BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Dayton Power and Light Company to Increase its Rates for Electric Distribution.	)))	Case No. 20-1651-EL-AIR
In the Matter of the Application of The Dayton Power and Light Company for Accounting Authority.	)))	Case No. 20-1652-EL-AAM
In the Matter of the Application of The Dayton Power and Light Company for Approval of Revised Tariffs.	)))	Case No. 20-1653-EL-ATA

ONE ENERGY ENTERPRISES LLC'S OBJECTIONS TO THE STAFF REPORT AND SUMMARY OF MAJOR ISSUES

Pursuant to Ohio Revised Code Section ("R.C.") 4909.19 and Ohio Administrative Code ("O.A.C.") 4901-1-28, intervenor One Energy Enterprises, LLC ("One Energy"), by and through its counsel, makes the following objections to the Staff Report of Investigation ("Staff Report") prepared by the Staff ("Staff") of the Public Utilities Commission of Ohio ("PUCO"), which was docketed on July 26, 2021.

Further, One Energy submits these objections without prejudice to or limitation upon its right to fully participate at the hearing in this proceeding, including the cross-examination of all witnesses presented as to all issues raised during the course of the proceeding. Whether or not it presents witnesses at the hearing, One Energy may adduce evidence through cross-examination of any witness concerning not only One Energy's objections, but also to objections filed by other parties, particularly The Dayton Power and Light Company ("DP&L"), and as to such additional issues which the PUCO or the Hearing Examiner may permit the parties to present.

ONE ENERGY'S OBJECTIONS

While One Energy appreciates various parts of the Staff's investigation, the purpose of these objections is to identify areas of disagreement between One Energy and the Staff. One Energy objects to the following findings, conclusions and/or recommendations (or lack thereof) in the Staff Report as being unjust, discriminatory, unreasonable and/or unlawful.

I. Section 1 Objection: Hitting the Reset Button and Rejecting DP&L's Filing

A. Historical context is important

"Change is the law of life. And those who look only to the past or present are certain to miss the future," John F. Kennedy. Unfortunately, utilities like DP&L and the Staff fail to acknowledge that times have changed. The world has changed. The practices of the past are not, by the matter of their existence, sufficient justification for their continued use in the future. In this case, both DP&L and Staff apply 1990s methods to a much changed, modern world. In the context of the above-captioned proceedings, the methods used to review rate cases and allocate costs need to change as well.

In 1992, the year that the most recent NARUC cost allocation model was written, all of the following were true:

- Women were paid 70.8 cents on the dollar compared to men.[1]
- There was a 32.1% pay gap between black and white employees[2]
- Ohio had <1MW of installed wind turbines behind the meter compared to 40.5 MW now.
- Ohio had nearly zero MW of installed solar capacity behind the meter.
- Utilities in Ohio were vertically integrated and fully regulated.

[1] See https://www.pay-equity.org/info-time.html.

[2] See https://www.epi.org/publication/black-white-wage-gaps-expand-with-rising-wage-inequality/.

None of those things are true today. And, all of them have important implications for the way that rate cases can and should be reviewed.

In today's modern world where both DP&L (as a regulated utility who has been entrusted with a monopoly over Ohio citizens), and Staff (as the frontline supervisors of regulated utilities) need to consider rate cases in a much broader context. Rate cases, like this one, should specifically consider the following:

(i) Do the company's policies and tariffs encourage a free and open generation market?

(ii) Do the company's policies and tariffs comply with Ohio's energy policies set forth in R.C. 4928.02, including the encouragement customer flexibility, innovation and the development distributed generation resources?

