC’s Comments.²²

¹⁴ PUCO Staff Comments at 4.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Direct Testimony of DP&L Witness Campbell at 8 and Application, Schedule D-1, line 4 (December 21, 2012).

¹⁸ PUCO Staff Comments at 4.

¹⁹ OCC Comments at 15.

²⁰ Direct Testimony of PUCO Staff witness David M. Lipthrott, PUCO Case No. 12-426-EL-SSO at Attachment A (March 12, 2013).

²¹ PUCO Staff Comments at 6.

²² OCC Comments at 4-8.

C. DP&L's Allocation Methodology Should Be Adopted and the Rate Design for Residential Customers Should Be Based Upon kWh Usage.

If DP&L is authorized to collect some amount of storm restoration costs through its proposed Storm Rider, then the Commission must decide (1) how to allocate the storm restoration costs between customer classes and (2) how to design the rates to collect the costs from customers. OCC agrees with the methodology proposed by DP&L (in its Application) for the inter-class allocation. Specifically, DP&L allocated costs to customer classes on the basis of class distribution revenue less customer charge revenue.²³

In regard to rate design among residential customers, OCC proposes that the storm restoration costs be collected from residential customers based upon a kWh charge. By contrast the PUCO Staff proposes a different mechanism to design rates based upon a fixed rate²⁴ (where all residential customers would pay the same amount regardless of their usage). The PUCO Staff's rate design proposal is not fair to low-use residential customers because low-use customers use less of the distribution system than high-use residential customers. For example, using the rate design proposed by the PUCO Staff, a residential customer using 500 kWh would pay the same amount of storm restoration costs as a residential customer using 3,000 kWh. Therefore, the PUCO Staff's proposed rate design should be rejected by the Commission. If any storm costs are collected from residential customers, then they should be collected on a per-kWh basis (after the amount has been properly allocated to the residential class on the basis of class distribution revenue less customer charge revenue).

²³ Application at 7-8.

²⁴ PUCO Staff Comments at 7.

III. CONCLUSION

The Supreme Court of Ohio has established that DP&L has the burden of proving that the storm costs it seeks to collect from customers were prudently incurred and reasonable. But as explained in OCC's Comments, the information DP&L provided to support its Application is not adequately detailed to show whether the costs were prudently incurred and reasonable. For these reasons, DP&L failed to carry its burden of proof. The PUCO should deny the Application.

Alternatively, if the PUCO does not deny the Application in its entirety, then the Commission should not allow DP&L to collect from customers the amounts it seeks. Instead, the Commission should adopt the recommendations contained in OCC's Comments and in these Reply Comments for protecting DP&L's customers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Reply Comments has been served upon the below-named persons via electronic service this 1st day of July, 2013.

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