

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The :  
Dayton Power and Light Company for : Case No. 20-0140-EL-AAM  
Approval to Defer Distribution :  
Decoupling Cost :

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**INITIAL BRIEF  
SUBMITTED ON BEHALF OF THE STAFF OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**INTRODUCTION**

Except for substantial atypical circumstances, deferral of revenue requests should be denied, especially outside of a rate case. And this general rule should most certainly apply to Dayton Power and Light Company (DP&L or Company), which already had a mechanism to defer its revenue through the stipulated resolution of ESP III and chose to withdraw from it. Staff believes the precedence in this case, if DP&L were allowed to defer its revenue, would encourage other utilities to withdraw from ESPs and then cherry-pick components of ESPs for Commission approval and also encourage utilities to avoid rate cases to address revenue requirement shortfalls. Expounding on the latter point, Staff notes that DP&L is currently in the midst of a rate case proceeding. Therefore, DP&L's application should be denied.

## PROCEDURAL HISTORY

The Company filed an application to defer its distribution decoupling revenue from December 19, 2019, onward, pursuant to R.C. 4905.13.<sup>1</sup> On April 29<sup>th</sup>, 2020, Staff filed its Staff Review and Recommendation which found that the Company’s application should be denied because it did not sufficiently address the criteria prescribed in ASC 980-605 that are necessary to enable the Company to establish a regulatory asset involving revenues.<sup>2</sup> On March 19, 2021, Staff’s pre-filed testimony again found that the application should be denied, instead, because the application failed the six-part revenue deferral test.<sup>3</sup> It is the prefiled testimony upon which Staff solely basis its recommendation that DP&L’s application be denied.

Prior to DP&L’s application to defer revenue, the PUCO previously authorized DP&L to implement revenue decoupling through its Distribution Decoupling Rider (“Decoupling Rider”) in DP&L’s third electric security plan (“ESP III”).<sup>4</sup> However, the Company voluntarily withdrew from its ESP III leaving it without a decoupling rider.<sup>5</sup>

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<sup>1</sup> *In the matter of the Application of Dayton Power and Light Company for the Approval of Deferred Distribution Cost*, Case No. 20-0140-EL-AAM, Application at ¶ 1 (January 23, 2020).

<sup>2</sup> *In the matter of the Application of Dayton Power and Light Company for the Approval of Deferred Distribution Cost*, Case No. 20-0140-EL-AAM, Staff Review and Recommendation at page 2-3, (April 29, 2020).

<sup>3</sup> *In the matter of the Application of Dayton Power and Light Company for the Approval of Deferred Distribution Cost*, Case No. 20-0140-EL-AAM, Prefiled Testimony of David M. Liphtratt, (March 19, 2021).

<sup>4</sup> *In re the Application of The Dayton Power and Light Company for Approval of its Electric Security Plan*, Case No. 16-395-EL-SSO (“ESP III”), Opinion and Order (Oct. 20, 2017).

<sup>5</sup> DP&L withdrew from its ESP III after the PUCO stopped DP&L from further collecting its distribution modernization rider (in response to a Supreme Court of Ohio ruling that First Energy’s distribution modernization rider was unlawful). *In re Application of Ohio Edison Co.*, 157 Ohio St.3d 73, 2019-Ohio-2401.

## ARGUMENT

In accordance with the six-part test used to evaluate deferral request, Staff recommends that the Commission deny DP&L's request to defer revenue. This recommendation is consistent with past Staff recommendations for denial and distinguished from past Staff recommendations for the approval of such requests.

### **A. The Company's request is a request to defer revenue.**

As explained by Staff witness, David Liphtratt, Staff views the Company's application to be a request to defer revenues.<sup>6</sup> Decoupling is a regulatory mechanism that is designed to eliminate the utility's incentive to focus on throughput by breaking the linkage that ties the utility's financial position (such as revenues and profits) in any year to its actual sales or energy delivered in that year. In other words, decoupling is intended to allow the utility to recover the difference between the actual revenues and its authorized revenue requirement. Although the revenue requirement does in fact represent the utility's cost to serve, decoupling is intended to recover the difference between actual and approved revenues. Therefore, this application is for a deferral of revenues and not of costs.

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<sup>6</sup> *In the matter of the Application of Dayton Power and Light Company for the Approval of Deferred Distribution Cost*, Case No. 20-0140-EL-AAM, Prefiled Testimony of David M. Liphtratt, (March 19, 2021) at p. 2.

