

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

INITIAL BRIEF OF THE ENVIRONMENTAL LAW & POLICY CENTER

In this case, the Public Utilities Commission of Ohio (“Commission” or “PUCO”) must decide whether to approve a December 13, 2016 Stipulation and Recommendation (“Stipulation”) regarding the Dayton Power & Light Company (“DP&L”) 2017 energy efficiency programs. The Environmental Law & Policy Center (“ELPC”) originally agreed to remain in a non-opposing position regarding this Stipulation even though it contains a cap on program spending and shared savings for 2017, which we oppose as bad policy. Stipulation at 6. Despite the inclusion of this provision, we concluded that, as a package, the Stipulation would provide DP&L customers with cost-effective, high quality energy efficiency programs offering significant energy savings benefits. This conclusion was based in large part on the fact that the cost cap of approximately \$33 million is higher than the projected portfolio budget and maximum shared savings payment for 2017.¹

Subsequent to the filing of the Stipulation, PUCO Staff filed testimony in support that identified the cost cap as the principle benefit of the Stipulation. Braun Test. at 5. Staff’s testimony asserts that “[a] cost cap benefits ratepayers and the public interest by providing cost

¹ As noted in the testimony of Ohio Consumers’ Counsel (“OCC”) witness Colleen Shutrump, the 2017 programs for the most part represent a continuation of 2015 programs that cost approximately \$18 million. OCC Ex. XX at 7, Tbl. 1. The Stipulation does contains some additional program commitments that may result in somewhat higher costs, but the overall portfolio budget from 2015 was still only \$22 million. *Id.* at 7. Additionally, the Stipulation limits DP&L’s shared savings payments for 2017 to \$4.5 million after tax. Stipulation at 12.

control, certainty, and stability, as well as price assurances to customers.” *Id.* ELPC vigorously disagrees with this view, and plans to litigate the issue of a cost cap for DP&L efficiency programs in future years as necessary to preserve the benefits of these programs for DP&L customers.

We continue to believe the Stipulation as a whole provides for a reasonably robust portfolio of efficiency programs that will comply with R.C. 4928.66 and benefit DP&L customers. Nevertheless, we have changed to an opposing position as outlined in a letter docketed in this case on March 9, 2017, because of concerns that Staff’s supporting testimony push the Commission to address the cost cap on its merits as a standalone policy rather than as part of the settlement package. This is not an appropriate time and place to do so. Since the Stipulation has been largely unopposed (with the exception of OCC testimony regarding a separate lost distribution revenues issue), the record lacks any actual evidence regarding the potential benefits or detriments of a cost cap applied to program costs and shared savings. While Staff witness Braun offers the blanket assertion that a cap will offer “certainty,” “stability,” and “price assurances to customers,” she provides no analysis of whether limits on efficiency spending might on balance end up costing customers more than it saves by depriving them of energy savings or lowering program quality. Staff’s testimony also fails to address the basis for determining that a cost cap is even necessary.

In light of this sparse (at best) record, ELPC urges the Commission not to reach the broad question of the general merits of a cost cap. While a cost cap does not prevent the Stipulation as a whole from benefitting ratepayers in 2017, the record here provides no basis for determining that a cost cap would be good policy beyond the specific context of this particular settlement package. The Commission Order should reflect the narrowness of the Stipulation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Initial Brief submitted on behalf of the Environmental Law & Policy Center was served by electronic mail, upon the following Parties of Record on March 10, 2017.

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Summary: Brief Initial Brief electronically filed by Madeline Fleisher on behalf of
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