

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The )  
Dayton Power and Light Company to )  
Update its Transmission Cost Recovery ) Case No. 15-361-EL-RDR  
Rider - Non-Bypassable. )

FINDING AND ORDER

The Commission finds:

- (1) The Dayton Power and Light Company (DP&L) is an electric distribution utility as defined in R.C. 4928.01(A)(6), and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.
- (2) R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.
- (3) The Commission initially approved DP&L's transmission cost recovery rider (TCRR) by Finding and Orders issued on May 27, 2009, and November 18, 2009. *In re The Dayton Power and Light Co.*, Case No. 09-256-EL-UNC, Finding and Order (May 27, 2009); *In re The Dayton Power and Light Co.*, Case No. 09-256-EL-UNC, Second Finding and Order (November 18, 2009). On September 4, 2013, the Commission issued its Opinion and Order approving DP&L's proposed ESP, with modification, which included an application to bifurcate the TCRR into separate riders based on their bypassability. Bypassable charges are recovered only from SSO customers; non-bypassable charges are recovered from all of DP&L's distribution customers. This resulted in the creation of the non-bypassable Transmission Cost Recovery Rider Non-bypassable (TCRR-N) and the bypassable Transmission Cost Recovery Rider - Bypassable (TCRR-B). *In re The Dayton Power and Light Co.*, Case No. 12-426-EL-SSO (DP&L's ESP), et al., Opinion and Order (September 4, 2013) at 36.

- (4) Ohio Adm.Code 4901:1-36-03(B) requires each electric utility with an approved TCRR to update the rider, pursuant to a schedule set forth by Commission order. In DP&L's ESP, the Commission approved DP&L's proposed ESP application, with modification, including DP&L's request to file the annual updates to the TCCR-N on March 15, for rates to be effective June 1. *DP&L's ESP* at 36, 53.
- (5) On March 16, 2015, DP&L filed an application to amend its tariffs to update Rider TCRR-N, pursuant to R.C. 4928.05(A)(2) and Ohio Adm.Code 4901:1-36-03(B). Thereafter, on April 28, 2015, DP&L filed an amended application to correct various errors in the initial application. In its amended application to update the TCRR-N, DP&L seeks recovery of transmission-related costs imposed on or charged to DP&L by FERC or PJM that are not otherwise being recovered, such as Network Integration Transmission Service. DP&L requests that the updated rates be made effective on a bills-rendered basis by the first billing cycle in June 2015. Included in DP&L's amended application is a proposal to recover an operating reserve cost that is assessed to DP&L as a transmission owner through the TCRR-N. Additionally, DP&L proposes to recover the remaining balance of the TCRR-B and any future adjustments to the TCRR-B through the TCRR-N.
- (6) Thereafter, on April 27, 2015, Industrial Energy Users - Ohio (IEU-Ohio) and the Ohio Consumers' Counsel (OCC) filed motions to intervene and memoranda in support. No party filed a memorandum contra to either motion to intervene. The Commission finds that the motions to intervene filed by IEU-Ohio and OCC are reasonable and should be granted.
- (7) On April 27, 2015, and on May 1, 2015, IEU-Ohio filed comments on DP&L's initial and amended applications to update its TCRR-N. Initially, IEU-Ohio asserts that the Commission should not permit DP&L to include operating reserve costs in the TCRR-N because transmission owners are not assigned operating reserve costs. IEU-Ohio avers that including operating reserve costs in the TCRR-N would violate the policy provisions of R.C. 4928.02 and could result in customers being double-billed for these costs.

Additionally, IEU-Ohio argues that the Commission should reject DP&L's proposal to transfer costs from the bypassable TCRR-B to the nonbypassable TCRR-N. Finally, IEU-Ohio

asserts that the Commission's authorization of the TCRR-N is preempted and void because DP&L's TCRR-N tariff conflicts with FERC-approved transmission tariffs and frustrates federal policies.

- (8) On May 15, 2015, DP&L filed its reply comments. DP&L argues that the operating reserve charge that it seeks to recover is incurred solely by transmission owners. Therefore, DP&L asserts that customers are not at risk of being double-billed for this cost. Additionally, while DP&L concedes that the Commission has twice rejected its requests to transfer a portion of its TCRR-B deferral to the TCRR-N; DP&L avers that the Commission has not adequately explained its reasoning for doing so.

DP&L then argues that IEU-Ohio's argument that federal preemption applies to the TCRR-N has not been properly raised. DP&L notes that its establishment of the TCRR-N was a direct result of the Commission's Order in DP&L's ESP. *See DP&L's ESP, Opinion and Order (Sept. 4, 2013) at 36.* DP&L notes that IEU-Ohio failed to raise a federal preemption argument when it opposed the TCRR-N in the ESP proceeding. Therefore, DP&L asserts that IEU-Ohio missed its opportunity to raise the issue, and, even if IEU-Ohio properly raised the issue, it lacks merit.

