BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company for Approval of its Energy Efficiency and Peak Demand Reduction Portfolio Plan.	))))	Case No. 16-0649-EL-POR
In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2017 through 2019.	)))))	Case No. 16-1369-EL-WVR

OBJECTIONS AND RECOMMENDATIONS[1] FOR CONSUMER PROTECTION ON THE APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY FOR APPROVAL OF ITS ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS

BY

THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

Christopher Healey (0086027) Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: [Healey] (614) 466-9571
christopher.healey@occ.ohio.gov
(Will accept service via email)

---

[1] *See* Ohio Admin. Code ("OAC") 4901:1-39-04(D) ("[A]ny person may file objections within sixty days after the filing of an electric utility's program portfolio plan. Any person filing objections shall specify the basis for the objections, including any proposed additional or alternative programs, or modifications to the electric utility's proposed program portfolio plan.").

TABLE OF CONTENTS

PAGE

I. INTRODUCTION 2

II. DP&L'S RESIDENTIAL PROGRAMS ARE POORLY DESIGNED GIVEN THE CURRENT LEVEL OF UTILITY AVOIDED COST AND DO NOT BENEFIT CUSTOMERS. 4

A. The 2017-2019 Portfolio violates the Ohio Administrative Code because it requires residential customers to pay over $17.4 million for programs that are not cost-effective. 4

B. The entire 2017-2019 Portfolio could make residential consumers worse off than without the Portfolio. Consumers could pay more under the 2017-2019 Portfolio than the entire value of energy savings from residential programs. 6

III. THE PROPOSED SHARED SAVINGS MECHANISM WILL REQUIRE CUSTOMERS TO PAY EXCESSIVE PROFITS TO DP&L. 7

A. Residential customers should be protected from having to pay shared savings (profit) to DP&L because the residential programs do not adequately benefit residential customers. 7

B. DP&L's proposed 15% shareholder incentive is excessive and could more than triple the amount of shared savings (profit) that customers would have to pay to DP&L. 8

C. Consumers' payment for shared savings (profit) should be capped at $2.5 million per year or less, for their protection. 9

D. "Non-Programmatic Savings" should not be counted for shared savings. 9

IV. THE PUCO SHOULD NOT AUTHORIZE DP&L TO SPEND AND CHARGE CUSTOMERS FOR $4 MILLION OF "PILOT PROGRAMS" THAT ARE NOT IDENTIFIED IN THE APPLICATION AND HAVE NOT YET BEEN DEVELOPED. 11

V. CONCLUSION 12

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company for Approval of its Energy Efficiency and Peak Demand Reduction Portfolio Plan.	))))	Case No. 16-0649-EL-POR
In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2017 through 2019.	)))))	Case No. 16-1369-EL-WVR

OBJECTIONS AND RECOMMENDATIONS FOR CONSUMER PROTECTION ON THE APPLICATION OF THE DAYTON POWER AND LIGHT COMPANY FOR APPROVAL OF ITS ENERGY EFFICIENCY AND PEAK DEMAND REDUCTION PROGRAMS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

Energy efficiency and peak demand reduction ("EE/PDR") programs can provide benefits for electric consumers who pay for the programs. But the EE/PDR portfolio[2] of programs proposed by Dayton Power and Light Company ("DP&L" or "Utility") is not a proposal that would justify collecting millions of dollars in costs for energy efficiency from 450,000 Dayton-area consumers. Calculations reveal that residential customers could be better off if DP&L administered no programs at all than if DP&L were to implement its proposed residential programs. The Public Utilities Commission of Ohio ("PUCO") should reject it.

---

[2] *See* Application of the Dayton Power and Light Company for Approval of its Energy Efficiency and Peak Demand Reduction Program Portfolio Plan (the "Application"), Exhibit 1 (the "2017-2019 Portfolio Plan"), Case No. 16-649-EL-POR (June 15, 2016).

Under DP&L's Portfolio, residential customers could pay more in program costs and shareholder incentives than the entire value of the energy savings from DP&L's proposed residential EE/PDR programs. This defeats the core purpose of the Ohio Revised Code ("R.C.") energy efficiency provisions, which is to reduce energy usage and save customers money on their utility bills.

