

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)	
Dayton Power and Light Company for)	
Approval of Its Plan to Modernize Its)	Case No. 18-1875-EL-GRD
Distribution Grid)	
)	
In the Matter of the Application of The)	
Dayton Power and Light Company for)	Case No. 18-1876-EL-WVR
Approval of a Limited Waiver of Ohio)	
Adm. Code 4901:1-18-06(A)(2))	
)	
In the Matter of the Application of The)	
Dayton Power and Light Company for)	Case No. 18-1877-EL-AAM
Approval of Certain Accounting)	
Methods)	
)	
In the Matter of the Application of The)	
Dayton Power & Light Company for a)	Case No. 20-0680-EL-UNC
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))	
)	
In the Matter of the Application of The)	
Dayton Power and Light Company for)	Case No. 19-1121-EL-UNC
Administration of the Significantly)	
Excessive Earnings Test Under R.C.)	
4928.143(F) and Ohio Adm. Code)	
4901:1-35-10 for 2018)	
)	
In the Matter of the Application of The)	
Dayton Power and Light Company for)	Case No. 20-1041-EL-UNC
Administration of the Significantly)	
Excessive Earnings Test Under R.C.)	
4928.143(F) and Ohio Adm. Code)	
4901:1-35-10 for 2019)	

**REPLY BRIEF OF
THE ENVIRONMENTAL LAW & POLICY CENTER
AND THE OHIO ENVIRONMENTAL COUNCIL**

I. INTRODUCTION

On February 12, 2021, the Environmental Law & Policy Center (“ELPC”) and the Ohio Environmental Council (“OEC”) filed a post-hearing brief in support of the Stipulation and Recommendation reached in this case. Despite the numerous and diverse parties supporting the Stipulation, the Ohio Consumers’ Counsel (“OCC”) continues to oppose it. OCC asserts that the proposed smart grid plan, particularly its smart thermostat and electric vehicle (“EV”) charging station rebate programs, is inconsistent with the Dayton Power & Light’s (“DP&L”) current electric security plan, ESP I. OCC Initial Br. at 82. OCC also argues that the smart thermostat program is “unrelated to DP&L’s obligation to provide efficient, safe, reliable, nondiscriminatory, and reasonably priced retail electric service” and is not permitted due to the end of Ohio’s mandatory energy efficiency portfolio programs. *Id.* at 85. ELPC and OEC file this reply to respond to OCC’s arguments. As set forth in our initial brief and below, successfully integrating smart thermostats and EV charging stations into the grid is essential to grid modernization. Just because the smart thermostats use less energy and reduce peak demand does not prevent them from being implemented along with smart meters. In fact, these factors contribute to DP&L providing efficient and reliable electric service.

II. ARGUMENT

A. **EV Charging Stations and Smart Thermostats Are Closely Related to the Provision of “Efficient, Safe, Reliable, Nondiscriminatory, and Reasonably Priced Retail Electric Service.”**

OCC urges the Commission to reject the EV charging and smart thermostat programs, claiming neither program is sufficiently related to DP&L’s core objectives as an electric distribution utility. OCC Initial Br. at 84. However, OCC’s argument that these programs “are unrelated to DP&L’s obligation to provide, efficient, safe, reliable, nondiscriminatory, and reasonably priced retail electric service,” *id.*, rests on a misunderstanding of what these programs

offer to the grid and to customers. Smart thermostats and EVs play important roles in modern grids, and the Stipulation's approach will help DP&L's grid respond to changes in electricity demand, both in the short- and long-term.

OCC fears DP&L's customers would "be required to subsidize the costs for smart thermostats for other customers who may have an interest in them." OCC Initial Br. at 85. But OCC ignores the benefits that smart thermostats provide to *all* customers. As Mr. Williams acknowledged on cross examination, smart thermostats can shift customer loads to different parts of the day by better enabling direct load control or demand response programs. When the grid is stressed on particularly hot or cold days, these demand shifts can reduce the strain on the distribution grid. *See* Tr. Vol. 5 at 807, 814. Although the smart thermostat program cannot provide smart thermostats to all customers, the discounts will lead to tens of thousands of customers acquiring them, allowing DP&L to shift substantial load at peak times. The load shifting through the deployed smart thermostats will reduce costs for the entire system by avoiding or deferring distribution system upgrades. All customers, in turn, save money from avoiding unnecessary spending on distribution infrastructure. *See id.* at 813, 816. The Stipulation's smart thermostat program, therefore, fits well within DP&L's requirement to provide "efficient, safe, [and] reliable" retail electric service to its territory.

Similarly, the Stipulation's EV charging program will contribute to a more efficient, safe, and reliable grid. The Commission's PowerForward Roadmap encouraged this type of grid modernization program, noting that EV use is expected to grow and could require the grid to adapt in response. The Stipulation's EV charging program is an essential step for DP&L to learn how the increasing number of its customers adopting and charging EVs affects loads and how EV charging may impact reliability. Moreover, the program helps DP&L respond to changes EV

charging can bring, such as by encouraging time-of-use rates to manage charging. A modern grid, handling changing loads and customer behavior, must understand and respond to emerging EV technology. The Commission should reject OCC's arguments against the EV program.

