

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Procurement of	:	
Standard Generation for Customers of	:	Case No. 17-957-EL-UNC
The Dayton Power and Light Company.	:	

---

**APPLICATION FOR REHEARING OF  
THE DAYTON POWER AND LIGHT COMPANY**

---

Pursuant to R.C. 4903.10 and O.A.C. Rule 4901-1-35, The Dayton Power and Light Company (“DP&L or “the Company”) respectfully files this Application for Rehearing of the Commission’s July 15, 2020 Finding and Order (“Finding and Order”). The Commission’s Finding and Order is unreasonable in the following respects:

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by requiring DP&L to amend its 2021 standard service offer (“SSO”) competitive bid process (“CBP”) auction and submit a plan for future CBP auctions at this time.

A memorandum in support of this Application for Rehearing is attached.

Respectfully Submitted,

/s/ Michael J. Schuler  
Michael J. Schuler (0082390)  
The Dayton Power and Light Company  
1065 Woodman Drive  
Dayton, OH 45432  
Telephone: (937) 259-7358  
Facsimile: (937) 259-7178  
Email: [michael.schuler@aes.com](mailto:michael.schuler@aes.com)  
(will accept service via email)

Counsel for The Dayton Power and Light Company

## **MEMORANDUM IN SUPPORT**

### **I. INTRODUCTION AND BACKGROUND**

The issues in this matter precipitate from a December 19, 2019 Order from the Federal Energy Regulatory Commission (“FERC”) in Docket Nos. EL 16-49-000 and EL 18-178-000 (Consolidated), that among other things, approved substantial changes to the PJM Interconnection, L.L.C., (“PJM”) Minimum Offer Price Rule and in turn, the eligibility of resources to participate in the Base Residual Auctions (“BRA”) for capacity. FERC also ordered PJM to suspend its BRA regarding the 2022-2023 delivery year, previously scheduled for August 2019.

DP&L is currently functioning under a reversion to a prior ESP as set forth in the Commission’s December 18, 2019 Second Finding and Order, where the Commission upheld DP&L’s request “to maintain the integrity of DP&L’s current process for procuring SSO generation through competitive bid auctions.”<sup>1</sup> In addition, the Commission stated: “We expect DP&L to continue to request appropriate CBP auction schedules as necessary to continue to serve SSO customers until DP&L’s next SSO is approved.”<sup>2</sup> DP&L’s CBP auction schedule traditionally is conducted in March or April of each year for a June delivery and seeks a blending of 36-, 24-, and 12-month products. As result of the uncertainty regarding the PJM capacity rate for the 2022-2023 delivery year, however, DP&L sought and was granted permission to eliminate the 36-month product and offer only the 12- and 24-month products in its April 2020 CBP auction to avoid the 2022/2023 delivery year.<sup>3</sup> In that same Entry, the Commission also sought a recommendation from Staff “for a modified product that contains capacity flow-through

---

<sup>1</sup> Case No. 08-1049-EL-SSO, Second Finding and Order at ¶ 28 (Dec. 18, 2019).

<sup>2</sup> Id.

<sup>3</sup> Application of The Dayton Power and Light Company at p. 4 (Feb. 7, 2020); Entry at ¶¶ 8-9 (Feb. 14, 2020).

provisions”<sup>4</sup> as well as “stakeholders’ input on possible SSO procurement auction modifications in response to PJM capacity market uncertainty resulting from the recent actions of FERC and the appeals of those actions.”<sup>5</sup>

In its July 25, 2020 Opinion and Order, the Commission issued a decision applicable to all electric distribution utilities (“EDUs”), albeit each with different SSO auction processes, contracts, and timelines. Per that Order, DP&L is required to eliminate other products and only offer a 12-month product in the March/April 2021 CBP auction. DP&L, along with the other EDUs, is also directed to file a plan to conduct a dual auction to acquire a price for the June 2022/2023 delivery year and the next three years thereafter.<sup>6</sup> The PUCO’s July 15, 2020 Opinion and Order unreasonably requires DP&L to amend its CBP for 2021 and file a plan for future years within 90 days to address an issue that may not exist by the time DP&L conducts its CBP auctions in spring of 2021 and 2022, respectively.

## **II. LAW AND ARGUMENT**

It was unreasonable for the Commission to issue a “one-size-fits-all” requirement to conduct a 12-month bid in DP&L’s March/April 2021 CBP auction as well as the development of a plan by October 13, 2020, to conduct a dual bid for future years through the 2025/2026 delivery year that would not be implemented until DP&L’s March/April 2022 CBP auction. As the Commission noted in its Opinion and Order, “the output of [the BRA] inform[s] potential bidders in each EDU retail competitive bidding process associated with the SSO development of the forward cost of the capacity obligation arising from the provision of SSO generation

---

<sup>4</sup> Entry at ¶ 9 (February 14, 2020).

<sup>5</sup> Opinion and Order at ¶ 34 (July 15, 2020).

