

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)
Dayton Power and Light Company for) Case No. 17-1398-EL-POR
Approval of its Energy Efficiency and Peak) Case No. 17-1399-EL-WVR
Demand Reduction Portfolio Plan for 2018)
through 2020.)

**MOTION TO INTERVENE AND OBJECTIONS OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

In accordance with R.C. 4903.221 and Ohio Adm. Code 4901-1-11, and 4901:1-39-04(D), the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully moves to intervene in this matter with the full powers and rights granted to intervening parties. OMAEG has a real and substantial interest that may be adversely affected by this proceeding and that interest cannot be adequately represented by any existing parties. Because OMAEG satisfies the standard for intervention set forth in the Public Utilities Commission of Ohio's (Commission) rules and by statute, the motion should be granted. Pursuant to Ohio Adm. Code 4901:1-39-04(D), OMAEG also respectfully submits comments in opposition to Dayton Power and Light Company's (DP&L) approval of its Energy Efficiency and Peak Demand Reduction Portfolio (EE/PDR) Plan for 2018 through 2020 (POR Plan).¹ A memorandum in support is attached.

¹ DP&L EE/PDR Application (June 15, 2017) (Application).

Respectfully submitted,

/s/ Kimberly W. Bojko

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MEMORANDUM IN SUPPORT AND OBJECTIONS

I. OMAEG's request for intervention.

On June 15, 2017, DP&L filed an Application in the above case for approval of its 2018-2020 EE/PDR plan. In its Application, DP&L seeks to count non-programmatic savings to be eligible for the shared savings incentive. As explained in more detail below, OMAEG has a real and substantial interest in the outcome of these proceedings.

Ohio Adm. Code 4901-1-11 permits intervention by a party who has a real and substantial interest in the proceeding and who is so situated that the disposition of the proceeding may impair or impede its ability to protect that interest and whose interest is not adequately represented by an existing party. Likewise, R.C. 4903.221 authorizes intervention where a party: may be adversely affected by the proceeding; will contribute to a full development and equitable resolution of factual issues; and will not unduly prolong or delay the proceedings.

OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG works directly with elected officials, regulatory agencies, the judiciary, and the media to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission. OMAEG members purchase electric services

from DP&L and OMAEG has previously participated in a proceeding involving DP&L, including its most recent EE/PDR case.²

OMAEG has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest. OMAEG's unique knowledge and perspective will contribute to the full development and equitable resolution of the factual issues in this proceeding. OMAEG's interest will not be adequately represented by other parties to the proceeding and its timely intervention will not unduly delay or prolong the proceeding.

Because OMAEG satisfies the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11 it is authorized to intervene with the full powers and rights granted by the Commission to intervening parties. OMAEG respectfully requests that the Commission grant this motion to intervene and that OMAEG be made a full party of record.

II. Objections.

OMAEG submits its objections and comments to DP&L's Application.³ OMAEG's failure to present a particular issue or objection herein should not be construed to bar OMAEG from presenting said issue or argument at hearing or in its brief.

A. DP&L's proposed shared savings mechanism should be modified to include a cap on shared savings and to clarify that banked savings cannot be used to trigger the shared savings incentive mechanism.

Shared savings are paid to the utility on top of program costs and, therefore, are a form of utility profit. DP&L's proposed changes will increase costs to customers with no clear rationale

² *In the Matter of Application of The Dayton Power and Light Company for Approval of its Electric Security Plan, et al.*, Case No. 12-426-EL-SSO, et al., Opinion and Order at 5 (September 4, 2013); *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. 16-649-EL-PDR, Entry at 1 (Oct. 26, 2016) (2017-2019 EE/PDR Case).

³ Ohio Adm. Code 4901:1-39-04(D).

or justification. Specifically, permitting shared savings incentives to be grossed up for taxes results in a significant additional charge to customers, especially without an annual cap on shared savings. DP&L does not explain why customers should pay DP&L's tax liabilities on profit received. Grossing up shared savings for taxes increases the amount of profit that DP&L makes on the programs, which are paid by customers. As DP&L already recovers 100 percent of program costs from customers, customers should not also be responsible to pay DP&L's taxes for its profit on energy efficiency program. Therefore, Shared savings (profit) payments should not be grossed up for taxes.

The Commission should also carefully review and consider whether the programs advanced by DP&L should be included in the shared savings calculation in order to protect customers and minimize the amount of additional costs collected from customers.

