

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)	

COMMENTS OF THE
DAYTON POWER AND LIGHT COMPANY

The Dayton Power and Light Company ("DP&L") provides the following comments in response to the Commission Entry dated June 5, 2013 in this case.

In order to respond to some of the questions raised in that Entry parties need to have a common understanding of the terminology and assumptions made in the posing of the questions. For example, how is a "fully functional competitive retail electric service market" defined and how will policy makers in the state know when one exists? What are the signs of "predatory pricing" and how will the Commission determine if and when some action should be taken? Who other than the Commission would be the independent market monitor, and how would that function exist within or outside of PUCO jurisdiction? How does the Commission measure "market power" in the retail market? How would a "state-wide integrated resource plan" be enforced in a competitive market?

DP&L looks forward to discussing these and other retail market policy issues with the Commission, its Staff and interested parties at the workshops later this year. Below are the Company's specific comments on the questions posed.

MARKET DESIGN

- (a) **Comments were filed suggesting that the relationship between an incumbent electric distribution utility (EDU) and a customer should be neither terminated nor encouraged. Does this comment pertain to distribution service or to generation service?**

Response

There is no need for the Commission to try to influence the relationship between a customer and the utility or any other service provider in a positive or in a negative way.

- (b) **If predatory pricing or other market factors become a barrier to a fully functional competitive retail electric service market, can and should the Commission regulate predatory pricing or other market factors?**

Response

DP&L has no comments at this time, but reserves the right to reply to any comments pertaining to the issue in a future filing.

- (c) **In a fully functional retail market, with no merchant or wholesale based default service, should the Commission and/or an independent market monitor have the ability to regulate market power?**

Response

DP&L has no comments at this time, but reserves the right to reply to any comments pertaining to the issue in a future filing.

- (d) **Regarding government aggregation, should the Commission require public disclosure of any information in addition to commodity pricing, such as inducements or incentives related to commodity contracts? In general, should the Commission require public disclosure of any information in addition to commodity pricing, such as inducements, incentives, or broker commission related to commodity contracts?**

Response

From a public policy perspective, all terms and conditions of government aggregation contracts should be disclosed. The city, village, or county should have the obligation to make all terms and conditions of electric aggregation service available for public inspection.

- (e) **Would a time-differentiated standard service offer (SSO) rate cause more shopping based upon customer preference for avoiding uncertainty?**

Response

Section 4928.02 of the Ohio Revised Code sets forth state policy with respect to competitive retail electric service. While one aspect of those state policy

goals encourages dynamic pricing options, that section also dictates that the state's at-risk populations be protected when implementing mechanisms to further advance the goals of competitive retail electric service. Establishing a time-differentiated SSO price and forcing customers on that rate when they otherwise would not choose a time-differentiated rate does not comport with that policy. Customers who are not interested or do not have the time to learn all they can about pricing options for retail electric service expect the state to take customers' interests into account in establishing fair and reasonable terms, conditions and prices for SSO service. Mandating time-differentiated SSO rates is not in the best interest of all customers, and is in fact harmful to some of the most at-risk customers.

Market forces should drive the implementation of time-differentiated pricing options. In a fully competitive market, the demand for a product will drive product offerings; therefore, competitive retail electric providers will ensure time-differentiated rates are available when and if there is demand in the market for such an offering.

- (f) Are competitive retail electric service providers better positioned to manage uncertainty in a retail market than EDUs that offer a flat SSO rate?**

Response

Yes. Competitive Retail Electric Service (CRES) Providers are better positioned to manage uncertainty in the market simply due to the fact they can update their pricing more frequently than EDUs and do not have to obtain regulatory approval for changes in contract terms and conditions. CRES Providers can limit their risk profile by selecting the customers they want to serve. They also can limit their market exposure by agreeing to serve customers for a specified contract length. None of these attributes are available to EDUs that continue to provide SSO service to customers located in their service territory.

- (g) Is integrated resource planning compatible with a retail market construct? If yes, how can such planning be done, given the current construct of functionally separated business units? If no, how can investment in transmission, generation, and demand management be co-optimized?**

Response

No. Investment in transmission is required to comply with the mandatory FERC/NERC reliability criteria. In addition to mandated transmission projects, PJM's planning process continually evaluates transmission projects to address economics-driven market efficiency constraints. To date, approximately \$24 billion in transmission projects have been approved within the PJM footprint. Such transmission investments are already incentivized,

monitored, and provided by the Federal Energy Regulatory Commission (FERC) and the Regional Transmission Organizations (RTOs).

Integrated resource planning is not compatible with a competitive retail market construct because the market will optimize investment in new generation. Market participants will build new generation when it makes economic and financial sense to do so. The PJM market also has a significant demand-side management program. The Commission's rules for Integrated Resource Plans should be reviewed and streamlined, eliminating all sections that require reporting on generation or transmission resources.