The 2017-2019 Portfolio suffers from other material defects. Among other things:

- The portfolio includes over $17 million in costs for residential programs that are not cost-effective. This violates the Ohio Administrative Code ("OAC") and is not permitted.
- The proposed shared savings (profit) mechanism that consumers would pay includes incentives for DP&L that are three times as costly as those for other Ohio utilities (and three times as high as DP&L's current shared savings mechanism). That is wrong.
- The proposed shared savings mechanism lacks a cap on how much consumers could pay for profit to DP&L. Consumers need the protection of a cap on what they would have to pay.
- Savings achieved by customers on their own, without DP&L's program, would improperly count toward DP&L's shared savings mechanism that consumers would pay.
- DP&L seeks permission to charge customers $4 million for pilot programs that have not yet even been developed. This allows DP&L too much discretion to spend consumer money on programs that the PUCO has not reviewed or approved.

As the statutory representative of DP&L's 450,000 residential electricity customers, the Office of the Ohio Consumers' Counsel ("OCC") respectfully requests that the PUCO deny DP&L's Application as filed and adopt OCC's recommendations in this objection. OCC has appreciated the opportunity to work with DP&L and others in the collaborative process and looks forward to future opportunities.

II. DP&L'S RESIDENTIAL PROGRAMS ARE POORLY DESIGNED GIVEN THE CURRENT LEVEL OF UTILITY AVOIDED COST AND DO NOT BENEFIT CUSTOMERS.

A. The 2017-2019 Portfolio violates the Ohio Administrative Code because it requires residential customers to pay over $17.4 million for programs that are not cost-effective.

The 2017-2019 Portfolio violates OAC 4901:1-39-04(B) because it relies heavily on programs that are not cost effective and do not provide substantial nonenergy benefits. OAC 4901:1-39-04(B) requires programs in an electric utility EE/PDR portfolio to be cost-effective.[3] Cost effectiveness is measured using the total resource cost ("TRC") test for this purpose.[4] A utility can include a program that is not cost effective in one limited circumstance: the program "provides substantial nonenergy benefits."[5] "Nonenergy benefits" are "societal benefits that do not affect the calculation of program cost-effectiveness pursuant to the total resource cost test including but not limited to benefits of low-income customer participation in utility programs; reductions in greenhouse gas emissions, regulated air emissions, water consumption, natural resource depletion to the extent the benefit of such reductions are not fully reflected in cost savings; enhanced system reliability; or advancement of any other state policy enumerated in section 4928.02 of the Revised Code."[6]

At least four of DP&L's proposed residential programs are not cost-effective. DP&L reports the following TRC test scores for HVAC Equipment, Income Eligible Efficiency, Home Audit, and Multi-Family Direct Install:

---

[3] *See* OAC 4901:1-39-04(B) ("Each electric utility shall demonstrate that its program portfolio plan is cost-effective on a portfolio basis. In general, each program proposed within a program portfolio plan must also be cost-effective, although each measure within a program need not be cost-effective.").

[4] OAC 4901:1-39-01(F).

[5] OAC 4901:1-39-04(B).

[6] OAC 4901:1-39-01(Q).

Program	TRC Score	Program Costs
HVAC Equipment	0.53	$5,011,582
Income Eligible Efficiency	0.46	$4,131,464
Home Audit	0.33	$2,698,733
Multi-Family Direct Install	0.74	$2,658,119

See 2017-2019 Portfolio Plan at 9, Table 2; 13, Table 3.

These programs do not just fail the TRC test; they are not even close to passing the test. A TRC score of 0.33 for Home Audit, for example, means that for every $3 that customers spend, customers save $1 in avoided energy costs. HVAC Equipment and Income Eligible Efficiency require customers to spend $2 to save $1 in avoided energy costs. In addition to these four programs, the Energy Savings Kits program has a TRC of 1.00 and costs $2,962,951.[7] This program, therefore, merely breaks even[8] and does not save customers anything.

Altogether, therefore, DP&L proposes that customers pay over $17.4 million for programs that result in customers paying millions of dollars more for electricity than they would in the absence of these programs. This situation is unacceptable and is not permitted under OAC 4901:1-39-04(B).

Moreover, there is no evidence that these programs provide substantial nonenergy benefits. HVAC rebates, home audits, and energy efficiency kits are standard energy efficiency measures designed to reduce energy usage. There is no evidence that they provide any nonenergy benefits, let alone "substantial" nonenergy benefits. The Income Eligible Efficiency and Multi-Family Direct Install programs may further the goal of providing benefits to low-income customers. But HVAC Equipment, Home Audit, and Energy Savings

[7] *See* 2017-2019 Portfolio Plan at 9, Table 2; 13, Table 3.

