BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of The Application of The Dayton Power And Light Company For a Finding That its Current Electric Security Plan Passes the Significantly Excessive Earnings Test and More Favorable in The Aggregate Test In R.C. 4928.143(E).	))))))	Case No. 20-680-EL-UNC

INITIAL COMMENTS OF THE OHIO HOSPITAL ASSOCIATION

I. INTRODUCTION

Dayton Power & Light Company's ("DP&L") currently-operative electric security plan ("ESP") was reestablished in Case. No. 08-1094-EL-SSO ("ESP I Case"). *ESP I Case*, Dec. 18, 2019 Finding and Order, ¶ 27. In the *ESP I Case*, the Public Utilities Commission of Ohio ("Commission") ordered DP&L to make a filing regarding whether that ESP I passes the prospective significantly excessive earnings test ("SEET test") and "more favorable in the aggregate" test ("MFA test") in Ohio Revised Code Section ("R.C.") 4928.143(E). On April 1, 2020, DP&L filed its MFA/SEET test application in this case. Pursuant to the April 23, 2020 Entry in this case, the Ohio Hospital Association ("OHA") submits the following initial comments.

II. COMMENTS

A. The Commission should hold this case in abeyance until it rules on the applications for rehearing filed in Case No. 08-1094-EL-SSO.

The rate stabilization charge ("RSC") and its financial impact on customers is one the primary issues in DP&L's MFA and SEET analysis. However, before the Commission considers the financial impact of the RSC, it must resolve the question of whether the RSC should continue to exist at all. In the *ESP I Case*, various parties are currently challenging the Commission's decision to allow DP&L to re-establish the RSC. A number of parties have filed applications for rehearing arguing that the RSC should be eliminated. If the Commission grants rehearing and ultimately modifies or eliminates the RSC, this decision will necessarily impact the MFA and SEET analysis. Therefore, the Commission should hold this case in abeyance until it rules on the applications for rehearing filed in Case No. 08-1094-EL-SSO.

B. The ongoing imposition of non-bypassable RSC charges during the COVID-19 pandemic weighs heavily against the ESP in the MFA analysis.

DP&L intends to charge customers approximately $314 million in RSC charges over the four-year ESP term.[1] DP&L will be imposing this non-bypassable charge on its customers while customers are struggling mightily to deal with the health and financial impacts of COVID-19. DP&L claims that the RSC is necessary because it is at the "ragged edge" of investment grade. But what about DP&L's customers? Many customers in DP&L's territory are also on the "ragged edge" financially due to the unprecedented health and economic impacts of COVID-19. And unlike DP&L, these customers do not have the luxury of regulatory mechanisms that allow them to defer certain unexpected costs for future recovery or obtain approval of non-bypassable riders to obtain recovery from captured customers.

Healthcare providers, who are on the frontlines of the coronavirus pandemic, have not been spared from the financial damage caused by the pandemic. Early estimates indicate that Ohio hospitals will incur a $1.2 billion negative financial impact every month due to the pandemic.[2] For perspective, the total revenue for Ohio hospitals averages about $48 billion annually.[3]

[1] Direct Testimony of R. Jeffrey Malinak ("Malinak Testimony") at p. 57.

[2] https://www.modernhealthcare.com/finance/ohio-hospitals-are-prepping-big-financial-losses-pandemic (last accessed 7/1/20)

[3] *Id.*

Furthermore, it appears that Ohio may be headed for another surge in coronavirus cases, which may result in even worse financial impacts on hospitals than initially projected.

Circumstances have clearly changed since the Commission initially approved the RSC as part of DP&L's ESP I way back in 2009. Many of DP&L's customers have been financially ravaged by the coronavirus which did not exist when the Commission initially approved the RSC as part of DP&L's ESP I. Therefore, the Commission was unable to weigh the serious financial burden the RSC will have on customers when it initially performed the MFA test in 2009.

