BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of The Dayton Power and Light Company's Planned Sale of East Bend Unit 2	:	Case No. 14-1084-EL-UNC

REPLY COMMENTS OF
THE DAYTON POWER AND LIGHT COMPANY

There were few comments of any substance regarding the June 13, 2014 Application of The Dayton Power and Light Company for Approval of East Bend Transaction ("Application"), which should be approved. In the Application, The Dayton Power and Light Company ("DP&L") seeks approval of a transaction by which DP&L would sell its 31% interest in the power plant and related facilities known as East Bend Unit 2 to Duke Energy Kentucky, Inc. ("DEK"), which owns the remaining 69% interest.[1] Application, ¶ 1. The transaction has already been approved by the Federal Energy Regulatory Commission. July 23, 2014 Notice by Applicant The Dayton Power and Light Company of Approval by the Federal Energy Regulatory Commission.

The Office of the Ohio Consumers' Counsel ("OCC") and Industrial Energy Users-Ohio ("IEU") have filed Comments opposing DP&L's Application because the Application seeks "to recover all financing costs, redemption costs, amendment fees, investment banking fees, advisor costs, taxes, and related costs that [DP&L] incurs in the sale of its interest

[1] DP&L is required to divest its generation assets by January 1, 2017. 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, et al., Case Nos. 12-426-EL-SSO, et al. ("DP&L ESP Case"), Fourth Entry on Rehearing (June 4, 2014).

in East Bend 2." Application, ¶ 14. OCC objects to the transaction for that reason alone. Comments on DP&L's Application by The Office of the Ohio Consumers' Counsel, p. 9 ("OCC Comments") (stating that "OCC's only objection to DP&L's application is the Utility's proposal to charge customers for transaction costs associated with the sale of these particular generation assets") (emphasis added).

As IEU recognizes, however, DP&L recently stated in response to a Staff data request "that it does 'not anticipate seeking recovery for any transaction costs associated with this sales process.'" Industrial Energy Users-Ohio's Comments ("IEU Comments"), p. 3 and Attachment A. Consistent with that statement, DP&L withdraws its request to recover any financing costs, redemption costs, amendment fees, investment banking fees, advisor costs, taxes, and other related costs that DP&L incurs in the sale of its interest in East Bend Unit 2. Accordingly, there is no need for the Commission to hold hearing on that request, as requested by OCC. OCC Comments, pp. 7-9.

IEU raises two additional objections to the transaction, both of which lack merit. First, IEU argues that DP&L should not retain certain debt related to East Bend Unit 2 as part of the transaction. IEU Comments, pp. 4-6. DP&L's retention of that debt is reasonable, however, because the transaction was freely negotiated at arm's-length between DP&L and DEK, two unaffiliated entities with divergent interests. Indeed, the transaction would provide DP&L with consideration in addition to the purchase price of East Bend Unit 2. Specifically, DEK would assume various liabilities, and the transaction would eliminate East Bend Unit 2 as a source of negative financial performance for DP&L. Application, ¶ 6. The liabilities that DEK would assume include environmental liabilities.

Furthermore, the retention of that debt is necessary because DP&L could not transfer that debt to DEK even if DEK had agreed to assume it. The debt at issue – $35,275,000 in pollution control bonds issued in 1979 by the County of Boone, Kentucky – is and always has been an indirect obligation of DP&L. The bonds are backed by DP&L's First Mortgage Bonds and are serviced by consolidated cash flows from DP&L. The bonds were not issued against the sole and undivided credit of East Bend Unit 2 or any other asset which individually makes up the consolidated assets of DP&L. Accordingly, upon a sale of DP&L's interest in East Bend Unit 2, the bonds could not be transferred to DEK with East Bend Unit 2.

In addition, it is undisputed that the transfer of East Bend Unit 2 to DEK will be for fair value. Even if the pollution control bonds could be transferred to DEK (they cannot), such a transfer would require a reduction in the purchase price. DP&L thus would not be in a better financial position even if it could transfer the bonds to DEK.

Second, IEU argues that the transaction is unreasonable because DP&L has not demonstrated how the sale of DP&L's interest in East Bend Unit 2 would affect DP&L's standard service offer. IEU Comments, pp. 6-7. In its Application, however, DP&L explains that the transaction "will not have a material effect on the terms and conditions under which it will provide a standard service offer . . . . DP&L's ownership share of East Bend Unit 2 comprises 186 MW, or only about 7%, of DP&L's total capacity of about 2708 MW." Application, ¶ 8. Under Ohio Admin. Code § 4901:1-37-09(C)(2), DP&L must show "how the sale or transfer [of its generation asset] will affect the current and future standard service offer established pursuant to section 4928.141 of the Revised Code." DP&L has done so by confirming that the transaction would not have a material effect on its standard service offer. Application, ¶ 8.

Therefore, the Commission should reject the few objections to the transaction by OCC and IEU and should approve DP&L's Application.

Respectfully submitted,

/s/ Judi L. Sobecki
Judi L. Sobecki (0067186)
THE DAYTON POWER AND
LIGHT COMPANY
1065 Woodman Drive
Dayton, OH 45432
Telephone: (937) 259-7171
Telecopier: (937) 259-7178
Email: judi.sobecki@dplinc.com

/s/ Jeffrey S. Sharkey
Charles J. Faruki (0010417)
(Counsel of Record)
Jeffrey S. Sharkey (0067892)
FARUKI IRELAND & COX P.L.L.
500 Courthouse Plaza, S.W.
10 North Ludlow Street
Dayton, OH 45402
Telephone: (937) 227-3705
Telecopier: (937) 227-3717
Email: cfaruki@ficlaw.com

Attorneys for The Dayton Power and
Light Company

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Reply Comments of The Dayton Power and Light Company has been served via electronic mail upon the following counsel of record, this 29th day of August, 2014:

Edmund "Tad" Berger, Esq.
Counsel of Record
Maureen Grady, Esq.
Assistant Consumers' Counsel
Office of The Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
Edmund.Berger@occ.ohio.gov
Maureen.Grady@occ.ohio.gov

Attorneys for Office of the Ohio Consumers' Counsel

Samuel C. Randazzo, Esq.
Frank P. Darr, Esq.
Matthew R. Pritchard, Esq.
MCNEES WALLACE & NURICK LLC
21 East State Street, 17th Floor
Columbus, OH 43215-4225
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com

Attorneys for Industrial Energy Users-Ohio

/s/ Jeffrey S. Sharkey
Jeffrey S. Sharkey

874619.1

Summary: Comments Reply Comments of The Dayton Power and Light Company electronically filed by Mr. Jeffrey S Sharkey on behalf of The Dayton Power and Light Company