[8] A TRC score of 1.00 means that if the program performs even marginally below expectations, it will not be cost-effective. It could also mean that the program is not cost-effective even as designed, if, for example, the 1.00 score results from rounding up.

Kits should be removed from the portfolio. Income Eligible Efficiency and Multi-Family Direct Install should be modified to increase cost-effectiveness.

B. The entire 2017-2019 Portfolio could make residential consumers worse off than without the Portfolio. Consumers could pay more under the 2017-2019 Portfolio than the entire value of energy savings from residential programs.

DP&L's residential programs are so costly and so poorly designed given the current level of utility avoided cost that residential customers may not receive any net benefits whatsoever from the programs. DP&L projects that the TRC score for the entire residential portfolio will be 1.01.[9] This means that customers will pay $1.00 for every $1.01 in energy savings. It also means that if the portfolio of programs performs even slightly below expectations, customers would receive less than $1 in savings for every dollar that they spend.

Moreover, the residential TRC score does not include all costs that residential customers will pay under the programs. For example, the 2017-2019 Portfolio includes $3.6 million in costs for customer education, $4.0 million for pilot programs, $4.0 million for "non-programmatic savings," and $4.8 million for evaluation, measurement, and verification, a total of over $16 million dollars.[10] All of these costs are part of the costs for the portfolio and cannot be ignored. It does not appear that any of these costs are included in DP&L's calculation of a 1.01 TRC score for the residential portfolio.

Likewise, DP&L proposes a shared savings mechanism that would require residential customers to pay 15% of net benefits to DP&L's shareholders using the Utility Cost Test ("UCT") (as opposed to the TRC). It is important to note that the UCT includes only

---

[9] *See* 2017-2019 Portfolio Plan at 13, Table 3.

[10] *See* 2017-2019 Portfolio Plan at 9m Table 2.

program costs and not costs paid directly by program participants. Thus, the net benefits under the math of the UCT could be substantially higher than under the TRC. That means residential customers could pay shared savings (profit) to DP&L, even if the programs are not cost-effective under the TRC. The 1.01 TRC score does not directly include shared savings that customers pay.

By the time residential customers pay a portion of the $16 million in additional costs, plus shared savings to DP&L's shareholders, it is very likely that the 2017-2019 Portfolio will cost residential customers more than the total benefits from residential programs. As presented by DP&L, residential customers could be better off if DP&L administered no programs at all than if DP&L were to implement its proposed residential programs.

III. THE PROPOSED SHARED SAVINGS MECHANISM WILL REQUIRE CUSTOMERS TO PAY EXCESSIVE PROFITS TO DP&L.

A. Residential customers should be protected from having to pay shared savings (profit) to DP&L because the residential programs do not adequately benefit residential customers.

Shareholder incentives are intended to reward utilities for exemplary program performance. DP&L's Application demonstrates that its residential programs are not exemplary. Half of the programs will accomplish nothing more than increasing customers' electricity bills. And, as discussed above, the entire residential portfolio may result in a net loss for residential customers. Residential customers should not be saddled with over $40 million in program costs for ineffective programs and then be required to pay additional profit to DP&L as a reward for running those programs. The PUCO should rule that residential customers will not pay DP&L any shared savings (profit) under the 2017-2019 Portfolio.

B. DP&L's proposed 15% shareholder incentive is excessive and could more than triple the amount of shared savings (profit) that customers would have to pay to DP&L.

The PUCO should not approve DP&L's proposed shared savings mechanism because it substantially increases the amount of profit that DP&L's customers could pay to DP&L. DP&L proposes that customers pay to DP&L 15% of all after-tax gross benefits less program delivery costs as long as DP&L exceeds the statutory energy efficiency (kWh) benchmarks.[11] The following chart compares DP&L's current shared savings mechanism, approved in DP&L's previous EE/PDR portfolio filing, to DP&L's proposed shared savings mechanism:[12]

Compliance %	Current Shared Savings %	Proposed Shared Savings %
>100 – 105%	5%	15%
105% - 110%	7.5%	15%
110 - 115%	10%	15%
>115%	13%	15%