<sup>6</sup> Opinion and Order at ¶ 35.

supply.”<sup>7</sup> The Commission goes on to acknowledge that “FERC’s recent actions, and appeals from those actions, have created significant uncertainty regarding when and how PJM will conduct base residual auctions in the future, particularly with respect to the treatment of generation which is used to supply standard service offers in retail choice states.”<sup>8</sup> It is for these reasons that the Commission has modified the auction schedules and products to be offered in 2021 and through the 2025/2026 delivery year.<sup>9</sup>

DP&L’s next SSO auction is not scheduled to take place until April 2021. It is quite possible that FERC could rule in Case No. No. EL16-49-00, and the BRA could be conducted thereby reducing uncertainty associated with the 2022/2023 delivery year and beyond. Indeed, PJM has requested “that the Commission’s ruling on these compliance filings provide clear final direction so that PJM may move forward on its proposed timeline for commencing this long-overdue series of RPM Auctions and provide needed certainty to the marketplace.”<sup>10</sup> And PJM also stands ready to act quickly “PJM proposes to post the specific schedule for the 2022/2023 BRA and subsequent RPM Auctions . . . by 14 days after an order accepting the substance of PJM’s compliance filings in these proceedings.”<sup>11</sup> The PJM Power Providers Group, in supporting PJM’s June 1, 2020 filing stated that “[p]rompt action by the Commission as it relates to this compliance filing and the March 18 compliance filing will finally allow PJM to schedule

---

<sup>7</sup> Opinion and Order at ¶ 2.

<sup>8</sup> Opinion and Order at ¶ 34.

<sup>9</sup> Id.

<sup>10</sup> FERC Case No. EL16-49, PJM Second Compliance Filing Concerning Application of the Minimum Price Offer Rule, at p. 2 (June 1, 2020).

<sup>11</sup> FERC Case No. EL16-49, PJM Second Compliance Filing Concerning Application of the Minimum Price Offer Rule, at pp. 42, 46 (June 1, 2020).

the delayed 2019 and 2020 Based Residual Auctions and place PJM *on path to return to a normal cycle of capacity auctions in 2021*.”<sup>12</sup>

Such an Order and quick reaction by PJM, allowing the BRA process to recommence in a timely fashion could eliminate the “significant uncertainty” that currently exists. Elimination of uncertainty in the wholesale market, the impetus to why the Commission ordered the modified SSO auction processes, would obviate the need to run a 12-month only auction in the March/April 2021 auction. It is even more likely to be resolved prior to DP&L’s March/April 2022 CBP auction eliminating the need to incur unnecessary costs to develop an undoubtedly complicated plan by October 13, 2020, to create a proxy product for the 2022/2023 and future years. Unlike other EDUs that have auctions scheduled to take place in the coming months, DP&L could be forced to incur additional costs of running multiple auctions far into the future when the issue could become moot by the time DP&L’s auctions take place in March/April 2021 and March/April 2022. For these reasons, it was unreasonable for the Commission to order DP&L to amend its 2021 CBP and file a plan for a proxy auction to take place in 2022 at this time. To the extent the BRA issues have not been resolved in a timely fashion, the Commission should review the bidding processes of each EDU on an individual basis when/if the EDUs file such applications to amend their competitive bid schedules.

---

<sup>12</sup> FERC Case No. EL16-49, Comments of the PJM Power Providers Group in Response to PJM Interconnection, LLC’s Second Compliance Filing, at p. 6 (June 22, 2020) (emphasis added).

Respectfully Submitted,

/s/ Michael J. Schuler

Michael J. Schuler (0082390)  
The Dayton Power and Light Company  
1065 Woodman Drive  
Dayton, OH 45432  
Telephone: (937) 259-7358  
Facsimile: (937) 259-7178  
Email: [michael.schuler@aes.com](mailto:michael.schuler@aes.com)  
(will accept service via email)

Counsel for The Dayton Power and Light Company

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been served via electronic mail upon the following counsel of record, this 14<sup>th</sup> day of August, 2020:

bethany.allen@igs.com  
Christopher.Healey@occ.ohio.gov  
fykes@whitt-sturtevant.com  
Jeanne.Kingery@duke-energy.com  
jkylercohn@BKLawfirm.com  
joe.oliker@igs.com  
kboehm@BKLawfirm.com  
khehmeyer@calfee.com

Larisa.Vaysman@duke-energy.com  
michael.nugent@igs.com  
mkurtz@BKLawfirm.com  
John.Jones@ohioattorneygeneral.gov  
Rocco.DAscenzo@duke-energy.com  
stnourse@aep.com  
talexander@calfee.com  
whitt@whitt-sturtevant.com  
William.michael@occ.ohio.gov

/s/ Michael J. Schuler

Michael J. Schuler (0082390)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**8/14/2020 4:45:45 PM**

**in**

**Case No(s). 17-0957-EL-UNC**

Summary: App for Rehearing of The Dayton Power and Light Company electronically filed by Mr. Michael J Schuler on behalf of The Dayton Power and Light Company