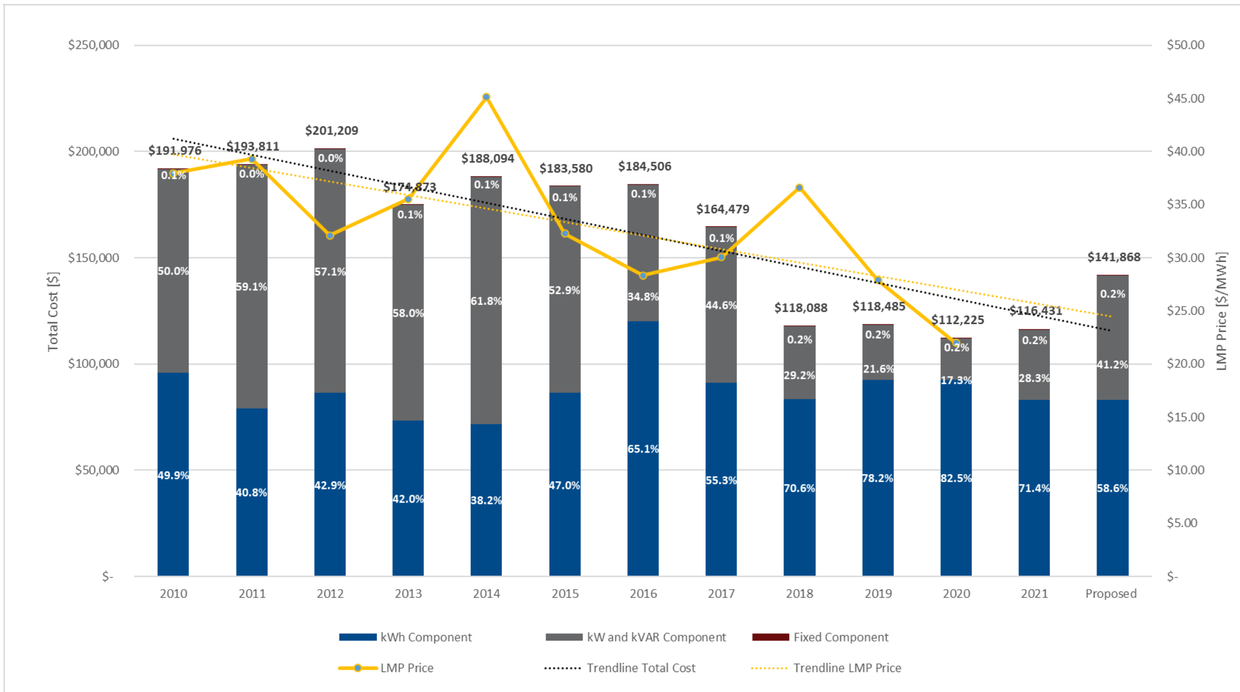
(iii) Has the company's management embraced diversity, equity and inclusion, including gender and race pay equity?

Both DP&L's application and the Staff Report fail to consider these factors, and, as such, both the Company and Staff should step back and restart the process with specific consideration to these factors.