As this chart demonstrates, DP&L's current shared savings mechanism encourages DP&L to achieve greater energy savings by increasing the amount of the incentive as DP&L's programs save more energy. DP&L would receive a 5% incentive for saving up to 5% more than the statutory minimum. DP&L's shareholders would receive a maximum of 13% for compliance over 115%. But under DP&L's proposed mechanism, DP&L's shareholders would receive a 15% incentive as soon as DP&L reaches the statutory minimum. Thus, the shareholder profit is <u>tripled</u> for savings in the 100-105% range. Moreover, the 15% incentive is higher than even the highest tier in DP&L's current shared savings mechanism. The PUCO has never approved a 15% shareholder incentive, let alone a 15% incentive for just barely achieving savings above the statutory minimum.

---

[11] *See* Application § 4.

[12] *See* Opinion and Order § IV ¶ (j), Case No. 13-833-EL-POR (Dec. 4, 2013).

C. Consumers' payment for shared savings (profit) should be capped at $2.5 million per year or less, for their protection.

The PUCO has required a cap on shared savings for electric distribution utilities in Ohio, including DP&L.[13] But DP&L's Application does not provide for any cap. There should be a cap to protect consumers.

The PUCO should reduce the current cap of $4.5 million per year to $2.5 million per year, to account for the fact that residential customers should not pay any shared savings, as described above. A $2.5 million cap (to limit what consumers could be liable to pay) provides DP&L with a reasonable opportunity to earn a profit from its EE/PDR programs without providing excessive returns to shareholders at consumer expense.

D. "Non-Programmatic Savings" should not be counted for shared savings.

A utility should only receive shared savings profits (if at all) for programs that it develops and administers for the benefit of customers. A properly designed shared savings mechanism encourages a utility to run efficient programs that reduce usage and peak demand and increase the overall benefits for consumers. DP&L's shared savings mechanism would violate these core principles if savings from the "Non-Programmatic Savings" program were included in its profit calculations.

DP&L's newly-proposed "Not-Programmatic Savings" program will "account for customer efficiency efforts undertaken outside of the utility-administered programs."[14] DP&L plays no role in customers achieving these savings and does not provide any incentives to customers to reduce usage or demand. Rather, DP&L simply performs surveys and collects data on savings that customers are achieving on their own. Then DP&L counts

---

[13] *See* Opinion and Order § IV(j), Case No. 13-833-EL-POR (Dec. 4, 2013) (cap of $4.5 million per year).

[14] *See* 2017-2019 Portfolio Plan at 86,

those savings toward the net benefits that are used to determine its profits in the shared savings mechanism (that consumers pay). On top of this, DP&L proposes that customers pay $4 million in program costs to DP&L for these surveys that serve no purpose other than to increase utility profits.

DP&L should not be allowed to include any Non-Programmatic Savings toward shared savings because DP&L can claim no responsibility or achievement for the savings by these programs. Nor has DP&L made any investments or efforts to create the savings. The PUCO Staff concluded in FirstEnergy's previous EE/PDR case that utilities should only be allowed to charge for shared savings where the utility has had a material effect and directly or indirectly supervised the programs:

> [A] shared savings mechanism for the . . . utilities should only be for those activities for which [the utility] has had a material effect in their customers' decisions in adopting energy efficiency. Only those programs that are under the direct or indirect supervision or management of the Company should be able to count toward those savings that exceed their annual benchmarks.[15]

The achievement of Non-Programmatic Savings is not supervised or managed by DP&L, and DP&L has had no effect on customers' decisions in adopting energy efficiency measures. Under DP&L's plan, the customer pays the entire cost of achieving the savings with no assistance at all from DP&L, and then the customer is required to pay profits to DP&L's shareholders as a result of the savings that the customer alone achieved and paid for. There is no possible justification for this.

The harm to customers is exacerbated by the use of the UCT to calculate shared savings.[16] The UCT includes only costs incurred by the utility (*i.e.*, the program costs) and

---

[15] *See* Proposal for Incentivizing Utility Energy Efficiency Performance Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio, Case No. 09-1947-EL-POR (Oct. 24, 2011).

