BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company for Authority to Issue and Sell an Amount Not to Exceed $490 Million of First Mortgage Bonds, Debentures, Notes, or Other Evidences of Indebtedness or Unsecured Notes.	))))))))	Case No. 13-0893-EL-AIS

COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INRODUCTION AND BACKGROUND

On April 16, 2013, the Dayton Power and Light Company ("DP&L or "the Utility") filed an Application requesting authority "to issue and sell . . . up to $490 million principal amount of First Mortgage Bonds, debentures, notes and/or other evidences of indebtedness," in order to "refinance outstanding First Mortgage Bonds." [1] Utilities such as DP&L typically seek to charge customers for the costs of their debt. Further, DP&L's financing application comes at a time when DP&L is claiming in another case that it needs funds from customers to stabilize its finances.[2]

Realizing that the original filing did not meet the requirements of R.C. 4905.41(A)(4), DP&L filed an Amended Application on May 30, 2013, "to include the DP&L's balance sheet and statement of results for DP&L as of December 31, 2012," and deleting paragraph 10 of its original Application.[3] DP&L filed yet another Supplement to

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[1] Application at 1 (Apr. 16, 2013).

[2] *In the matter of the Application of The Dayton Power and Light Company to Establish a Standard Officer in the Form of an Electric Security Plan*, Case No. 12-0426-EL-SSO.

[3] DP&L Amendment to Application ("Amendment") at 1 (May 30, 2013).

its Application on June 28, 2013, which attempts to further explain the $13,875,000 in "Redemption Costs" set forth in Exhibit A of the Utility's Application.[4]

In the meantime, the Office of the Ohio Consumers' Counsel ("OCC") filed a Motion to Intervene on June 6, 2013, to which DP&L filed a Memorandum in Opposition on June 10, 2013. OCC filed a Reply to DP&L's Memo Contra on June 17, 2013.

Before the Public Utilities Commission of Ohio ("PUCO" or "Commission") renders a decision in this matter, it should consider the following issues. DP&L's plan for early redemption, at a cost of approximately $10 million,[5] is unjust and unreasonable such that customers should not be asked to pay for these costs. DP&L should be required to explain how the new bonds would be structured in light of the Utility's impending corporate separation. Finally, due to the possibility of corporate separation within a short period of time, DP&L should be directed to issue new bonds that mature in two to four years instead of issuing ten-year or thirty-year mortgage bonds with a much higher interest rate and future redemption costs.

II. COMMENTS

A. DP&L's Plan For Early Redemption Of Existing First Mortgage Bonds, At A Cost Of Ten Million Dollars For Which The Utility Will Likely Seek To Charge Its Customers, Is Unjust And Unreasonable.

The costs associated with early redemption three months before maturity are excessive. Excessive charges are unjust and unreasonable. The Commission is required to determine "[w]hether the amount of the issue and the probable cost of such stocks,

[4] Supplement to the Application ("Supplement") (Jun. 28, 2013).

[5] Supplement, Exhibit A. The "Early Redemption" costs include $2.2 million in Consent Costs and $7.8 million in Make-whole/Tender Costs.

bonds, notes, or other evidences of indebtedness is just and reasonable."[6] However, the redemption costs that compose part of DP&L's filing cannot be justified by the small amount of potential savings in interest payments for three months that may be achieved, especially when DP&L ultimately will ask for its customers to pay those excessive and substantial costs.[7]

While utilities have utilized early redemption of bonds in order to take advantage of declining interest rates, early redemption generally makes sense only when there is a significant difference in interest rates between the existing bonds and new bonds. Achieving significant savings on interest payments also requires there to be a considerable length of time left before the existing bonds (at a higher interest rate) mature. But neither of these two conditions is applicable in this case. Any savings in interest costs associated with the First Mortgage Bonds ("Existing Bonds") is minimal because the Existing Bonds will mature in October 2013, allowing at most a three-month time for early redemption.

DP&L estimates that the total cost of early redemption of the Existing Bonds is approximately ten million dollars.[8] However, assuming the new financing has an interest rate of 4.5%, the potential savings in interest payments, as a result of early redemption,

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[6] R.C. 4905.40(F)(2).

[7] Specifically, as a result of the large redemption costs, DP&L will need to issue more bonds. These redemption costs become part of the issuing costs, which in turn increase the monthly financing costs (interest payment plus amortized issuing costs). The higher monthly financing costs then increase the embedded costs of debt of DP&L. This increase debt costs will be reflected, for example, in the rate of return of the next rate case. Ultimately, DP&L's customers are paying for these high redemption costs.

[8] See *In the Matter of the Application of the Dayton Power and Light Company for Authority to Issue and Sell an Amount Not to Exceed $490 Million of First Mortgage Bonds, Debentures, Notes, or Other Evidences of Indebtedness or Unsecured Notes*, Case No. 13-0893-EL-AIS, Supplement to the Application, Exhibit A (June 28, 2013).

would not be more than $0.73 million for the three-month period.[9] A potential savings of just $0.73 million does not justify the $10 million worth of additional "Redemption Costs" that DP&L can be expected to seek from its customers. For these reasons, the Commission should reject DP&L's request for "Redemption Costs" as they are currently set forth in the Application because they are unjust and unreasonable.

B. DP&L Should Fully Disclose And Explain How The New Bonds Can Be Structured To Accommodate Its Potential Separation Of Generation Assets And The Need To Protect Customers.