B. The decoupling of DP&L's rising rates from reality.

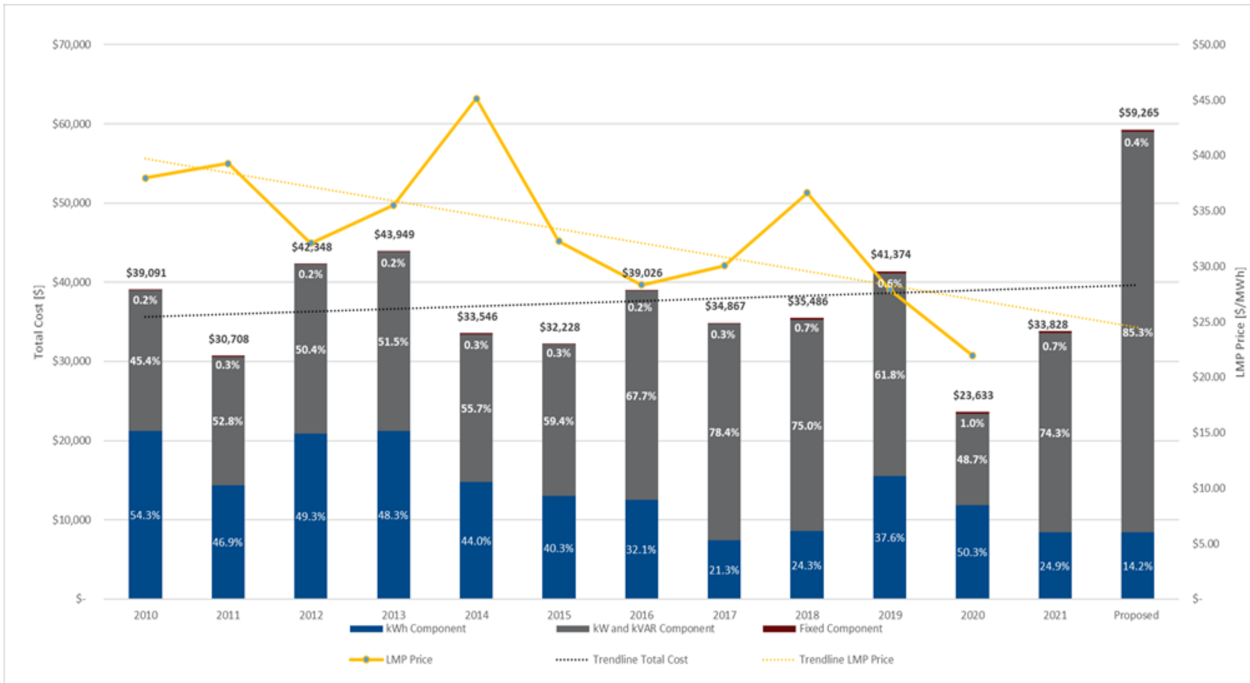
Just as importantly, DP&L's rate changes over the last decade have continually and systematically changed so that they are now decoupled (pun intended) from reality. The changes in DP&L's rates and rate design over the past 10 years make no sense when viewed holistically. In fact, those changes fly in the face of Ohio's energy policies, especially those set forth in R.C 4928.02 encouraging innovation, demand reduction and the development and implementation of energy efficiency technologies and distributed generation resources.

The decoupling from reality is simple to demonstrate. First, average annual day ahead locational marginal pricing ("LMP") in DP&L's service territory has declined from $36.62 in 2018 to $22.00 in 2020, a 40% decrease. Yet, DP&L standard service offer ("SSO") rate for a typical primary service customer[3] has remained flat and the proposed rate would cause an increase from $118,088 to $141,867 per month, a 17% increase during the same period. This alone is a major problem, and should leave everyone in this industry asking how things are going so wrong. But, this is not the only alarming trend.



The problem only increases when you look at shopping customers. Since 2010, shopping customers have seen DP&L systematically shift from variable costs to fixed costs without sufficient justification. In 2010, for the same typical primary service customer referenced above, rates have shifted from 54.3% of the cost being based on energy consumption, to only 14.2% being based on energy consumption today. This shift is apparent in the following figure.

[3] Primary service customer using 8000 kW, 1,509 MWh, 165MVAh per month



Surely, there is no justification for applying the same ratemaking methodology and arriving at such a different result. The only logical explanation is that DP&L is actively changing its approach to ratemaking and cost of service studies to deliberately discourage distributed generation and energy efficiency both of which reduce a customer's energy consumption.

But, it is not as if this trend is happening by accident. DP&L's parent company, AES Corporation ("AES"), warns its investors that its revenue is threatened by reduced energy consumption and reduced demand, including, as a result of demand side management, energy efficiency, and customer generation. In fact, AES's Form 10-K filed with the United States Security and Exchange Commission for the fiscal year ending December 31, 2020 states the following:

- **Page 9** – "Our utility businesses are generally affected by seasonal weather patterns and, therefore, operating margin is not generated evenly throughout the year. Additionally, weather variations may also have an impact based on the number of customers, temperature variances from normal conditions, and customers' historic usage levels and patterns. Retail sales, after adjustments for weather variations, are also affected by changes in local economic activity, **energy efficiency and distributed generation initiatives**, as well as the number of retail customers." (Emphasis added)

