

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the)
Reconciliation Rider of The Dayton Power) Case No. 20-165-EL-RDR
and Light Company.)

**JOINT REPLY COMMENTS OF
THE KROGER CO.
AND
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

I. INTRODUCTION

On January 29, 2020, the Public Utilities Commission of Ohio (Commission) directed the Staff of the Commission to issue a request for proposal for audit services to assist the Commission with its prudence and performance audit of the Dayton Power and Light Company's (DP&L) Reconciliation Rider (RR) for the period of November 1, 2018 through December 31, 2019.¹ The auditor was to review the costs and revenues associated with DP&L's 4.9 percent ownership interest in the Ohio Valley Electric Corporation (OVEC) that are included in DP&L's RR assessed to customers. On October 7, 2020, the auditor filed the confidential audit report (Audit Report), making several recommendations that should be adopted by the Commission.² The Audit Report also fails to adequately address other important issues raised by the initial comments, which should be addressed by the Commission.

¹ Entry at ¶ 1 (January 29, 2020).

² Audit Report (October 7, 2020). Despite first requesting the confidential audit report on January 5, 2021, OMAEG and Kroger did not receive the confidential audit report until today, January 20, 2021. As such, OMAEG and Kroger reserve the right to supplement their reply comments based on the confidential information contained in the Audit Report.

On January 5, 2021, pursuant to the November 30, 2020 Entry, the Office of the Ohio Consumers' Counsel (OCC) submitted initial comments on the Audit Report. OCC explained that, as an initial matter, DP&L bears the burden of proof to demonstrate that all actions related to the OVEC plants were prudent and in customers' best interests.³ OCC also explained that it does not believe that DP&L has met this burden with regard to several aspects and recommends that the Commission disallow the collection of imprudent OVEC costs from customers and asks that the Commission direct DP&L to improve its practices where necessary. OCC was the only interested party that filed initial comments in the proceeding.

As explained by the initial comments, DP&L has not demonstrated how any costs charged through the RR associated with FirstEnergy Solutions' share of OVEC costs or how OVEC's must run strategy is prudent and in the best interests of customers.⁴ Furthermore, as OCC noted, the Commission may be able to reduce costs to customers by ordering DP&L, as well as the other Ohio utilities, to study the OVEC plants' participation in PJM's ancillary services market.⁵ Lastly, in order to protect customers, the Commission should require DP&L to document formally the procedures for the calculation of cost recovery of OVEC capital costs and expenses.⁶

The Kroger Co. (Kroger) and the Ohio Manufacturers' Association Energy Group (OMAEG) intervened in the above-captioned proceeding on January 5, 2021, and, in accordance with the Commission's November 30, 2020 Entry,⁷ hereby submit the following Joint Reply Comments.

³ See OCC Comments at 3-4.

⁴ Id. at 4-6.

⁵ Id. at 7.

⁶ Id. at 8.

⁷ Entry at ¶ 16 (November 30, 2020).

II. JOINT REPLY COMMENTS

A. The Commission should disallow any costs charged through DP&L's RR associated with FirstEnergy Solutions' share of OVEC's costs.

As part of the Intercompany Power Purchase Agreement, DP&L is a co-sponsor of OVEC and has oversight responsibilities of OVEC as it relates to the disposition of energy, capacity, and ancillary services.⁸ On March 31, 2018, FirstEnergy Solutions, another co-sponsor of OVEC, stopped taking its entitlement to OVEC's output. Consequently, the other OVEC co-sponsors received an opportunity to receive a portion of FirstEnergy Solutions' share of OVEC's output. On May 18, 2020, Energy Harbor (formerly FirstEnergy Solutions) reached a bankruptcy settlement where it assumed the OVEC obligation effective June 1, 2020.

As OCC indicated,⁹ the Audit Report does not state whether DP&L accepted and paid for additional energy and capacity associated with FirstEnergy Solutions' share of OVEC for the period noted above and passed those costs on to customers through the RR. If DP&L did share in any costs associated with a portion of FirstEnergy Solutions' OVEC entitlement, the Audit Report offers no analysis of the resulting impact on customers. OCC further stated that there is no evidence that DP&L, or the other OVEC co-sponsors, were required to share in the costs associated with a portion of FirstEnergy Solutions' OVEC entitlement.¹⁰ Accordingly, Kroger and OMAEG agree with OCC's comments and recommend that if DP&L paid a share of the costs associated with a portion of FirstEnergy Solutions' OVEC entitlement and passed those costs onto customers, the Commission should protect DP&L's customers and disallow any unsubstantiated costs.

