

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application for)
Approval of a Modification to the Unique)
Arrangement Between The Dayton Power) Case No. 11-1163-EL-AEC
and Light Company and Wright-Patterson)
Air Force Base.)

OPINION AND ORDER

The Commission, having considered the record in this matter, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

Judi L. Sobecki, 1065 Woodman Drive, Dayton, Ohio 45432, on behalf of Dayton Power and Light Company.

Mike DeWine, Ohio Attorney General, by Thomas W. McNamee, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215, on behalf of the staff of the Public Utilities Commission of Ohio.

OPINION:

I. Background

The Commission has the authority to approve a unique arrangement between an electric utility and a customer or group of customers upon application by the customer or the utility, pursuant to R.C. 4905.31 and Ohio Adm.Code 4901:1-38-05(A). Dayton Power and Light Company (DP&L) is an electric light company, as defined by R.C. 4905.03(A)(3) and a public utility, as defined under R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

On March 4, 2011, DP&L and Wright-Patterson Air Force Base (WPAFB) filed a joint application with the Commission requesting approval of a unique arrangement. An evidentiary hearing was held on May 5, 2011, in order to consider the joint application. On June 8, 2011, the Commission issued an opinion and order approving DP&L and WPAFB's application for a unique arrangement, and ordered DP&L to take all necessary steps to carry out the terms of the order.

On October 7, 2013, DP&L and WPAFB filed a joint application to modify their unique arrangement (joint application), and a request for expedited consideration. In

support of their application, DP&L and WPAFB explain that their requested modification is limited to the pricing of the existing unique arrangement, and, if approved, WPAFB would pay tariff rates for all non-bypassable charges as well as a fixed rate of \$0.02642 per kilowatt-hour and \$8.43614 per kilowatt for all bypassable charges.

An evidentiary hearing was held on November 14, 2013. At the evidentiary hearing, testimony of DP&L witness Dona R. Seger-Lawson, director of regulatory operations, was admitted in the record. Further, Staff indicated that it supports the modification of the unique arrangement and it should be approved by the Commission (Tr. at 5-6).

II. Summary of the Proceeding

In the joint application, DP&L and WPAFB explain that the proposed modification contained within the joint application is limited to the pricing of the current unique arrangement between DP&L and WPAFB (Joint Ex. 2 at 2-3). The modification, the parties provide, is designed to allow for the creation and retention of jobs in Ohio and the Miami Valley region by ensuring a reliable supply of electric generation, transmission, and distribution service at reasonable and predictable prices for use at the facility (Joint Ex. 2 at 3-4). The joint application indicates that WPAFB's presence in the Miami Valley contributes approximately \$4.2 billion annually to the local economy. Further, the parties provide that WPAFB is anticipating over 400 direct jobs will be created within the next 12 months. (Joint Ex. 2 at 4, 7.)

The joint application indicates that, if approved, the modification will establish a fixed rate of \$0.02642/kWh and \$8.463614/kW for all bypassable charges. In addition, WPAFB will pay tariff rates for all non-bypassable charges. DP&L and WPAFB state the pricing modifications would take effect in the first billing cycle after the Commission issues an order, and will continue until December 31, 2014. (Joint Ex. 2 at 3.) Further, the joint application requests that the Commission approve for DP&L to continue recovery of costs associated with the unique arrangement, including one hundred percent of the delta revenues, as set forth in Ohio Adm.Code 4901:1-38-01(C) (Joint Ex. 2 at 2-3).

DP&L and WPAFB set forth that the application is consistent with state policy set forth in R.C. 4928.02 by encouraging additional expansion at WPAFB. The joint application reiterates that the savings realized by WPAFB will be reinvested in WPAFB's infrastructure, thus facilitating the states effectiveness in the global economy. The parties assert that the arrangement is not anti-competitive or discriminatory and, thus, does not violate R.C. 4905.33 and 4905.35. (Joint Ex. 2 at 6-7.)