- **Page 60 -** We may incur significant expenditures to adapt to our businesses to technological changes. Emerging technologies may be superior to, or may not be compatible with, some of our existing technologies, investments and infrastructure, and may require us to make significant expenditures to remain competitive, or may result in the obsolescence of certain of our operating assets. Our future success will depend, in part, on our ability to anticipate and successfully adapt to technological changes, to offer services and products that meet customer demands and evolving industry standards. Technological changes that could impact our businesses include:
  - technologies that change the utilization of electric generation, transmission and distribution assets, **<u>including the expanded cost-effective utilization of distributed generation (e.g., rooftop solar and community solar projects), and energy storage technology;</u>**
  - advances in distributed and local power generation and energy storage that reduce demand for large-scale renewable electricity generation or impact our customers' performance of long-term agreements; and
  - more cost-effective batteries for energy storage, advances in solar or wind technology, and advances in alternative fuels and other alternative energy sources.

  <u>Emerging technologies may also allow new competitors to more effectively compete in our markets or disintermediate the services we provide our customers, including traditional utility and centralized generation services.</u> If we incur significant expenditures in adapting to technological changes, fail to adapt to significant technological changes, fail to obtain access to important new technologies, fail to recover a significant portion of any remaining investment in obsolete assets, or if implemented technology fails to operate as intended, our businesses, operating results and financial condition could be materially adversely affected." (Emphasis added)

In other words, AES has already acknowledged to its investors that distributed generation and energy efficiency present a direct threat to, and are going to affect, its business. As a result, that risk is already priced into both AES' and DP&L's cost of common equity. Surely, it is not the State of Ohio's job to allow DP&L to eliminate the risk of these new technologies to the detriment of customers who are embracing them. Staff has to demand that the company explain how this tectonic shift in allocation of costs is anything other than a gigantic protection measure that hurts Ohioans.

In order to encourage investment in on-site energy, customers should be entitled to a reasonable level of certainty in the structure of rates. DP&L's shift towards a rate design that pushes more into fixed costs, and its failure to reduce costs, has resulted in the energy component of the tariff that can be shopped being devalued, on-site generation being less valuable, and less for customers to do about it. Companies that are investing in distributed generation and other grid modernization efforts need some certainty that the policies of R.C. 4928.02 are being adhered to and that the rug is not being pulled out from underneath them.

Unfortunately, that is not the case. Staff (and ratepayers) should expect more from the regulated monopolies that Ohio permits to exist without competition and entrusts with the public good, especially with all that is going on in the nation, the State of Ohio, and the PUCO. A holistic review of the impacts of DP&L's actions since its last rate case demonstrate that it failed to meet that standard over time and in this case.

When all of this is examined in totality, one thing is clear – DP&L's application in this case is materially insufficient and violates Ohio energy policy. The Staff Report should have recommended the rejection of DP&L's application in full and directed it to go back to the drawing board to modernize its approach and more accurately align with the realities of today's marketplace.

II. Section 2: One Energy's Additional Objections

To the extent the Commission proceeds with its normal rate case procedure and does not send DP&L back to the drawing board, One Energy raises the following specific objections.

RATE BASE AND OPERATING INCOME

1. Need For Full Review By Financial Auditor In Light of Material Errors

One Energy objects to the Staff's failure to challenge the entirety of DP&L's books and records. Staff noted multiple deficiencies in DP&L's accounting, including: (i) discovering vehicles that were "no longer in-service because they were sold, donated, or totaled but were still recorded in the assets subledger" (page 9 of the Staff Report); (ii) finding that DP&L was unable to provide invoices for certain assets (page 9 of the Staff Report); and, (iii) identifying "numerous transactions for expenses incurred prior to the test year" (page 19 of the Staff Report). These errors all meet the materiality threshold of $10,000 established by AES Corporation and acknowledged by the Staff on page 19 of the Staff Report. As such, Staff should require evidence that DP&L's financial auditor was notified of these errors, and that said auditor investigated and sufficiently tested all related events and ultimately reissued or reaffirmed their GAAP audited financials. Absent such investigation, it is unreasonable for any of the parties to rely on the GAAP financials presented by the Company.