**B. Staff applies a six-part test to evaluate deferral request.**

As further explained by Staff witness, David Lipthrott, Staff typically applies a six-part test in reviewing a deferral request.<sup>7</sup> Staff historically evaluates applications for authority to defer expenses by applying the following six criteria in its evaluation:

1. Whether the utility's current rates or revenues are sufficient to cover the costs associated with the requested deferral;
2. Whether the costs requested to be deferred are material in nature;
3. Whether the problem was outside of the Company's control;
4. Whether the expenditures are atypical and infrequent;
5. Whether the financial integrity of the utility will be significantly and adversely affected; and
6. Whether the Commission could encourage the utility to do something it would not otherwise do through the granting of the deferral authority.

After evaluating these six criteria in totality, with slight modification to adjust for the fact that the Company's request is for revenue deferral, Staff believes that denial is appropriate.<sup>8</sup> First, given that the application is for revenue deferral, the first criterion is irrelevant. Second, the materiality of the request is minimized by the fact that the deferral, while beneficial to the balance sheet, would not have immediate impacts on the Company's earnings or cashflows until such time that the Company seeks recovery of the deferral. Third, the loss of decoupling rider was within the Company's control. The

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<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at p 3-5

decoupling rider was approved as part of the Company's ESP III application. When the Company affirmatively made the decision to withdraw its ESP III application, it also terminated the decoupling rider that was intended to collect the revenues. Fourth, the decoupling revenue is not atypical and infrequent – it is recurrent. Fifth, given that loss of the decoupling rider was caused by the Company, the root cause of any financial harm to cash flows and the income statement was caused by the Company – a problem that will not be resolved by this deferral. In addition, the benefit would be realized at some undefined future point in time and not resolve any current financial woes. Sixth, here, the Commission should discourage this and other utilities from withdrawing from an ESP while continuing to claim entitlement to certain parts of it and requesting deferral authority for revenue deficiencies that should otherwise be addressed in a rate case proceeding. These criteria suggest that denial of the Company's request is appropriate.

Accordingly, Staff recommends that deferral authority be denied.<sup>9</sup> Again, withdrawing from ESP III and losing revenues associated with the termination of the decoupling rider was entirely within the Company's control. The decoupling revenues are not atypical and infrequent, and Staff has significant concerns about encouraging cherry-picking components of ESPs and discouraging rate cases to address revenue requirement shortfalls. And Staff notes that the Company is in the midst of a rate case proceeding currently. So, although the amount of revenues the Company requested deferral authority

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<sup>9</sup> *Id.* at p. 6.

for is material, the appropriate solution is a rate case proceeding.<sup>10</sup> As the Commission stated in a similar matter, “issues raised by this deferral application are best addressed in the context of a base rate proceeding, where the Commission can evaluate not only [a utility’s] revenues, but also its expenses, rate of return, and rate design and where [a utility] will have the opportunity to revise its rate design.”<sup>11</sup>

Staff recommendation here is distinguished from the recent COVID-19 related applications for which Staff did recommend deferral authority.<sup>12</sup> Staff views the COVID-19 applications<sup>13</sup> to be extremely unique and unprecedented as they were the result of a once in a century pandemic. Other than COVID-19 applications, Staff has consistently rejected formal and informal requests to defer revenues. For example, Staff has recommended denial of revenue deferral applications and the Commission denied such cases.

## CONCLUSION

For the foregoing reasons, the Commission should deny the Company’s request to defer revenue.

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<sup>10</sup> *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval to Change Accounting Methods Associated with the Heating Value of the Natural Gas on its System*, Case No. 15-1238-GA-AAM, Finding and Order (July 6, 2016) at p. 7.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at p. 6.

<sup>13</sup> *In the Matter of the Application of Ohio Power Company for Approval of Certain Accounting Authority*, Case Nos. 20-604-EL-AAM, et al.; *In the Matter of the Application of The Dayton Power and Light for Approval of Certain Accounting Authority*, Case Nos. 20-650-EL-AAM, et al.; *In the Matter of the Application of Duke Energy Ohio, Inc. For Approval to Change Accounting Methods*, Case No. 20-1011-GE-AAM; and *In the Matter of Columbia Gas of Ohio, Inc. For Approval to Change Accounting Methods*, Case No. 20-1104-GA-AAM.



Respectfully submitted,

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the **Staff's Initial Brief** has been served upon the below-named counsel via electronic mail, this 18<sup>th</sup> day of June, 2021.

*/s/ Robert Eubanks*

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