- (9) On May 8, 2015, Staff filed its Staff Review and Recommendations regarding DP&L's amended application to update its TCRR-N. Initially, Staff asserts that DP&L's amended application to update its TCRR-N reflects the current and projected costs through May 31, 2016. Regarding the operating reserve costs, Staff notes that PJM bills operating reserve costs to load serving entities, generators, and transmission owners. The operating reserve cost proposed by DP&L to be included in the TCRR-N is the Balancing Operating Reserve Local Constraint Charge, which is assessed directly to DP&L as a PJM transmission owner. Staff believes that including this transmission cost in the TCRR-N is appropriate and does not result in double-billing for recovery of this operating reserve cost. Further, Staff notes that when DP&L experiences transmission constraints, it should employ all non-cost solutions to avoid this cost.

Additionally, Staff notes that the Commission determined in DP&L's ESP that DP&L should file a proposal at the end of the

ESP term for appropriate collection of any uncollected TCRR balance, including whether the uncollected TCRR balance should be collected through a bypassable or nonbypassable TCRR true-up rider. *DP&L's ESP*, Opinion and Order (September 4, 2013) at 36. Since the TCRR-B is supposed to end on December 31, 2015, Staff recommends that DP&L file a proposal to recover any remaining balance of the TCRR-B in DP&L's final quarterly application to update the TCRR-B. Therefore, Staff recommends that the Commission deny DP&L's proposal to recover the remaining balance of the bypassable TCRR-B through the nonbypassable TCRR-N.

- (10) Upon review of DP&L's application to update its TCRR-N, Staff's Review and Recommendations, and the comments filed by IEU-Ohio and DP&L, the Commission finds that the amended application filed by DP&L to update the TCRR-N should be approved, in part, and denied, in part. We note that we have already twice denied proposals by DP&L to recover costs in the bypassable TCRR-B through a non-bypassable rider. *In re The Dayton Power and Light Co.*, Case No. 14-358-EL-RDR, et al., Finding and Order (May 28, 2014) at 4-5; *DP&L's ESP*, Opinion and Order (September 4, 2013) at 35, 36. Here, DP&L again seeks to recover bypassable costs from the TCRR-B through a non-bypassable rider. We adopt Staff's recommendation that DP&L's application to recover the remaining balance of the TCRR-B through the TCRR-N should be denied. Accordingly, DP&L should file a proposal on how to recover the remaining balance of the TCRR-B in its final quarterly application to update the TCRR-B.

Further, we find that DP&L should be permitted to recover the Balancing Operating Reserve Local Constraint Charge, which is the operating reserve cost proposed by DP&L to be recovered through the TCRR-N. However, we note that DP&L's recovery of operating reserve costs through the TCRR-N are limited to recovery of just the Balancing Operating Reserve Local Constraint Charge. Accordingly, we find that DP&L's amended application to update the TCRR-N should be approved, in part, and denied, in part, on a bills-rendered basis for June 2015.

It is, therefore,

ORDERED, That the motions to intervene filed by IEU-Ohio and OCC are reasonable and should be granted. It is, further,

ORDERED, That DP&L's amended application to update its TCRR-N be approved, in part, and denied, in part, pursuant to this Finding and Order. It is, further,

ORDERED, That DP&L is authorized to file tariffs, in final form, consistent with this Finding and Order. DP&L shall file one copy in this docket and one copy in its TRF docket. It is, further,

ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date upon which the final tariff pages are filed with the Commission. It is, further,

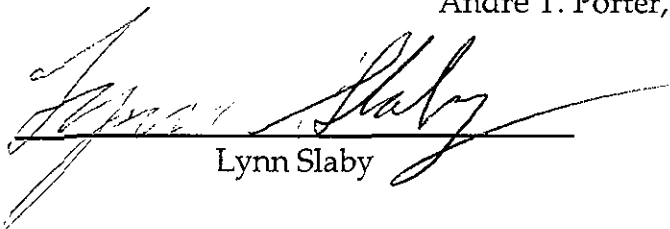
ORDERED, That DP&L shall notify all effected customers via a bill message or via a bill insert within 30 days of the effective date of the tariffs. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division. It is, further,

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

ORDERED, That a copy of this Finding and Order be served upon all parties of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Andre T. Porter, Chairman

  
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Lynn Slaby


  
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Thomas W. Johnson

BAM/sc

Entered in the Journal **MAY 20 2015**

  
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Barcy F. McNeal  
Secretary