RATE OF RETURN

One Energy objects to the recommended rate of return in the range of 7.05 to 7.59 percent as set forth on page 21 of the Staff Report. For the reasons set forth below, and otherwise in these Objections, the recommended rate of return should be far lower than this range, and the resulting operating income would also need to have a corresponding reduction.

1. The Company is Under Leveraged or Receiving an Equity Premium

One Energy objects to the Staff Report's acceptance that a regulated utility with a leverage ratio of .4613 is entitled to a cost of common equity of 9.28% to 10.29%. Staff erred by simply accepting DP&L's embedded cost of debt number without factoring the low debt ratio into the cost of common equity analysis. Given the current markets and the availability of low cost debt, the Company's capital structure does not translate to the common equity return staff is using.

Further, DP&L's lenders permit a leverage ratio of .67,[4] which is why its embedded cost of debt is as high as 4.44% during a period of such low debt costs in the United States. If DP&L is permitted by its lenders to have an additional approximately 20% of leverage, then surely its conservative approach of carrying less debt results in less equity risk. And, that should result in a lower cost of common equity.

2. The Peer Group of Six (6) Comparison Companies Used in the Staff Report are Inappropriate.

One Energy objects to the Staff Report's selection of comparative entities for its Cost of Common Equity analysis.

Staff selected six (6) entities for its comparative analysis, only five (5) of which were actually used. Unfortunately, the Staff Report fails to explain how and why that peer group of companies was selected, and whether they were selected as comparables for DP&L (the applicant) or AES (its parent company).

Further, notably absent from the list of companies in the Staff Report are any of the comparables used in the Staff Report from DP&L's most recent, prior rate case (PUCO Case No. 15-1830-EL-AIR), which was issued only about three (3) years ago (on March 13, 2018). On page 18 of that Staff Report, it states that Staff created a "list of comparable companies based on the unique position of AES being classified more as a competitive power generator," and including the following peer group: Alliant Energy (LNT); Pinnacle West (PNW); Scana Corp. (SCG); Sempra Energy (SRE); and, WEC Energy Group (WEC). This is especially striking when: (i) the

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[4] According to DP&L's filing (specifically, page 23 of DP&L's 10Q filed with the SEC for the quarter ending on September 30, 2020): "DP&L's unsecured revolving credit facility and Bond Purchase Agreement (financing document entered into in connection with the issuance of DP&L's First Mortgage Bonds, on July 31, 2020) has one financial covenant. The covenant measures Total Debt to Total Capitalization and is calculated, at the end of each fiscal quarter, by dividing total debt at the end of the quarter by total capitalization at the end of the quarter. DP&L's Total Debt to Total capitalization ratio shall not be greater than 0.67 to 1.00. This financial covenant was met with a ratio of 0.48 to 1.00 as of September 30, 2020."

new peer group used in this proceeding including one company with a market cap three times that of AES, and two entities with a market cap of less than one third (1/3) of AES; and, (ii) AES operates in international markets having a far difference risk profile (e.g., Brazil, Chili, Columbia, and Argentina). This further calls into question the use of the peer group selected by Staff.

Finally, if Staff was seeking for comparables to DP&L rather than AES, it similarly erred. DP&L represents roughly 7% of AES's total 2020 revenue and roughly 25% of AES' total 2020 revenue associated with its regulated companies, and would therefore have a similarly scaled market cap on the order of $4 billion.[5] In this case, Staff selected comps that are far higher than the market cap of DP&L.

Under either lens, the peer group selected by Staff is inappropriate. As such, One Energy disagrees with the Cost of Common Equity analysis performed by Staff.

