

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power & Light Company for Approval of Its Electric Security Plan.)	Case No. 16-0395-EL-SSO
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)	
In the Matter of the Application of The Dayton Power & Light Company for Approval of Revised Tariffs.)	Case No. 16-0396-EL-ATA
)	
)	
In the Matter of the Application of The Dayton Power & Light Company for Approval of Certain Accounting Authority Pursuant to Ohio Rev. Code § 4905.13.)	Case No. 16-0397-EL-AAM
)	
)	
In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Electric Security Plan.)	Case No. 08-1094-EL-SSO
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In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.)	Case No. 08-1095-EL-ATA
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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. 08-1096-EL-AAM
)	
)	
In the Matter of the Application of The Dayton Power and Light Company for Approval of Its Amended Corporate Separation Plan.)	Case No. 08-1097-EL-UNC
)	
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**COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION**

I. INTRODUCTION

The Retail Energy Supply Association¹ (“RESA”) submits these comments in response to The Dayton Power and Light Company’s (“DP&L”) November 26, 2019 notice of withdrawal of its ESP III application in Case No. 16-0395-EL-SSO and DP&L’s proposed tariffs filed in Case Nos. 08-1094-EL-SSO, 08-1095-EL-ATA, 08-1096-EL-AAM and 08-1097-EL-UNC on November 26, 2019. DP&L filed a notice to withdraw its ESP III application in Case No. 16-395-EL-SSO but did not withdraw its applications in Case Nos. 16-0396-EL-ATA and 16-0397-EL-AAM, and represents that its proposed tariffs are consistent with those previously approved by the Commission on August 26, 2016 in the ESP I proceedings and are consistent with tariffs in effect before the Commission’s October 20, 2017 Opinion and Order in the ESP III proceedings. While RESA questions DP&L’s ability to withdraw its ESP III application given its execution of the stipulation filed in Case Nos. 16-0395-EL-SSO, 16-0393-EL-ATA and 16-0397-EL-AAM (the “Stipulation”) and lack of withdrawal from the Stipulation per its procedures (rehearing, negotiation, and only then a withdrawal and termination), RESA’s comments are focused on DP&L’s proposed tariff filings. Specifically, RESA believes that (1) DP&L’s proposed tariffs are not consistent with the tariffs in effect prior to the October 20, 2017 Opinion and Order; (2) while DP&L is filing tariff sheets as a result of its notice to withdraw its ESP III application in Case No. 16-395-EL-SSO, the Stipulation mandates compliance with DP&L’s commitments under the Stipulation that are not linked to the DMR or the ESP III term; and (3) at

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

a minimum, DP&L's proposed tariffs should not adversely impact current CRES contracts, including tariffs on transmission charge allocations.

II. RELEVANT BACKGROUND

On March 13, 2017, DP&L executed the Stipulation with a number of parties, including the Retail Energy Supply Association, to resolve issues in three cases, Case No. 16-0395-EL-SSO, Case No. 16-0396-EL-ATA and Case No. 16-0397-EL-AAM. The Stipulation covered many topics including tariff revisions, commitments by DP&L as to its dealings with its affiliates and provisions intended to enhance the retail competitive market (supplier consolidated billing pilot and non-commodity billing). As a condition of the Stipulation, DP&L agreed to not withdraw from the Stipulation unless it (a) sought rehearing of a modification of the Stipulation, (b) if rehearing is denied, to try and negotiate an outcome that substantially satisfies the intent of the Stipulation and only if that fails, (c) file a notice to terminate and withdraw from the Stipulation (which would render the Stipulation null and void).

The Stipulation was approved by the Commission with modification on October 20, 2017 and DP&L did not oppose the modification, proceeding to submit tariffs to implement the Stipulation's provisions. After Interstate Gas Supply, Inc. ("IGS") filed for rehearing and subsequently withdrew from the Stipulation (following the Stipulation's withdrawal process), the Commission held a hearing to address IGS's arguments on the Stipulation and DP&L's applications in the three cases. On November 21, 2019, the Commission issued a Supplemental Opinion and Order that modified the Stipulation to remove DP&L's Distribution Modification Rider.

Rather than follow the Stipulation's process (rehearing, negotiation, and only then withdrawing), DP&L filed a notice on November 26, 2019 withdrawing its application in Case

No. 16-395-EL-SSO but not withdrawing its applications in Case No. 16-393-EL-ATA and 16-397-EL-AAM. DP&L also separately filed proposed tariffs in Case Nos. 08-1094-EL-SSO, Case No. 08-1095-EL-ATA, Case No. 08-1096-EL-AAM and Case No. 08-1097-EL-UNC consisting of tariff sheets that allegedly were in place under the ESP I and leaving in place tariff sheets for riders that were established through the Stipulation in the ESP III proceeding. DP&L did not explain why it is continuing the provisions of the Stipulation in its tariff, and is treating the Stipulation as remaining in effect for some, but not all, provisions. DP&L also did not file all final tariffs – as it intends to file a single tariff sheet G10 to reflect the Standard Offer Rate in existence today.