B. The Stipulation's Smart Thermostat Investments Are Within the Scope of ESP I and the Infrastructure Investment Rider.

OCC argues that smart thermostat investments are "beyond the scope" of the smart grid program authorized under ESP I and outside the scope of DP&L's obligations as an electric distribution utility. OCC Initial Br. at 84–85. However, this position ignores the facts regarding DP&L's ESP I and the modern smart grid.

DP&L specifically proposed AMI deployment in its 2008 ESP I application as a technology enabling "DP&L, among other things, to provide time-of-use rates." *In the Matter of the Application of the Dayton Power and Light Company for Approval of Its Electric Security Plan* ("DP&L ESP I"), Case Nos. 08-1094-EL-SSO *et al.*, Application of the Dayton Power & Light Co. for Approval of Its Electric Security Plan (Oct. 10, 2008) at 11 (administratively noticed at Tr. V at 802:15-803:2). Time-of-use ("TOU") capability is likewise contemplated in the current SGP 1 proposal. Co. Ex., Schroder Direct Test. at 16:15–18. Although modern smart thermostats were not available thirteen years ago and AMI deployment was still in its early stages, the Company's 2008 ESP I application and its accompanying technology assessment contemplated AMI meters interfacing "directly with premises-based devices such as programmable communicating thermostats," enabling "consumers to set simple rules-based actions for their loads and better manage their energy costs through automated control technology." *DP&L ESP I*, Application, Book II, Chapter 3 at 41.

The Commission has since conducted its PowerForward proceeding and heard evidence showing "enabling technology," like smart thermostats, as key to implementing effective TOU

rates by automating customer response to time-varying price signals. OCC Ex. 66, PowerForward Roadmap at 30. In the PowerForward Roadmap, the Commission recognized how a smart grid investment proposal might “include a rebate program for enabling technologies (e.g. smart thermostats) which can be paired with TOU rates offered through the SSO or through CRES provider offerings that utilize time-based pricing.” *Id.* at 31. In this proceeding, DP&L plans to propose and implement TOU rates during SGP Phase 1 and to formulate a plan for leveraging smart thermostats with TOU rates to benefit customers in SGP Phase 2. Joint Ex. 1, Stipulation at 11–12, 18–20. Therefore, the proposed Stipulation is structured to put DP&L customers on a forward-looking path where they can fully realize the benefits of AMI by using smart meters in conjunction with smart thermostats. DP&L may even use the flexible load capability provided by smart thermostats to shift residential cooling and heating loads, preventing serious reliability issues and mitigating system constraints. All of these benefits are well within the scope of DP&L’s ESP I and grid modernization.

C. The End of Mandatory Energy Efficiency Portfolio Programs Does Not Prohibit Utilities from Supporting Smart Thermostat Programs.

OCC’s final argument against the Stipulation’s proposed smart thermostat program is its least persuasive. Because “smart thermostats contribute to energy efficiency and peak demand reduction,” OCC claims a smart thermostat program “is inconsistent with the Ohio mandate and PUCO Order to end energy efficiency programs by January 1, 2021.” OCC Initial Br. at 85. To support this position, OCC cites only the Commission’s November 18, 2020 Finding and Order in the energy efficiency portfolio program cases. That Order made no sweeping statement about energy efficiency measures that might support OCC’s claim. Rather, it reinforced that the portfolio programs—not energy efficiency more broadly—were to end by January 1, 2021. *See In the Matter of the Application of the Dayton Power & Light Company for Approval of Its*

Energy Efficiency and Peak Demand Reduction Program Portfolio Plan for 2018 – 2020, Finding and Order (Nov. 18, 2020). Consistent with the new law, DP&L ended its old energy efficiency portfolio programs. Even though smart thermostats, which enhance grid modernization benefits for customers, also “contribute to energy efficiency and peak demand reduction,” that co-benefit has no bearing on whether they fit within grid modernization cases. OCC’s argument, put to its logical extreme, would require any program with energy efficiency benefits to have ended by January 1, 2021, including programs like volt/VAR optimization and conservation voltage reduction. OCC’s understanding of current law would lead to absurd results that the Commission should avoid. The proposed smart thermostat program is a key component of grid modernization, and nothing in current Ohio law prohibits the Commission from approving it.

III. CONCLUSION

The Stipulation reached in this proceeding provides an essential roadmap for grid modernization in DP&L’s service territory and will help customers benefit from these upgrades. In arguing that DP&L’s proposed smart thermostat and EV programs have no place in such a plan, OCC ignores the changing nature of the grid. The Commission should reject OCC’s narrow interpretation of grid modernization. The Stipulation includes distributed energy resource programs for smart thermostats and electric vehicles because each proposal can benefit the grid and, more importantly, allow customers to share in those benefits. The Commission should approve the Stipulation and reject OCC’s flawed legal and policy arguments regarding DP&L’s grid modernization plan.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing *Reply Brief of the Environmental Law and Policy Center and the Ohio Environmental Council* was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on March 5, 2021. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

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Summary: Brief (Reply) electronically filed by Ms. Caroline Cox on behalf of Environmental Law and Policy Center and Ohio Environmental Council