Additionally, the Commission should require that DP&L include an annual cap on their proposed shared saving incentive mechanism. This would be consistent not only with their previously approved POR Plan, but also with EE/PDR proposals of two other Ohio utilities, FirstEnergy and AEP Ohio.⁴

Moreover, the Commission should clarify that a shared savings incentive for performance is only available if DP&L exceeds the statutory benchmarks, not if DP&L only meets the statutory benchmark.

Further, it is unclear whether DP&L intends to use banked savings to collected shared savings as DP&L's proposed POR Plan refers to exceeding energy efficiency requiremetns

⁴ See, e.g., *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2017 through 2019*, Case No. 16-743-El-POR, Application at 100 (April 15, 2016); *In the Matter of the Application of Ohio Power Company for Approval of its Energy Efficiency/Peak Demand Reduction Portfolio Plan*, Case No. 16-574-EL-POR, Direct Testimony of Jon F. Williams at 19 (June 15, 2016).

rather than annual performance.⁵ The use of banked savings to trigger a shared savings incentive mechanism is improper and therefore the Commission should clarify that the DP&L shall not use banked savings to collected shared savings in any year that it does not meet the annual benchmark.

Finally, DP&L's proposed shared savings incentive mechanism should be considered in light of the quality of the proposed energy efficiency programs, which should be delivered at low costs and provide benefits to customers. Therefore, OMAEG recommends that the Commission tie shared savings incentives to performance metrics, in addition to incentive tiers, that a utility must achieve in order to receive shared savings incentives. OMAEG recommends the following new performance metrics:

- All capacity resources associated with eligible energy efficiency and demand reduction resources should be bid into the PJM capacity auctions with 100 percent of the net revenue offsetting the energy efficiency rider costs. If all of the capacity resources associated with eligible energy efficiency and demand reduction resources are not bid into the PJM capacity auctions, the value of the price suppression effects foregone should be subtracted from the system's energy savings that contribute to the shared savings incentives.
- Shared savings should be indexed to the cost of the programs, in addition to quantity of savings achieved. There is a significant discrepancy between Ohio's investor-owned utilities regarding the cost to deliver energy efficiency programs. Utilities that perform expensively receive the same shared savings (profit) incentive as utilities that perform cost-effectively. Because customers

⁵ Application at 5.

cannot choose which utility provides their energy efficiency programs, the Commission should account for these significant differences and encourage utilities to deliver energy efficiency programs with low overhead costs by accounting for the cost performance in the shared savings mechanism.

- Customer satisfaction should be integrated into the shared-savings mechanism.

The Commission should have the statewide evaluator conduct customer satisfaction surveys. Customer experience and satisfaction results should then be integrated into the shared-savings mechanism.

- Efficiency projects that result solely from customer actions should be explicitly barred from receiving shared savings incentives. This includes mercantile self-direct projects, as well as Non-Programmatic energy savings.

B. The Commission should require DP&L to submit a PJM capacity bidding plan and require DP&L to bid efficiency capacity into the upcoming PJM BRAs and the remainder into the PJM incremental auctions.

OMAEG believes that DP&L should bid energy-efficiency capacity into the PJM Interconnection, LLC (PJM) Base Residual Auction (BRA) to the customer's benefit as PJM pays for capacity reductions from energy efficiency projects in its auction. However, DP&L appears to not have addressed the PJM capacity bids in its proposed POR Plan. It appears that this was an oversight given PJM's capacity market is important to customers, as is DP&L's stewardship of the energy-efficiency capacity resource.

Bidding energy-efficiency into the capacity auction benefits Ohio customers in two ways. First, it creates revenue which can offset the cost of running energy efficiency programs. Second, energy efficiency capacity can suppress the price of capacity, creating universal savings for all customers.

Although utilities face some barriers to maximizing capacity bids into the PJM auction, which leads to less robust participation by the utilities in the capacity auctions, there are opportunities for utilities, such as DP&L to effectively bid capacity into the PJM auctions. The table below categorizes how DP&L's capacity could be responsibly bid into the PJM auctions. The green area represents an overlap between the PJM BRA eligible years and DP&L's proposed programs. The yellow areas represent capacity that DP&L should bid into the Incremental Auctions or the BRA.