III. DP&L’S PROPOSED TARIFF FILINGS LEAVE IN PLACE CERTAIN STIPULATION TERMS

When filing its notice of withdrawal, DP&L made no mention of the status of the Stipulation. Despite DP&L’s claim that its proposed tariffs are consistent with the tariffs in effect prior to the October 20, 2017 Opinion and Order, DP&L is continuing to propose certain riders and programs established through the Stipulation. Examples are the Distribution Investment Rider (DIR) which was “established” at page 6 of the Stipulation (tariff sheet D36), the Decoupling Rider which was “implemented” at page 14 of the Stipulation (tariff sheet D32), and the Transmission pilot program related to Rider TCRR-N (tariff sheet T-08). The Regulatory Compliance Rider also would remain in place as “implemented” at page 17 of the Stipulation (tariff sheet D31). DP&L is also continuing to honor existing contracts with Standard Offer Rate suppliers through May 2021. While RESA has previously not objected to maintaining provisions of a current ESP at withdrawal (e.g., the 2016 withdrawal of the ESP II application), DP&L should clarify and confirm that it will continue to meet its other

commitments under the Stipulation that are not linked to the DMR or the ESP III term, including the Competitive Retail Market Enhancements in Section IX of the Stipulation.

IV. DP&L'S COMMITMENTS UNDER THE STIPULATION THAT ARE NOT LINKED TO THE DMR OR THE ESP III TERM SHOULD CONTINUE UNINTERRUPTED

When executing the Stipulation, DP&L made commitments that were unrelated to the DMR and binding upon DP&L. Important to RESA are the Competitive Retail Market Enhancements at Section IX of the Stipulation addressing non-commodity billing and a two-year pilot supplier consolidated billing program. None of those provisions are tied to the term of the ESP III or to the DMR – leaving those provisions of the Stipulation in place and effective. Likewise, RESA negotiated tariff changes through the Stipulation and those tariff changes are currently in effect (Stipulation Section IX(3), tariff sheet G8) and are not being modified under DP&L's new proposed tariffs.

Along with the tariff changes, DP&L has initiated the non-commodity billing section of the Stipulation. Section IX(1) of the Stipulation required DP&L to submit an application to the Commission to establish non-commodity billing and parameters, and to establish cost recovery no later than eighteen months after the Commission approved the Stipulation with or without modification. DP&L made that filing in Case Nos. 19-860-EL-UNC and 19-861-EL-AAM which are open and pending. Staff also agreed to request within 60 days of the Commission's approval of the Stipulation with or without modification that the Commission conduct a rule review to establish parameters for non-commodity billing on customer's utility bills in all EDU service territories. While RESA is unaware whether Staff has completed that commitment, it should remain in place like DP&L's commitment to pursue its application to establish non-commodity billing in its service territory.

DP&L should also clarify and confirm that it will honor its agreement in the Stipulation to implement a two-year pilot supplier consolidated billing program. The purpose of the pilot as stated at Section IX(2) of the Stipulation is to provide the industry with data and information on the practicality of a supplier consolidated billing implementation in the Ohio electric choice market. The pilot program is limited in scope and required DP&L to meet with participating CRES providers to establish the methodology for the pilot no later than 12-months following a “final Commission order approving a Stipulation in these proceedings.” All of these commitments under Section IX(2) of the Stipulation are not linked to the DMR or the ESP III term, and, importantly, advance State policies under Section 4928.02 of the Revised Code. Given that the Stipulation remains in effect, these commitments may and should continue uninterrupted.

V. CRES CONTRACTS SHOULD NOT BE IMPACTED

Repeating its position in August 12, 2016 comments submitted to the Commission when DP&L withdrew its ESP II application, RESA submits that regardless of whether the Commission accepts or rejects DP&L’s proposed tariff filings, any action taken by the Commission should ensure certainty in the competitive retail marketplace and avoid any interruptions in the competitive retail marketplace. Providing certainty in the retail markets is very important to all customers, whether shopping or not shopping. With DP&L’s ESP III well into its term (it started in October 2017), competitive retail electric service (“CRES”) providers have entered into contracts and relationships with customers based on DP&L’s ESP III tariffs, including tariffs relating to the allocation of transmission charges. Additionally, default service customers are being served based on wholesale supply auctions provided by CRES suppliers. Tariff changes that negatively impact contracts and relationships will lead to customer confusion and unreasonably interfere with existing contracts and pricing components within those

contracts. Such changes as well as changes to the default service auctions should be avoided to ensure that certainty in the competitive retail marketplace remains in place until DP&L submits an application for a new standard service offer. In addition, as the Commission found in its August 26, 2018 Finding and Order, DP&L's TCRR-N and TCRR-B transmission riders should not change from what was in effect prior to October 20, 2017.

VI. CONCLUSION

The comment schedule in this matter was established quickly and provided little time for an in-depth, deliberative review of the proposed tariffs and positions of the other parties. To the extent the Commission is willing to allow parties the opportunity to submit reply comments, RESA would appreciate the opportunity.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that this document is also being served electronically on the following parties on this 4th day of December, 2019.

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Summary: Comments by the Retail Energy Supply Association electronically filed by Mr. Michael J. Settineri on behalf of Retail Energy Supply Association