

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE PROCUREMENT OF
STANDARD SERVICE OFFER GENERATION
FOR CUSTOMERS OF DAYTON POWER &
LIGHT COMPANY.

CASE NO. 17-957-EL-UNC

FINDING AND ORDER

Entered in the Journal on April 12, 2017

I. SUMMARY

{¶ 1} The Commission accepts the results of Dayton Power & Light Company's auction and authorizes Dayton Power & Light Company to file final tariffs implementing the rates for standard service offer customers.

II. DISCUSSION

{¶ 2} Dayton Power & Light Company (DP&L) is an electric utility as defined by R.C. 4928.01(A)(11) and an electric distribution utility (EDU) as defined by R.C. 4928.01(A)(6).

{¶ 3} R.C. 4928.141 provides that electric utilities shall provide consumers a standard service offer (SSO) of all competitive retail electric services in accordance with R.C. 4928.142 or 4928.143.

{¶ 4} By Opinion and Order issued on June 24, 2009, the Commission adopted the stipulation and recommendation of the parties to establish DP&L's first ESP (*ESP I*). *In re The Dayton Power and Light Co.*, Case No. 08-1094-EL-SSO, et al. (*ESP I Case*), Opinion and Order (June 24, 2009). Included as terms, conditions, or charges in *ESP I* were a rate stabilization charge, an environmental investment rider, and a fuel and purchased power rider. Thereafter, by Entry issued on December 19, 2012, the Commission continued *ESP I* until a subsequent SSO could be authorized.

{¶ 5} By Order issued on September 4, 2013, the Commission modified and approved DP&L's application for a second ESP (*ESP II*). Included in *ESP II* was a service stability rider for DP&L's financial integrity. *In re The Dayton Power and Light Co.*, Case No. 12-426-EL-SSO, et al. (*ESP II Case*), Opinion and Order (Sept. 4, 2013). On June 20, 2016, the Supreme Court of Ohio issued an opinion reversing the decision of the Commission approving *ESP II* and disposing of all pending appeals. *In re Application of Dayton Power & Light Co.*, ___Ohio St.3d, 2016-Ohio-3490, ___N.E.3d___. Subsequently, on July 16, 2016, a mandate from the Supreme Court of Ohio was filed in the *ESP II Case* requiring the Commission to modify its order or issue a new order. Therefore, on August 26, 2016, in the *ESP II Case*, the Commission modified *ESP II* pursuant to the Court's directive and then granted DP&L's application to withdraw *ESP II*, thereby terminating it.

{¶ 6} R.C. 4928.143(C)(2)(b) provides that if the utility terminates an application for an ESP or if the Commission disapproves an application, the Commission shall issue such order as is necessary to continue the provisions, terms, and conditions of the utility's most recent SSO, along with any expected increases or decreases in fuel costs from those contained in that offer, until a subsequent SSO is authorized. By Order issued on August 26, 2016, in the *ESP I Case*, the Commission granted DP&L's application to implement its most recent SSO, which is *ESP I*, pursuant to R.C. 4928.143(C)(2)(b). Additionally, the Commission directed DP&L to file tariffs to implement *ESP I*. The Commission found the tariffs should be approved as they relate to honoring existing contracts with winning competitive bid suppliers and maintaining current obligations for all suppliers.

{¶ 7} Thereafter, on February 22, 2016, DP&L filed a new application for an SSO (*ESP III*), with accompanying applications for approval of revised tariffs and for approval of certain accounting authority. *In re The Dayton Power and Light Co.*, Case No. 16-395-EL-SSO, et al. (*ESP III Case*). On January 30, 2017, in the *ESP III Case*, a stipulation and recommendation was filed between DP&L and some of the parties.

{¶ 8} On February 1, 2017, in the *ESP I Case*, DP&L filed a notice regarding a competitive bidding schedule. In the notice, DP&L noted that because a stipulation was recently filed in the *ESP III Case* that will require testimony and a hearing, it is not ensured that the *ESP III Case* will be resolved before DP&L's most recent competitive bid process (CBP) expires on May 31, 2017. Thus, DP&L averred it is committed to holding a competitive bid process to be in place by June 1, 2017. In the notice, DP&L stated auctions will be conducted as proposed in its application in the *ESP III Case* and as modified in the stipulation filed on January 30, 2017. As proposed, the initial auctions would be conducted on April 11, 2017, and April 24, 2017. Each auction would be for 50 tranches and would offer varying product lengths of 12, 24, and 36 months.

{¶ 9} By Entry on March 22, 2017, the Commission authorized DP&L to proceed with the CBP, as described in DP&L's notice, subject to the Commission's modifications. Under the CBP process, DP&L will obtain all generation necessary to serve its SSO load through a series of auctions. With respect to the auction schedule, the Commission determined that DP&L's first auction should occur on April 11, 2017, and offer 50 tranches of varying product lengths of 12, 24, and 36 months. In accordance with the approved bidding rules, the Commission has a two business day window from the conclusion of the auction to review the results. DP&L proposed to retain CRA International Inc. d/b/a Charles River Associates, Inc. (CRA) as the auction manager for DP&L's auctions.