⁸ See Audit Report at 7-9.

⁹ OCC Comments at 5.

¹⁰ Id.

B. The Commission should prohibit DP&L from charging customers for OVEC costs when the “must run” strategy is imprudent and unnecessarily costly for DP&L’s customers.

As explained by OCC in its comments, the Audit Report recognized that the OVEC plants were committed to the PJM market as “must run” units, but the Audit Report did not evaluate the prudence of this offer strategy.¹¹ A “must run” strategy means that the units operate at a specific level at all times, except for unplanned outages or force majeure events.¹² Alternatively, economic dispatch is “the short-term determination of the optimal output of generation facilities, to meet the system load, at the lowest possible cost, subject to transmission and operational constraints.”¹³

However, as OCC noted in its comments, it is counterintuitive to operate plants as “must run” units when their variable operating costs exceed the PJM market price but that is precisely what OVEC did at times in 2019.¹⁴ Therefore, the prudent action would have been not to operate the plants when their variable operating costs exceeded the PJM market price.

Given the foregoing findings in the Audit Report and OCC’s comments, Kroger and OMAEG agree that DP&L failed to meet its burden in demonstrating that it was prudent to operate the OVEC plants as “must run” units a majority of the time and whether those actions were in the best interests of customers. Therefore, to the extent DP&L is seeking to recover OVEC costs associated with its oversight responsibilities of OVEC as it relates to the disposition of energy, capacity, and ancillary services, Kroger and OMAEG recommend that the Commission prohibit DP&L from recovering such costs.

¹¹ Id. at 6; see Audit Report at 6.

¹² See PJM Glossary, <https://www.pjm.com/Glossary>.

¹³ Id.

¹⁴ See OCC Comments at 6.

C. The Commission should direct DP&L to review and analyze the impact of requiring OVEC's participation in PJM's ancillary services market.

OCC supported the Audit Report's recommendation that DP&L should investigate and analyze whether OVEC's participation in PJM's ancillary services market could potentially provide OVEC additional revenue, which in turn would reduce customers' RR charges.¹⁵ The Audit Report noted that OVEC is evaluating the pros and cons of supplying the market for regulating reserves.¹⁶ While Kroger and OMAEG appreciate OVEC's efforts to evaluate participation in the ancillary services market, the Audit Report did not identify a clear timeline for such an evaluation or any other parameters. Thus, Kroger and OMAEG support OCC's recommendations that the Commission should require DP&L, and other Ohio utilities, to submit an independent feasibility study and the potential financial benefits from OVEC's participation in PJM's ancillary services market, and depending on the results, require OVEC to participate in PJM's ancillary services market.¹⁷

D. The Commission should require DP&L to document formally the procedures for the calculation of OVEC capital costs and expenses.

In its initial comments, OCC supported the Audit Report's recommendations that DP&L formally document the procedures for the calculation of cost recovery of OVEC capital costs and expenses.¹⁸ The Legacy Generation Resource Rider (LGRR) became effective January 1, 2021 and replaced DP&L's RR. Without a more formal process for documenting OVEC capital costs and expenses, there may be an inconsistent application of process or other inaccuracies in calculating the LGRR going forward. Accordingly, Kroger and OMAEG recommend that the

¹⁵ Id. at 7 (citing Audit Report at 3 and 12-16).

¹⁶ Audit Report at 14.

¹⁷ Id.

¹⁸ OCC Comments at 8 (citing Audit Report at 28).

Commission adopt the Audit Report and OCC's recommendation to require DP&L to formally document the process for calculating OVEC capital costs and expenses.

III. CONCLUSION

For the aforementioned reasons, Kroger and OMAEG request that the Commission adopt the recommendations articulated in their Joint Reply Comments.

Respectfully submitted,

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Summary: Comments JOINT REPLY COMMENTS OF THE KROGER CO. AND THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP electronically filed by Mrs. Angela Whitfield on behalf of The Kroger Co. and OMAEG