

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION
OF THE DAYTON POWER AND
LIGHT COMPANY TO UPDATE ITS
STANDARD OFFER RATE TARIFFS.

CASE NO. 19-841-EL-RDR

SECOND FINDING AND ORDER

Entered in the Journal on February 26, 2020

I. SUMMARY

{¶ 1} The Commission directs the Dayton Power and Light Company to credit to customers any and all PUCO/OCC assessment fees collected through the standard offer rate rider within a nonbypassable rider.

II. DISCUSSION

{¶ 2} The Dayton Power and Light Company (DP&L or the Company) is an electric distribution utility and a public utility as defined in R.C. 4928.01(A)(6) and R.C. 4905.02, respectively. As such, DP&L is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric service to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 4} On February 22, 2016, DP&L filed an application for an SSO – its third ESP – 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 October 20, 2017, the Commission approved DP&L’s proposed third ESP. *ESP III Case*, Opinion and Order (October 20, 2017) (2017 Opinion and Order). Therein, the Commission approved a bypassable standard offer rate (SOR), to be based on competitive bid auctions, as accepted by the Commission in Case No. 08-1094-EL-SSO, and charged on

a \$/kilowatt hour basis for all tariff classes. Pursuant to the 2017 Opinion and Order, tariffs implementing ESP III, including the SOR tariffs, were filed with an effective date of November 1, 2017.

{¶ 5} On April 15, 2019, in this case docket, DP&L filed an application to update its SOR tariffs. The proposed tariffs specified an effective term of June 1 through May 31 of the subsequent year, unless otherwise ordered by the Commission, and included language clarifying that the SOR is subject to reconciliation, including refunds to customers, based upon the results of audits ordered by the Commission. On May 3, 2019, DP&L filed a revised application to modify the SOR to reflect minor modifications to the reconciliation balance for the rider.

{¶ 6} On May 14, 2019, Staff filed its Review and Recommendation. Staff noted that the proposed SOR rates—which contain an alternative energy rate (AER) component, a reconciliation component, and an unbilled fuel component—should be approved effective June 1, 2019, subject to Staff’s continued review and any resulting adjustments. Staff explained that the review period permitted by an April 15, 2019 application and a June 1, 2019 effective date for rates is inadequate to conduct a thorough audit; more specifically, Staff stated that it could not conduct a thorough review of the reconciliation component in less than one month. Thus, Staff recommended that the Commission direct the Company to work with Staff to develop a process that provides additional time to review the reconciliation portion of the SOR each year. Staff also conditioned its approval of the proposed SOR rate on the AER component being subject to subsequent audit, performed at the direction of the Commission. Ultimately, Staff recommended that the revised SOR tariffs proposed on May 3, 2019, be approved to become effective on June 1, 2019, subject to potential further adjustments pursuant to Staff’s anticipated supplemental review and recommendations and any resulting order by the Commission. Furthermore, because the SOR is updated annually, Staff recommended that the Commission direct the Company to provide Staff with quarterly updates.

{¶ 7} By Finding and Order issued May 29, 2019, the Commission found that DP&L's revised application to update the SOR was consistent with the *ESP III Case* and did not appear to be unjust or unreasonable. Moreover, we found that the proposed extended-review language recommended by Staff to be unnecessary: the tariffs expressly provide that the SOR is subject to reconciliation, including refunds to customers, based upon audits ordered by the Commission, which audits are not limited to a specific timeframe. Therefore, the Commission concluded that the tariffs provide Staff with the flexibility to complete the audit of the reconciliation component after the approval of the updated rates and to complete the audit of the AER component in the future while remaining subject to future reconciliation based upon the results of those audits. Thus, the Commission approved the SOR rates proposed in DP&L's May 3, 2019 filing, with an effective date of June 1, 2019, and ordered DP&L to provide Staff with quarterly updates regarding the balances collected under the rider. On May 30, 2019, DP&L filed final tariffs as directed by the Commission's Finding and Order.