RATES AND TARIFFS

1. Introductory Statement on Staff's Intent (p. 27 of Staff Report)

One Energy objects to the standard used by Staff to test the rates and tariffs proposed by DP&L in this proceeding. In the introductory statement on page 27 of the Staff Report, it states: "It is the intent of Staff to provide analysis regarding the acceptability and reasonableness of the revenue recovery mechanism contained in the proposed tariffs." One Energy objects to this statement as being incomplete. It should be amended to include the following phrase at the end "…and the consistency of the proposed tariffs with the policies of the State of Ohio contained in Section 4928.02, Revised Code." One Energy respectfully submits that this objection as to the

[5] This calculation is based on DP&L's 2020 revenue of $660.5 million (data available in DP&L's 2020 10-K filed with the SEC), AES' total 2020 revenue of $9.66 billion and total 2020 revenue associated with its regulated companies of 2.661 billion (data available in AES' 2020 10-K filed with the SEC), and AES' market cap is $16.16 billion (based on public information available as of August 24, 2021).

standard used in the Staff's review has broad implications to this case, and as a result, Staff should re-examine the entire set of proposed rates and tariffs by applying the correct standard of review.

2. Need For a More Comprehensive Review of DP&L's Tariff

It appears that Staff and the Company failed to make a reasonable effort to modernize DP&L's tariff. The tariff provisions, as amended in DP&L's application, still include numerous outdated provisions and concepts, including but not limited to, the following: (i) referencing coal miner's strikes; (ii) setting forth three (3) month long load curtailment procedures; and, (iii) continuing to use gender-specific pronouns. Surely, it is in the best interest of DP&L, Staff and customers to have a completely updated and modernized tariff governing DP&L's operations in Ohio.

3. Failure To Receive A Bill (Sheet No. D5, Page 2 of 6 Billing and Payment for Electric Service)

One Energy objects to the Staff Report's failure to require the Company to modify the following language in its tariff: "Non-receipt of a bill does not relieve the Customer of responsibility for payment and the Company shall not be obligated to extend the due date for such a bill when the Company records show the correct mailing name and address and a reasonable attempt was made to bill the Customer in a timely manner." Surely in light of the experiences that everyone had with the postal service during 2020 and 2021, and the lack of smart meters in DP&L territory, the language in this section should be modified to at least allow for the extension of due dates for a reasonable period of time.

4. Estimated Bills (Sheet No. D5, Pages 2-3 of 6 Billing and Payment for Electric Service)

One Energy objects to the Staff Report's failure to address this section of DP&L's tariff. DP&L's reliance on decades old technology for metering and any corresponding failure of that technology should not be the customer's fault. If any metering equipment fails and results in DP&L's inability to read the meter that should be the sole responsibility of DP&L and a business risk assumed by DP&L. The customer should not be responsible for any estimated electricity consumed during a period when a meter has failed and is unable to be read.

5. Choice of Service Option (Sheet No. D5, Page 3 of 6 Billing and Payment for Electric Service)

One Energy objects to the Staff Report's failure to address this section of DP&L's tariff. Currently, DP&L is not required to make a copy of its choice of service options available online (it is only required to be maintained at DP&L's offices). In today's technology-focused environment, DP&L should make the schedule available online.

6. Net Metering (page 24 of the Staff Report / Sheet No. D5, Pages 4-6 of 6 Billing and Payment for Electric Service)

Although One Energy agrees with the Staff that DP&L "has not updated the tariff to conform to Ohio Adm. Code 4901:1-10-28," it objects to Staff's decision to kick those revisions to an entirely different proceeding. This is a rate case, an important part of which involves a review of DP&L's tariff. It is undisputed that the net metering section of DP&L's tariff fails to comply with current Ohio law. DP&L should be required to update this section to comply with Ohio law and so parties such as One Energy have the opportunity to provide comments in this proceeding. Otherwise, this entire section should be deleted and replaced with a statement like the following: "Net Metering shall be done in accordance with applicable Ohio statutes and regulations." Under no circumstances should DP&L be permitted to stick with a tariff which everyone acknowledges is contrary to Ohio law.