[16] *See* Application at 5.

not costs incurred directly by the consumer. In the case of Non-Programmatic Savings, customers bear all of the costs. Thus, when calculating the net benefits of these programs (which are multiplied by the incentive percentage to determine utility profits), DP&L would count all of the savings achieved by the consumer but none of the costs. DP&L's shareholder profits, therefore, are even higher than they would be if DP&L had run programs to achieve those same savings. Customers should not pay profits to DP&L for Non-Programmatic Savings. And customers especially should not pay more profit for Non-Programmatic Savings than they do for programs that DP&L actually designs and administers.

The PUCO should find that (i) Non-Programmatic Savings should not be counted when determining which "incentive tier" is achieved under the shared savings mechanism and (ii) any net benefits from Non-Programmatic Savings should be excluded from the calculation of net benefits for purposes of shared savings. To find otherwise is unfair to customers and represents a windfall for DP&L at customer expense.

IV. THE PUCO SHOULD NOT AUTHORIZE DP&L TO SPEND AND CHARGE CUSTOMERS FOR $4 MILLION OF "PILOT PROGRAMS" THAT ARE NOT IDENTIFIED IN THE APPLICATION AND HAVE NOT YET BEEN DEVELOPED.

The PUCO should deny DP&L's request to spend (and charge customers for) $4 million[17] of unknown and to-be-determined "pilot programs." DP&L proposes this budget for pilot programs. But it does not state what these programs are, what DP&L is considering, what the participant costs will be, how the programs will be evaluated, or how much energy

[17] The $4 million budget consists of $1,195,863 in marketing and administration costs and $2,790,345 for incentives. It is not clear how these very precise estimates were derived. And given that DP&L has not yet designed any pilot programs, these numbers are meaningless.

or demand the programs will save.[18] DP&L provides literally zero details on what these programs might be. *See* 2017-2019 Portfolio Plan at 82 ("Specific programs are not yet planned and as a result, it is not possible to project energy and demand savings."). DP&L expects customers to pay $4 million for these pilot programs, no matter what they are, but without giving customers any information about the programs. The PUCO should not grant DP&L's request for unlimited discretion to spend customer money.

Moreover, DP&L admits that these programs may not be cost effective. It states that "it is possible that a pilot program will not be cost effective in its initial stages of delivery due to start up costs." *Id.* at 83. And given that the portfolio already includes programs that fail the TRC by a wide margin, customers have every reason to believe that DP&L will not design cost-effective pilot programs either. The PUCO should not approve any budget for pilot programs.

V. CONCLUSION

DP&L's portfolio could result in net losses for residential customers. This defeats the purpose of EE/PDR programs. The PUCO should not approve programs that are not cost effective for consumers. DP&L's budget for pilot programs should not be approved. And the shared savings mechanism (whereby consumers pay profits to DP&L) should be modified as proposed above or eliminated altogether. Residential customers should not be made to pay over $40 million in program costs to DP&L, plus pay utility profits, for programs that are as ineffective and costly as those that DP&L proposes in its 2017-2019 Portfolio Plan.

[18] *See* 2017-2019 Portfolio Plan at 81-83.

Respectfully submitted,

BRUCE WESTON (0016973)
OHIO CONSUMERS' COUNSEL

/s/ Christopher Healey
Christopher Healey (0086027) Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: [Healey] (614) 466-9571
christopher.healey@occ.ohio.gov
(Will accept service via email)

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Objection was served on the persons stated below via electronic transmission this 15th day of August 2016.

/s/ Christopher Healey
Christopher Healey
Assistant Consumers' Counsel

SERVICE LIST

Natalia.messenger@ohioattorneygeneral.gov
John.jones@ohioattorneygeneral.gov
tdougherty@theoec.org
mleppla@theoec.org
jfinnigan@edf.org
joliker@igsenerg.com
dparram@taftlaw.com
jeremy.grayem@icemiller.com
mfleisher@elpc.org
bojko@carpenterlipps.com
ghiloni@carpenterlipps.com
o'rourke@carpenterlipps.com
sam@mwncmh.com
mpritchard@mwncmh.com
fdarr@mwncmh.com

Attorney Examiner:
Richard.bulgrin@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/15/2016 5:11:13 PM

in

Case No(s). 16-0649-EL-POR, 16-1369-EL-WVR

Summary: Objection Objections and Recommendations for Consumer Protection on the Application of The Dayton Power and Light Company for Approval of its Energy Efficiency and Peak Demand Reduction Program by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Healey, Christopher Mr.