{¶ 10} Pursuant to the Commission's Entry, a CBP auction was held on April 11, 2017. The auction consisted of 22 rounds in the descending-clock phase. On April 12, 2017, CRA and Bates White, LLC (Bates White), a consultant retained by the Commission to monitor the CBP auction, filed reports regarding the conduct of the auction. These reports consisted of confidential versions, filed under seal, and a redacted version of the report filed by CRA, which is publically available in this docket.

{¶ 11} According to the reports filed by CRA and Bates White, for the one-year product, the auction resulted in a clearing price of \$51.45 per megawatt hour (MWh) for the June 1, 2017, to May 31, 2018 delivery period. For the two-year product, the auction resulted in a clearing price of \$50.91 per MWh for the June 1, 2017, to May 31, 2019 delivery period. Finally, for the three-year product, the auction resulted in a clearing price of \$48.65 per MWh for the June 1, 2017, to May 31, 2020 delivery period. CRA and Bates White each recommended that the Commission find that the auction, within the limits of its structures, had sufficient competitive attributes and resulted in a winning price that is reasonable.

{¶ 12} The Commission finds that the reports filed by CRA and Bates White do not contain any recommendation or evidence that the auction violated the CBP rules in such a manner as to invalidate the auction. Accordingly, the Commission accepts the results of the auction.

{¶ 13} On April 12, 2017, Staff filed a motion for protective order, pursuant to Ohio Adm.Code 4901-1-24, requesting that both the report of the Commission's consultant regarding DP&L's auction and the notification of the auction results filed on April 12, 2017, be kept confidential. In support of the motion, Staff submits that these documents are highly competitively sensitive, in that they identify the details of various bids and parties making the bids in the auction. According to Staff, disclosure of this information would be highly prejudicial to the bidding parties and the viability of any future auction in Ohio.

{¶ 14} Ohio Adm.Code 4901-1-24 provides that, unless otherwise ordered, protective orders issued pursuant to the rule automatically expire after 24 months. However, given the highly competitive and sensitive nature of the reports filed by CRA and Bates White, the Commission finds that it would be appropriate to grant protective treatment indefinitely, until the Commission orders otherwise. Therefore, we find that Staff's motion for protective order of the information filed on April 12, 2017, is reasonable and should be granted, to the extent set forth in this Finding and Order. Accordingly, the Bates White report and the following information related to the CRA report will be protected from public release: the

names of unsuccessful bidders; price information, including starting price methodologies and round prices/quantities for individual bidders; all information contained in Part I and Part II of the bidder applications; and indicative preauction offers.

{¶ 15} However, the Commission finds that certain information regarding the auction contained in the report submitted by CRA should be released to the public after a brief period of time to allow the winning bidders to procure any additional necessary energy or capacity to serve the SSO load. Therefore, unless otherwise ordered by the Commission, the following information will be subject to public release 21 days after the issuance of this Finding and Order: the names of bidders who won tranches in the auction; the number of tranches won by each bidder; the first round ratio of tranches supplied compared to tranches needed; and the redacted report filed by CRA detailing the auction proceedings, subject only to redaction of any confidential information enumerated in Paragraph 14. The Commission's docketing division is directed to work with Staff to assure the appropriate public release of information.

{¶ 16} Finally, all bidders are required to immediately disclose to the Commission and Staff all prices, terms, and conditions for any post-auction assignments of tranches obtained through the CBP, subject to appropriate protections for confidential or proprietary information.

{¶ 17} Accordingly, the Commission finds that DP&L should be authorized to file final tariffs implementing the rates for SSO customers consistent with this Finding and Order. The final tariffs shall be approved effective June 1, 2017, contingent upon final review by the Commission.

III. ORDER

{¶ 18} It is, therefore,

{¶ 19} ORDERED, That the information set forth in Paragraph 14 be deemed confidential and remain under seal indefinitely. It is, further,

{¶ 20} ORDERED, That, unless otherwise ordered by the Commission, the information set forth in Paragraph 15 be subject to public release 21 days after the issuance of this Finding and Order. It is, further,

{¶ 21} 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 case docket and one copy in its TRF docket. It is, further,

{¶ 22} ORDERED, That the effective date of the new tariffs shall be June 1, 2017, contingent upon final review by the Commission. It is, further,

{¶ 23} ORDERED, That DP&L notify its customers of the changes to the tariff via bill message or bill insert within 30 days of the effective date. A copy of this notice shall be submitted to the Commission's Service Monitoring and Enforcement Department at least 10 days prior to distribution to customers. It is, further,

{¶ 24} 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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Asim Z. Haque, Chairman

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