	Bid Month							
	May-12	May-13	May-14	May-15	May-16	May-17	May-18	May-19
	Delivery Year							
Program Year	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
2017 - 1st Half								
2017 - 2nd Half								
2018 - 1st Half								
2018 - 2nd Half								
2019 - 1st Half								
2019 - 2nd Half								
2020 - 1st Half								
2020 - 2nd Half								
2021 - 1st Half								
2021 - 2nd Half								
2022 - 1st Half								
2022 - 2nd Half								
2023 - 1st Half								
2023 - 2nd Half								

Thus, the Commission should require DP&L to include a capacity bidding plan, as well as a proposed process to transparently discuss PJM capacity bids with the Collaborative. Additionally, the Commission should order DP&L to bid efficiency capacity into the upcoming BRAs, and what else is left into PJM's incremental auctions. The Commission should provide direction for DP&L and other utilities to bid efficiency capacity into the PJM BRA for later program years not-yet-approved, with the ability to buy-back capacity from incremental auctions if for some reason the utility is not providing efficiency programs in the future. Net costs/revenue could be passed through the efficiency rider. This mechanism could create

revenue to offset energy efficiency program costs, and reduce capacity prices, at a low risk to customers.

C. The Commission should deny DP&L's Non-Programmatic Savings program.

Under its POR Plan, DP&L proposes to implement a new Non-Programmatic Savings program, to capture “customer efficiency efforts undertaken outside of the utility-administered programs.”⁶ DP&L asserts that the objective of the new program is to quantify energy efficiency savings and improvements that are occurring in the DP&L service territory outside of the utility's programs.⁷

OMAEG opposes the new Non-Programmatic Savings program. Although DP&L claims that the new program, combined with EM&V planning,⁸ will include a 4 million cost over the three year term of the POR Plan, DP&L provides no information regarding detailed operating plans, estimated savings, or financial benefits from the program. Further, customers have already paid for these energy efficiency projects, as the program is designed to account for energy efficiency projects of customers *outside* of DP&L's specific energy efficiency programs⁹ and customers are already receiving the benefits associated with these projects. To require customers to pay an additional \$4 million for an undefined program that includes no additional benefits is unjust and unreasonable.

Utility-operated efficiency programs are meant to provide direct benefits to participating customers and universal benefits to all customers, creating more energy efficiency than

⁶ Application, 2018-2020 Portfolio Plan at 83.

⁷ Id.

⁸ DP&L states that it may adjust the Non-programmatic Savings program budgets as a result of markets conditions, EM&V requirements and emerging technologies. Application, 2018-2020 Portfolio Plan at 84. The EM&V planning has an estimated budget of \$3,206,298. Application, 2018-2020 Portfolio Plan at 91.

⁹ Id.

otherwise would have occurred absent the utility-operated program. However, the inclusion of savings from customer-financed actions outside of utility programs, such as the Non-Programmatic Savings Program, does not create more energy-efficiency in Ohio, and therefore does not provide additional benefits to customers. Moreover, these customer-action programs create additional costs to customers as they allow utilities, like DP&L, to recover costs from actions that were taken independently by customers outside of the utility-operated programs.

Finally, counting customer actions through the Non-Programmatic Savings program directly competes with the existing Mercantile Self-Direct program. Customer actions have been afforded recognition and protection through the Mercantile Self-Direct mechanism, through which a customer can submit proof of energy savings resulting from its own actions and elect either a one-time incentive payment or an exemption from the EER Rider.¹⁰ In both scenarios, DP&L's energy efficiency goals are modified based on customer actions, however, DP&L is not permitted to collect shared savings based on the customer's action.¹¹ The proposed Non-Programmatic Savings program may subvert the Mercantile Self-Direct program by reducing the financial benefit to customers associated with the rebate or rider exemption, while raising profits for the utility through the collection of \$4 million in costs and/or a shared savings incentive.

Thus, the Commission should remove the proposed Non-Programmatic Savings program on the basis that it has provided no details on the program, and no proof of additional customer benefits. In the event the Commission allows implementation of the Non-Programmatic Savings Program, the Commission should disallow any collection of a shared savings incentive on the energy savings achieved from the non-programmatic savings projects

¹⁰ Application, 2017-2019 Portfolio Plan at 73.

