

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan	: : : : :	Case No. 16-0395-EL-SSO
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	: : : : :	Case No. 16-0396-EL-ATA
In the Matter of the Application of The Dayton Power and Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code § 4905.13	: : : : : : :	Case No. 16-0397-EL-AAM

INITIAL BRIEF OF UTILITY WORKERS UNION OF AMERICA, LOCAL 175

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I. INTRODUCTION

On February 22, 2016, the Dayton Power and Light Company (“DP&L”) filed an Application for Approval of its Electric Security Plan (“Application” or “ESP”). This Application sought a ten-year Reliable Electric Rider that “would include the generation, capacity and ancillary services from the plants listed above in paragraph 4, and would have a term of January 1, 2017 through December 31, 2026.” (Application at ¶ 9) The Application purported to “promote economic growth and stability in Ohio by allowing at-risk generation plants to remain operational. If those plants were to close, then the adverse effects would include \$26.5 billion in economic losses in Ohio, the loss of almost 19,000 jobs, and a significant increase in reliability risks.” (Application at ¶ 1)

Several parties moved to intervene in the case, and a series of settlement meetings occurred over the course of several months at the Commission. A Stipulation and Recommendation was filed on January 30, 2017, along with a later “Amended Stipulation and

Recommendation” on March 14, 2017. DP&L witness R. Jeffrey Malinak submitted within his direct testimony filed February 6, 2017, which was not withdrawn, the following: “I understand that, as part of the Stipulation, DP&L has agreed to close certain of these coal generation facilities by June, 2018 and that it also has committed to commence a sale process to sell its interests in the remaining plants.” (Direct Testimony, Public Version, p. 24) In his March 22, 2017 direct testimony in support of the Amended Stipulation, Mr. Malinak avers that “I understand that DP&L has announced plans to close certain of these coal generation facilities by June, 2018 and that it also has committed in the Amended Stipulation to commence a sale process to sell its interest in the remaining plants.” (DP&L Ex. 2A, p. 27)

II. BACKGROUND AND ARGUMENT

Local 175 originally intervened in the case with the intention of lending its full support to the Application. Then it became evident throughout the proceedings that DP&L and/or its partners planned to close the Stuart Station and Killen Station generating units by June 2018. (DP&L Ex. 104) Sierra Club, another intervenor in the case, represented through a press release¹ dated March 20, 2017 that “[t]he retirement of Ohio’s Killen and Stuart plants by June 2018 comes after months of conversations between Dayton Power & Light and stakeholders.” (Id.) While it is not a signatory party to the Amended Stipulation, Sierra Club views the closure of the Stuart and Killen plants as a “milestone,” for its Beyond Clean Coal Campaign, an effort that “fights on multiple fronts – legal, organization, campaign and communications – to decarbonize the U.S. electric sector, largely by replacing coal with clean energy, and increasingly replacing natural gas with clean energy.” (Id.) While the closure of the Stuart and Killen facilities is not contained explicitly within the Amended Stipulation, the Commission should consider both the impacts of the closure on Local 175 employees and their communities. With this in mind, the

¹ A press release that DP&L submitted for the Commission’s consideration as part of its case supporting the Amended Stipulation.

Commission should amend the Amended Stipulation further to include all coal generating assets in the sale commitment.

A. The Commission should include Stuart and Killen in the sale process.

Murray Energy offered testimony from Emily S. Medine, a principal at Energy Ventures Analysis, Inc., which Utility Workers Union of America, Local 175 (“Local 175”) joined and adopted on March 29, 2017. (Murray Ex. 2) Ms. Medine’s analysis sets forth several reasons why the retirement of the Stuart and Killen units is not in the interests of Ohio energy customers.

Initially, there is “no reason why a sales process to which DP&L has agreed for its other coal assets cannot be extended to include Killen and Stuart.” (Murray Ex. 2, p. 7) Ms. Medine identified several instances wherein coal generating units have been purchased.² Ms. Medine further submitted that DP&L must demonstrate that it is in the public interest for the plants to closed rather than sold. Local 175 submits that DP&L has not done so.

As was clear from Ms. Medine’s testimony, although the closure of Stuart and Killen has been omitted from the four corners of the Amended Stipulation document, there is “significant collateral evidence to the contrary” within the ESP application indicating DP&L’s intent to close Stuart and Killen. (Tr. Vol. V at 553) Ms. Medine opined that the closure of the plants is

“indirectly part of the ESP because there’s components of the ESP application that represent closure of those units. It may not be in the stipulation per se, but to the extent that the company has offered Witness Malinak’s testimony, he says a couple of times in his testimony that these plants will be closed.”

(Tr. Vol. V at 554)

Because the closure of these plants has been raised in these proceedings, and because the initial Application was based in part on these assets continuing to operate for several years, there is no reasonable justification for not including the Stuart and Killen units in a sale process. The

² These include the Riverstone purchase of Talen Energy involving multiple coal plants, as well as two coal-fired units in New Hampshire.

purported goal of selling the generation assets is the use of the proceeds from that sale to make discretionary debt repayments. (Jt. Ex. 1, p. 4) The Amended Stipulation, by not including Stuart and Killen in the commitment to commence a sale process of other generation assets, does not account for the potential for cash proceeds from such a sale to further the objective of making the discretionary debt repayments. These units should not be excluded from the sale commitment.

B. Local 175's bargaining unit members, their families, and the surrounding communities will be devastated by the closure of the Stuart and Killen facilities.

The loss of quality, stable jobs in the communities in which the Stuart and Killen facilities are located is hardly the only impact that closure would have. Monroe Township, Adams County, Spriggs Township, Manchester Local School District, Adams County Ohio Valley School District and Citizens to Protect DP&L Jobs all filed to intervene and submitted testimony relative to the extent of the damage that closure of these facilities would bring to bear. Monroe Township Trustee Brenda Emery submitted that 89% of tax revenues “come from having the Stuart and Killen power stations operating in Monroe Township.” (Monroe Twp. Ex. 1, p. 2) Seven million out of an \$11 million budget could be removed from the Manchester Local School District's budget should the Stuart and Killen units be retired. (Manchester LSC Ex. 1, p. 2) Additionally, 78% of Spriggs Township funding derives from the Stuart and Killen units. (Spriggs Ex. 1, p. 2)

Generations of area families have been employed at the Stuart and Killen units and their associated facilities. (Citizens Ex. 1, p. 4) The loss of revenue to Adams County from the closure of these two units would reach approximately \$35 million annually. (Id., p. 5) Stuart and Killen generate approximately \$9 million in property taxes for Adams County and other political subdivisions, with the Manchester Local School District receiving \$5.6 million of the \$9 million. (Id.) The Amended Stipulation, while not including language relative to the retirement of these

two facilities, also does not address the clean-up and decommissioning process that retirement would involve.

III. CONCLUSION

For the foregoing reasons, Local 175 recommends that the Commission amend the Amended Stipulation to include the Killen and Stuart facilities in the commitment to a sale process similar to the Conesville, Miami Fort, and Zimmer stations.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing document was served upon the following individuals by electronic filing on this 5th day of May, 2017.

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This foregoing document was electronically filed with the Public Utilities

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Case No(s). 16-0395-EL-SSO, 16-0396-EL-ATA, 16-0397-EL-AAM

Summary: Brief Initial Brief electronically filed by Mr. John R. Doll on behalf of Utility Workers Union of America Local 175