III. Conclusion

Ohio Adm.Code 4901:1-38-05 authorizes an electric utility, with one or more of its customers, to file an application for approval to enter into a unique arrangement. The applicant bears the burden of proof to show that the proposed arrangement is reasonable, does not directly or indirectly provide rebates, special rates, and free service in violation of R.C. 4905.33 and does not provide an unreasonable advantage or prejudice towards any party under R.C. 4905.33.

Upon our review of the requirements for an electric utility to enter into a unique arrangement with one of its customers, the Commission finds the requirements are clearly met. The joint application is reasonable in that it is cost-effective, and promotes State policy consistent with R.C. 4928.02 by facilitating the creation and retention of jobs and economic investment in the Miami Valley region and the State of Ohio. WPAFB contributes an estimated \$4.2 billion to the local economy on an annual basis. The modified unique arrangement will assist WPAFB, as Ohio's largest single-site employer, in retaining employment for more than 25,000 individuals that live and work in the region, with approximately 400 new direct jobs expected to be added during 2014. These new jobs are in addition to 1,200 jobs that resulted from the Base Realignment and Closure Act of 2005 (BRAC). In fostering a favorable economic climate at WPAFB, the modified unique arrangement will encourage expansion at WPAFB, while furthering the potential for the creation of additional jobs in the coming years through the next round of the BRAC process expected to be undertaken by Congress and the United States Department of Defense. The record reflects that the modified unique arrangement will bolster WPAFB's positive financial impact on the Ohio economy, both in terms of direct, highly-skilled job creation, as well as the secondary benefits flowing from indirect and support jobs. (Joint Ex. 1 at 1-2; Joint Ex. 2 at 4-6.) Further, the record reflects that the modified unique arrangement does not violate R.C. 4905.33 and 4905.35, and is just and reasonable (Joint Ex. 2 at 3-4). Accordingly, we find that the unique arrangement is reasonable and should be adopted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On March 4, 2011, DP&L and WPAFB filed a joint application requesting that the Commission approve a unique arrangement.
- (2) By opinion and order issued June 8, 2011, the Commission approved DP&L and WPAFB's unique arrangement.
- (3) On October 7, 2013, DP&L and WPAFB filed a joint application to modify their unique arrangement.

- (4) An evidentiary hearing was held on November 14, 2013.
- (5) Based on the application and the evidence presented at the hearing, the Commission finds that DP&L and WPAFB's modification to the existing unique arrangement is reasonable and should be approved.

It is, therefore,

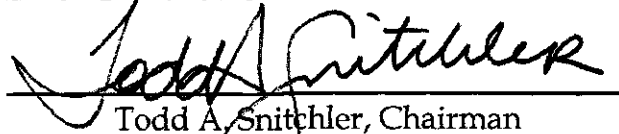
ORDERED, That the joint application for approval of a modification to the unique arrangement between DP&L and WPAFB is just and reasonable and should be approved. It is, further,


ORDERED, That DP&L take all necessary steps to carry out the terms of this order. It is, further,

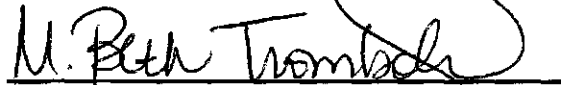
ORDERED, That nothing in this opinion and order shall be binding upon the Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

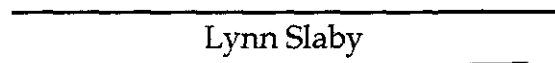
ORDERED, That a copy of this Opinion and Order be served upon each party of record.

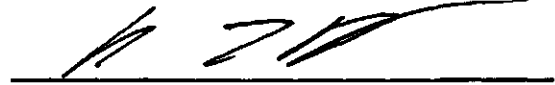
THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Steven D. Lesser


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DEC 11 2013



Barcy F. McNeal
Secretary