¹¹ *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 for Plan for 2013 through 2015*, Case No. 13-833-EL-POR, et al., Opinion and Order at 8-9 (December 4, 2013).

completed by customers and captured through the program. DP&L plays no role in producing these savings and therefore should not be permitted to capture the savings through the shared savings incentive mechanism. To do so would allow DP&L to collect revenues from customers when DP&L had no responsibility for investing in or implementing the energy efficiency programs upon which they are claiming shared savings. This undermines the incentive of the shared savings mechanism as described by the Commission to “motive and reward the utility for exceeding energy efficiency standards on an annual basis. As the mandated benchmark rises every year, [the utility] must continue to find way to encourage energy efficiency.”¹² Allowing DP&L to collect shared savings when it has taken no actions to encourage energy efficiency would be unjust and unreasonable.

D. The Commission should require DP&L to show its forecasted annual benchmarks in its proposed portfolio.

DP&L does not present its forecasted benchmark requirements. Thus, it is difficult for any party to know if DP&L’s proposed energy savings are actually designed to meet the annual benchmarks. Therefore, the Commission should require DP&L to provide a comparison of its forecasted annual savings benchmark with the proposed energy savings in its portfolio plan.

E. DP&L should continue combined heat and power (CHP) program at existing or improved incentive levels.

Senate Bill 315, which was passed in 2012, “permits a combined heat and power system, designed to achieve at least 60% thermal efficiency, with at least 20% of the total useful energy in the form of thermal energy, and placed into service or retrofitted on or after the effective date of this provision of the bill, to qualify for the energy efficiency

¹² *In the Matter of the Application of Duke Energy Ohio, Inc. for Recovery of Program Costs, Lost Distribution Revenue, and Performance Incentives Related to its Energy Efficiency and Demand Response Programs*, Case No. 14-457-EL-RDR, Finding and Order at 5 (May 20, 2015), reh’g pending.

requirements.”¹³ Thus, combined heat and power (CHP) can be counted towards the state’s energy efficiency requirements. Further, in September 2011, Ohio Governor John Kasich hosted an energy summit, specifically expressing interest in promoting CHP for its economic and environmental benefits.¹⁴ It is noteworthy that Ohio has one of the largest CHP technical potential of any state.¹⁵

Although DP&L currently offers incentives for CHP projects, has worked closely with the Ohio Environmental Council, Ohio Manufacturers’ Association, Midwest CHP Technical Assistance Partnership, and CHP developers to design their CHP program, highlights the success of its current program on page 7 of the executive summary of the 2018-2020 Portfolio Plan, CHP Program is not separately identified on the list of non-residential programs that DP&L proposes to continue or implement in its application at page 4 or in the Commercial and Industrial programs summarized on page 54 of the executive summary of the 2018-2020 Portfolio Plan. CHP projects are identified under the Custom Rebate section in the Portfolio Plan; however, no details of the incentive structure are provided.

The OMAEG is supportive of DP&L’s current CHP Program, which provides many economic and environmental benefits. To this end, the Commission should require DP&L to continue and strengthen its CHP Program in the 2018-2020 Portfolio Plan.

¹³ S.B. 315, 129th General Assembly (Ohio 2012).

¹⁴ <http://www.puco.ohio.gov/puco/index.cfm/industry-information/industry-topics/combined-heat-and-power-in-ohio/#sthash.8b9LihL0.dpbs>, *Ohio’s Pilot Project for Combined Heat & Power*, U.S. Department of Energy, Midwest Clean Energy Application Center, Public Utilities Commission of Ohio (December 2012).

¹⁵ <http://www.energy.gov/sites/prod/files/2016/04/f30/CHP%20Technical%20Potential%20Study%203-31-2016%20Final.pdf>, *Combined Heat and Power (CHP Technical Potential in the United States*, U.S. Department of Energy (March 2016) (see Table 2, page v, stating Ohio ranks fifth of all states in Total U.S> CHP Technical Potential Across All States).

I. Conclusion

Based on the information contained herein, OMAEG respectfully requests that the Commission modify DP&L's proposed POR Plan as set forth herein. Specifically, OMAEG requests that DP&L's shared savings mechanism be modified to include a cap, to remove the gross-up for taxes, and to clarify that banked savings cannot be used to trigger the shared savings incentive mechanism. Further, OMAEG requests that the Commission require DP&L to submit a PJM capacity bidding plan and require DP&L to bid efficiency capacity into the upcoming PJM BRAs, with the remainder being bid into the PJM Incremental Auctions. OMAEG also requests that the Commission deny DP&L's proposed Non-Programmatic Savings.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on August 14, 2017.

/s/ James D. Perko, Jr.

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