In a typical First Mortgage Bond, the Mortgage Bonds are secured by the assets of the utility. Therefore, the New Bonds to be issued by DP&L may be secured by the First Mortgage, dated as of October 1, 1935 between the Company and the Bank of New York Mellon, Trustee.[10] The New Bonds would be secured, in part, by DP&L's generation assets. However, the pending corporate separation of DP&L, as set forth in its Electric Security Plan ("ESP") case (Case No. 12-426-EL-SSO) pending at the Commission, would require the Utility to divest its generation assets, presumably to an affiliated entity.

Divesting generation assets in the near future would require early redemption of that respective portion of the New Bonds secured by the generation assets. The costs of such an arrangement (early redemption of bonds) could be substantial. In fact, DP&L acknowledges the important need to structure the New Bonds to "accommodate a potential future separation of generation assets."[11] However, nowhere in its Application,

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[9] The potential saving in interest rate is calculated in the following way: $470 million * (0.05125 – 0.045)/12 * 3 = $734,375.

[10] See Application at 3 (April 16, 2013).

[11] See Amendment to Application at 1-2 (May 29, 2013), and Supplement to the Application, Exhibit A (June 28, 2013).

Amendment or Supplement does DP&L provide a detailed explanation of such an accommodation nor the potential costs to itself or to consumers. The structure of the New Bonds associated with the upcoming corporate separation, and the costs of implementing such a structure, should be fully disclosed and explained to the PUCO and to DP&L's customers (subject to reasonable confidentiality arrangements, if needed).

C. DP&L Should Be Directed To Issue New Bonds With A Short Maturity Of Two To Four Years Instead Of Ten-Year Or Thirty-Year First Mortgage Bonds, To Reduce The Costs That It Likely Will Want To Collect From Customers.

To the extent the Commission approves DP&L's request to issue New Bonds, it should ensure that the indebtedness is just and reasonable[12] by requiring the Utility to issue the New Bonds with a short maturity, preferably two to four years. New Bonds with a short maturity will definitely result in lower interest rates and reduced future redemption costs in comparison to bonds with longer maturity. As discussed in Section II (B) of these Comments, it is likely that DP&L will be required to transfer its generation assets to an affiliate in the next few years. New First Mortgage Bonds (if any) issued by DP&L that are secured by its generation assets will likely be redeemed at that time. Consequently, there is no need to issue Mortgage Bonds with a maturity longer than ten years as discussed in DP&L's Application, Amendment and Supplement. It will be more advantageous and consistent with market conditions for DP&L to issue bonds with a short maturity.

Consistent with financial market conditions, the interest rate for the short-term maturity bonds will be lower (considerably lower in some cases) than the ten-year or thirty-year bonds. Moreover, any redemption costs, such as the costs of tendering/calling

[12] *See*, R.C. 4905.40(F)(2).

bonds, are likely to be lower for a short maturity bond than the redemption costs associated with ten-year or thirty-year bonds. This is because bondholders are asked to forego a smaller potential interest payment in early redemption of short-maturity bonds than the early redemption of bonds with long maturity. Thus, DP&L should be required to issue New Bonds with a short maturity of two to four years.

D. The PUCO Should Disregard The Misleading Hypothetical Example Provided By DP&L In Its Supplement To The Application.

In the Supplement to the Application, DP&L included "a hypothetical example developed to explain the rationale for incurring early redemption costs and how doing so benefits both ratepayers and DP&L."[13] The hypothetical example, however, does not demonstrate that early redemption (by just three months) will benefit the customers. In its hypothetical example, DP&L assumes that the interest rate on the New Bonds will be 5.00% when the Existing Bonds mature in three months. This 5% interest rate is higher than the current 4.5% interest rate. But, there is no basis for this interest rate assumption. Interest rates can fluctuate during any period of time and DP&L admits that it "cannot foresee how the market will evolve over the coming months …"[14]

But even assuming interest rates do go up significantly within the next three months (when DP&L intends to refinance), any interest costs savings would still be considerably less than those contemplated in DP&L's hypothetic example.[15] Moreover, DP&L's hypothetical employs bonds that mature in ten years or thirty years. However,

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[13] Supplement to the Application, Exhibit A.

[14] *See* Id.

[15] *See* Section II (A) of these Comments (OCC estimates the savings will be no more than ion $0.73 million).

as discussed in Sections II(B) and (C) of these Comments, because DP&L may be required to corporately separate, any New Bonds issued by DP&L are likely to be redeemed in the next two to four years.

Therefore, the interest payment savings calculated in the hypothetical example, based on ten-year or thirty-year mortgage bonds, are misleading and impertinent. For these reasons, the PUCO should disregard DP&L's hypothetical example contained in the Supplement.

III. CONCLUSION

DP&L seeks the PUCO's permission to redeem Existing Bonds just three months before maturity and to collect from customers an unjust and unreasonable amount of redemption costs. The unjust and unreasonable nature of those redemption costs is exacerbated by the fact that DP&L is seeking to issue long-term bonds when it is likely that the Utility will have to corporately separate in the next couple of years. This Commission should require DP&L to provide a more detailed accounting of its refinance plan and limit the redemption costs that the Utility can charge to its customers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* as served on the persons stated below electronic transmission this 9th day of July 2013.

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