- (h) **Could integrated resource plans be done on a statewide basis? If so, how would such planning be accomplished? Could the Commission be helpful in facilitating this type of planning?**

Response

No. Integrated resource planning is generally not compatible with competitive retail electric markets. In a state with a competitive retail electric market, a state-wide integrated resource plan would be difficult to develop and even more difficult to enforce. Simply identifying who the participants are in the market, whether or not they plan to continue to participate in the market the following month or year, where their resources are located and when their resources are available to serve load in Ohio can only be accomplished if it is part of the CRES provider certification process.

It is the responsibility of the RTO to ensure the wholesale market is working effectively and supply is sufficient to meet the electric load requirements in the region.

CORPORATE SEPARATION

- (a) **How can the Commission ensure that decisions made on behalf of the jurisdictional EDU are not providing preferential outcomes for nonregulated entities?**

Response

The Commission already has assurance that a decision made on behalf of the jurisdictional EDU does not provide preferential outcomes for nonregulated entities because the law requires that all EDUs operate under a Commission approved corporate separation plan. The law requires that the corporate separation plan "ensures that the utility will not extend any undue preference or advantage to any affiliate...engaged in the business of supplying the competitive retail electric service..." in accordance with ORC §4928.17. Adequate legal protections are already in place to guard against an EDU providing preferential treatment to a nonregulated affiliate.

- (b) **Is there a corporate structure that will ensure decisions made by non-EDU affiliates minimize costs to ratepayers of the EDU?**

Response

Non-EDU affiliated CRES Providers will make decisions that minimize their costs and provide service in a manner that maximizes their own profitability. The Commission has an obligation to ensure customers of the EDU do not take on administrative costs of CRES Providers under the guise of furthering competition. CRES Providers should be required to pay for billing and customer service functions associated with the services they provide. To the extent CRES Provider marketing or pricing policies cause more calls to the EDUs call center, that CRES Provider should be responsible for the associated increase in costs incurred by the EDU.

- (c) **Since generation has been declared competitive in Ohio, should return on investment for EDUs be reduced in order to reflect lower risk?**

Response

A balance must be struck so that utility returns on investment continue to be set at an appropriate level to allow the utility to provide adequate, safe and reliable service at reasonable rates, while ensuring the return is sufficient to provide confidence in the financial integrity of the EDU, so as to maintain the EDU's credit rating and ability to attract capital.

EDUs that still own generation assets have experienced a sharp increase in risk associated with recovering any generation related investment due to the declaration of a competitive market in Ohio. Until such time as the market prices rise to cover the costs associated with the existing generation assets or such time as generation assets are shut down because the market does not support continued operations, the risk premium associated with EDU return on investment should increase.

- (d) **Should the capital structure of EDUs be more heavily weighted toward debt in light of the reduced risk associated with a wires-only company?**

Response

See response to (c) above in the Corporate Separation section. Only one Ohio EDU is a wires-only company at this time.

- (e) **FERC Order 1000 requires and/or enables regional transmission organizations to consider non-transmission options and merchant transmission options in their planning processes. Would a statewide integrated resource plan or shadow plan provide the market with guidance on where and/or how to make investments in conjunction with the PJM planning process?**

Response

No. Market conditions, in combination with PJM resource planning should provide sufficient, effective investment guidance for the region as a whole.

- (f) **How could a competitive process be developed to provide all transmission developers, including incumbent transmission owners, with a fair chance to bid a transmission solution to a reliability problem identified by PJM?**

Response to (f), (g), and (h)

After a lengthy national debate, FERC Order 1000 established that incumbent utilities have the right of first refusal to construct local transmission projects, which are not cost-allocated to other zones. FERC's ruling recognized that it would not be feasible to competitively bid such projects because of reliability, safety and operational issues. For transmission projects, which are cost-allocated to multiple zones---primarily larger projects, Order 1000 provides for competitive bidding.

- (g) **Should competitive bidding for transmission construction be considered in order to ensure the lowest possible cost?**

Response

See response to (f) above.

- (h) **Does the current treatment of capacity injection rights adequately address units that retire and are later reactivated?**

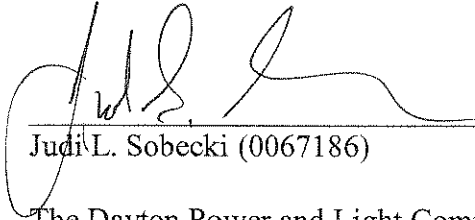
Response

See response to (f) above.

CONCLUSION

DP&L respectfully submits its comments for consideration on the Commission's inquiry and appreciates the opportunity to comment and participate in the Commission's workshops in connection with this proceeding.

Respectfully submitted,



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Summary: Comments of The Dayton Power and Light Company electronically filed by Mr. Tyler A. Teuscher on behalf of The Dayton Power and Light Company