R.C. 4928.143(E) provides the Commission the statutory authority to retest an ESP if it exceeds three years. The General Assembly presumably realized that world the can change significantly in three years, and that the Commission should have the ability to terminate or adjust an ESP to address these changes. Clearly, the world is different today from 2009 because of the pandemic. It is hard to imagine a more inopportune time to subject customers to another non-bypassable rider. The Commission should give considerable weight to the MRO because it allows customers to avoid the RSC charges at a time when all customers desperately need the ability to reduce their costs. Using its statutory authority under R.C. 4928.143(E), the Commission should terminate DP&L's ESP until an alternative plan can be adopted that does not contain RSC charges or similar "financial integrity" charges.

C. The claimed benefits of an annual SEET test do not outweigh the quantifiable burden of the RSC.

While DP&L claims that the annual SEET test is a qualitative benefit for customers, it does not outweigh the negative financial impact the RSC will have on customers. In addition, the primary driver behind any potential significantly excessive earnings would likely come from the RSC.

It is clear the quantitative benefit analysis in DP&L's MFA test is driven by the proposed financial integrity charges: the RSC under the ESP and the financial integrity charge ("FIC") under the MRO. DP&L Witness Malinak testified that the quantifiable differences between the ESP and the MRO are caused by: (1) the RSC vs. the FIC; and (2) recovery of environmental costs related to generation.[4] The quantifiable burden for all of DP&L's customers due to the RSC will be an approximately $79 million non-bypassable charge every year four years. While the RSC is non-bypassable under an ESP, the MRO does not provide DP&L the ability to charge a non-bypassable RSC charge. As DP&L Witness Malinak admits, any proposed financial integrity charge, such as the FIC, would be bypassable under the MRO.[5]

Although DP&L can tout the annual SEET test as a qualitative benefit of the ESP, DP&L customers would not need the purported protections of the SEET test under an MRO. If it is determined DP&L is in fact earning significantly excessive earnings from the ESP, it would likely be caused by the approximately $79 million annual RSC charge. Although DP&L claims it can recover through the FIC in an MRO, customers could simply avoid the financial hardship of the FIC by switching to a competitive retail electric service provider. As such, the purported qualitative benefit of the annual SEET test does not outweigh the quantifiable burden of any potential RSC.

III. CONCLUSION

The Commission should use its statutory authority under R.C. 4928.143(E) to reconsider the serious financial burden the RSC has on DP&L's customers. Although the Commission approved DP&L's ESP I with an RSC in 2009, the world has changed significantly since that time.

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[4] Malinak Testimony at p. 80.

[5] Malinak Testimony at p. 82.

DP&L may claim it is, once again, in need of some form of non-bypassable "financial integrity" support to avoid a financial emergency. But the Commission must account for the serious financial harm the coronavirus pandemic has had on DP&L's customers—including healthcare providers that are fighting the pandemic on a daily basis. Now is the time for the Commission to reject yet another non-bypassable burden for DP&L's customers. The Commission should terminate DP&L's ESP and order DP&L to implement an alternative plan that does not include the RSC or similar "financial integrity" charge.

Respectfully submitted on behalf of
THE OHIO HOSPITAL ASSOCIATION

Devin D. Parram (0082507)
(Counsel of record)
Dane Stinson (0019101)
Jhay T. Spottswood (0097749)
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-8813
Facsimile: (614) 227-2390
E-mail: dparram@bricker.com
dstinson@bricker.com
jspottswood@bricker.com

CERTIFICATE OF SERVICE

In accordance with O.A.C. 4901-1-05, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Comments* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 1st day of July 2020.

Devin D. Parram

jsharkey@ficlaw.com;
djireland@ficlaw.com;
chollon@ficlaw.com;
mkurtz@BKLlawfirm.com;
jkylercohn@BKLlawfirm.com;
kboehm@BKLlawfirm.com;
mpritchard@mcneeslaw.com;
rglover@mcneeslaw.com;
william.michael@occ.ohio.gov;
amy.botschner.obrien@occ.ohio.gov;
slesser@calfee.com;
talexander@calfee.com;
mkeaney@calfee.com;
khehmeyer@calfee.com;
christopher.healey@occ.ohio.gov;
Bojko@carpenterlipps.com;
bethany.allen@igs.com;
joe.oliker@igs.com;
michael.nugent@igs.com;
fdarr2019@gmail.com;
paul@carpenterlipps.com;
Stephanie.Chmiel@ThompsonHine.com;
Kevin.Oles@ThompsonHine.com;