

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)	
Dayton Power and Light Company for)	Case No. 13-2420-EL-UNC
Authority to Transfer or Sell Its)	
Generation Assets.)	

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

I. INTRODUCTION

On December 30, 2013, Dayton Power & Light (“DP&L” or “Utility”) filed an application to divest its generation assets. And DP&L requested waivers of the PUCO’s requirement to state the fair market value of the assets to be sold or transferred. Also, DP&L asked the Public Utilities Commission of Ohio (“PUCO” or “Commission”) to waive the requirement for a hearing in this matter. Comments were filed in response on February 4, 2014. These issues matter to consumers because customer rates – distribution, SSO and competitive market rates - could be substantially impacted by DP&L’s divestment and its effects on DP&L financing and operations. And regulatory requirements to state the fair market value of the assets to be sold or transferred and to hold hearings are necessary to evaluate those impacts.

In addition to Comments filed by the Office of the Ohio Consumers’ Counsel (“OCC”), comments were submitted in this matter by Direct Energy Business, LLC (“Direct Energy”), Duke Energy, Ohio, Inc. (“Duke”),¹ Duke Energy Commercial Asset Management, Inc. (“DECAM”), First Energy Solutions Corp. (“FES”), Industrial Energy

¹ Duke’s Comments were very limited and stated that it has “no initial comment” regarding DP&L’s filing.

Users-Ohio (“IEU-Ohio”), OMA Energy Group (“OMA”), and the Staff of the Public Utilities Commission of Ohio (“PUCO Staff”).

OCC now files these Reply Comments.

II. REPLY COMMENTS

A. DP&L’s Filing Lacks Sufficient Information for Any Substantive Review or Consideration of DP&L’s Waiver Requests.

Like OCC, DECAM, FES, IEU-Ohio, OMA and PUCO Staff all emphasize the insufficiency of DP&L’s filing for any purpose. Each of these parties comment that DP&L’s filing is insufficient for the PUCO to make any substantive evaluation or to grant either of DP&L’s waiver requests.² Like OCC, IEU-Ohio states that the Application “does not comply with the Commission’s rules and thus is not yet ripe for review.”³

OCC agrees. As OCC has recommended, DP&L’s plan should be rejected and DP&L should be directed to promptly submit a plan that meets regulatory requirements. PUCO consideration of DP&L’s waiver requests should be deferred until its further filing is made.

B. Direct Energy’s Concerns Relating to DP&L’s Ownership in OVEC and Beckjord Generation Station Should be Heeded.

In its Comments, Direct Energy addresses the statements in DP&L’s Application regarding the issues surrounding DP&L’s ownership of 4.9% of Ohio Valley Electric Corporation (“OVEC”).⁴ Direct Energy comments that DP&L should be required to

² DECAM Comments at 1-2; FES Comments at 1-5; IEU-Ohio Comments at 5-10; OMA Comments at 2; PUCO Staff Comments at 1-3.

³ IEU-Ohio Comments at 4.

⁴ Direct Energy Comments at 1-2.

follow the precedent in Ohio Power Company's Case No. 12-1126-EL-UNC in addressing DP&L's OVEC interest. In particular, Direct Energy states that DP&L should be required to sell its OVEC purchase power commitment (OVEC interest) into the PJM Market and may not deviate from this approach without explicit Commission approval.⁵ Further, Direct Energy comments that all costs or benefits of OVEC sales should be the responsibility of DP&L shareholders and not customers of DP&L or CRES providers.⁶

Although DP&L has not yet made a definite proposal regarding treatment of the OVEC assets, OCC generally agrees with Direct Energy's proposal that DP&L's OVEC interest should be sold into the PJM market and customers (and CRES providers) should be held harmless from the effects of any such sales or DP&L's retention of the OVEC assets.

OCC also agrees generally with Direct Energy's position that DP&L should not be permitted to retain its ownership interest in Beckjord Generation Station ("Beckjord") (as DP&L suggests it might request). DP&L should be required to divest all of its generating assets, in accordance with the PUCO's Order in DP&L's Electric Security Plan proceeding.⁷

DP&L's proposed treatment of OVEC assets and the Beckjord Generation Station should be further reviewed at the time it submits its supplemental or amended application.

⁵ *Id.*

⁶ *Id.*

⁷ *In the Matter of the Application of The Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case No. 12-0426-EL-SSO et al, Opinion and Order of September 4, 2013 at 27-28 and *Entry Nunc Pro Tunc* of September 6, 2013 at 2.

III. CONCLUSION

As recommended in the Comments of FES, IEU-Ohio, OMA, PUCO Staff and OCC, the PUCO should deem DP&L's requested waivers to be premature. The PUCO should direct DP&L to promptly file a substantive and substantially adequate plan for separation of its generation assets that meets the requirements of R.C. 4928.17(B) and Ohio Admin. Code 4901:1:37-09(C). And the PUCO should invite thorough investigation of DP&L's proposals, including an evidentiary hearing, should the application appear to be unjust, unreasonable, or not in the public interest, or if the PUCO's jurisdiction over the assets will be altered. This would allow parties to present testimony and evidence on the substantive issues that may affect customers' rates.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of *Comments* was served on the persons stated below via electronic transmission to the persons listed below, this 19th day of February, 2014.

/s/ Edmund "Tad" Berger

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Summary: Comments Reply Comments by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Berger, Tad Mr.