{¶ 8} On September 6, 2019, Staff filed a second Review and Recommendation with regard to DP&L's SOR after completing its audit of the rider's reconciliation component for the period of April 1, 2018 through March 31, 2019. Therein, Staff notes that, in DP&L's most recent base rate distribution case, the Commission directed that the SSO generation revenue percentage of the PUCO/OCC assessment fees be recovered through an appropriate bypassable rider, but clarified that the chosen rider "may recover adjusted test year expenses only." *In re The Dayton Power and Light Co.*, Case No. 15-1380-EL-AIR, et. al., Opinion and Order (Sept. 26, 2018) (Rate Case Order) at ¶ 32. Staff further notes that, pursuant to the Rate Case Order, DP&L began recovering \$56,289 per month for PUCO/OCC assessment fees through the bypassable SOR in October of 2018. Staff states that it reviewed the revenue percentage calculated by DP&L and agrees that it conforms to Staff's recommendation in the Rate Case Order. However, Staff also verified that the entire test-year amount of the PUCO/OCC assessment fees (\$1,986,667) is collected through DP&L's base rates. Staff asserts that, because DP&L did not adjust the PUCO/OCC

assessment expense collected in base rates to exclude the percentage of the expense related to SSO generation, there are no adjusted test year expenses to recover through the SOR. Therefore, Staff explains that any additional amount recovered through the SOR tariffs would constitute a double recovery of a portion of the PUCO/OCC assessment fees and expresses concern that this double recovery would be harmful to consumers and would violate the Commission's Rate Case Order. Thus, in order to prevent this double recovery, Staff recommends that any and all PUCO/OCC assessment fees collected through the bypassable SOR tariffs be credited back to customers through a different, non-bypassable rider.

{¶ 9} By Entry dated September 26, 2019, the attorney examiner issued a procedural schedule to assist the Commission in its review of DP&L's SOR in light of Staff's second review and recommendation. The Entry established October 18, 2019, as the deadline for filing initial comments and October 28, 2019, as the deadline for filing reply comments.

{¶ 10} On October 17, 2019, Interstate Gas Supply, Inc. (IGS) filed a motion to intervene as well as initial comments. In the motion, IGS submits that it is entitled to intervene pursuant to both R.C. 4903.221 and Ohio Adm.Code 4901-1-11 because—as a certified retail electric service (CRES) provider—it has a direct, real, and substantial interest in this proceeding, the disposition of which may impair or impede its ability to protect that interest. Neither DP&L nor Staff opposed IGS's request, and the Commission finds that the motion to intervene is reasonable and should be granted.

{¶ 11} In its initial comments, IGS explains that, similar to DP&L, a CRES provider like IGS is required to pay an annual PUCO/OCC assessment based on its intrastate gross earnings. Thus, if DP&L recovers its entire PUCO/OCC assessment through distribution rates, shopping customers are unfairly burdened twice for the PUCO/OCC assessment: paying once through rates charged by the CRES provider supplying the customer's generation and again by DP&L through distribution rates associated with other customers'

generation served under the SSO. To prevent this, IGS urges the Commission to adopt Staff's recommendation. No other comments were filed, whether initial or reply.

{¶ 12} Upon review of the history of this proceeding, Staff's second review and recommendation, and IGS's initial comments, the Commission finds that Staff's recommendation is reasonable and should be implemented. Accordingly, to avoid a double recovery, DP&L is directed to credit to customers within a nonbypassable rider any and all PUCO/OCC assessment fees collected through the SOR tariffs. DP&L is further instructed to confer with Staff to identify the appropriate nonbypassable rider to be used to effectuate this credit and file commensurate proposed tariffs for Staff's review within the next 60 days.

III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That DP&L credit to customers within a nonbypassable rider all PUCO/OCC assessment fees collected through its SOR tariffs as stated in Paragraph 12. It is, further,

{¶ 15} ORDERED, That a copy of this Second Finding and Order be served on all interested persons and parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

PAS/hac

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Summary: Finding & Order that the Commission directs the Dayton Power and Light Company to credit to customers any and all PUCO/OCC assessment fees collected through the standard offer rate rider within a nonbypassable rider electronically filed by Docketing Staff on behalf of Docketing