7. Discontinuance of Service (Sheet No. D6, Page 3 of 4 Disconnection/Reconnection of Service)

One Energy objects to the Staff's failure to question the legitimacy of the "Investigation Fee" provided for in this section of DP&L's tariff. Specifically, DP&L's tariff states: "The Company shall also levy an Investigation Fee against a Customer responsible for any fraudulent or damaging practice as contained on Miscellaneous Service Charges Tariff Sheet No. D26 of this Schedule. The Investigation Fee will only be levied in those circumstances where the Company has reasonable proof of the Customer's fraudulent or damaging practice. Reasonable proof is defined as either an admission by the Customer; or documentation evidencing the fraudulent or damaging practice; or personal observation by Company personnel." DP&L should not be allowed to make this sort of determination, and impose this sort of charge, without a finding of fraud by the PUCO or a court of law first.

8. Location (Sheet No. D7, Page 1 of 2 Meters and Metering Equipment – Location and Installation)

One Energy objects to the Staff Report's failure to implement a reasonableness requirement as to the location of DP&L's facilities. This section of DP&L's tariff should be amended to state that the Company shall be required to provide service at a less intrusive service location if requested by the Customer and such accommodation is technically possible. Specifically, One Energy requests the following charges (shown in redline): "Each Customer will provide without charge to the Company a suitable location for the meters and metering equipment to be installed by the Company. The Company will have the right to determine where its meters and metering equipment will be located on the Customer's premises<u>; however, the Company shall endeavor to cooperate with any customer's reasonable request to take service at a less intrusive delivery point</u>. The meters and metering equipment must be located to allow reasonable access by the Company's employees or agents. The meters and metering equipment will not be set nor allowed in a place where there is a likelihood of damage. If the Company requires a relocation of its meters and metering equipment to satisfy the conditions contained in this provision, the Customer shall provide for such relocation at its expense." Among other things, this change ensures that a customer may reasonably take curbside service if it so chooses, thus ensuring the customer has the right to operate their own on-site energy system.

9. Installation (Sheet No. D7, Pages 1-2 of 2 Meters and Metering Equipment – Location and Installation)

One Energy objects to the Staff Report's failure to address this section. As stated in DP&L's tariff, it has unlimited authority and discretion in determining the number of meters, delivery points and type of metering equipment. This section should be amended to state that DP&L shall be required to provide less intrusive service and/or service with a single meter if the customer so elects and it is technically feasible.

10. Installation (Sheet No. D8, Page 1 of 2 Service Facilities Location and Installation)

One Energy objects to the Staff Report's failure to address this section. Paragraph 2 in this section indicates that "Customer's service entrances and service equipment installations will be subject to the National Electrical Code, and any other codes and regulations in effect in the area served and the standards contained in the latest revision of the Company's electric booklet entitled 'Service Handbook'…" This language is too broad and fails to specifically call out the National Electric Service Code ("NESC"). Service equipment installations for primary and high voltage customers should comply with the National Electric Code ("NEC"), or the NESC, as applicable. For example, it would be inappropriate to take 69kv or 138kv service without considering NESC (as opposed to NEC) for the design of a substation.

11. Wiring, Appliances, and Devices Shall Conform to Codes (Sheet No. D9, Page 1 of 2 Equipment on Customer's Premises)

One Energy objects to the Staff Report's failure to address this section. Similar to the objection immediately above, this section only references compliance with the NEC, not the NESC. Service equipment installations for primary and high voltage customers should comply with the NEC, or the NESC, as applicable.

12. Short-Term Capacity Shortages (Sheet No. D11, Page 2 of 10 Emergency Electrical Procedures)

One Energy objects to the Staff Report's failure to address this section. One Energy questions whether the East Central Area Reliability Council ("ECAR") Document No. 3 from 1998 is still the correct document to reference. ECAR no longer exists, as it and two other reliability organizations were rolled into ReliabilityFirst (one of eight FERC-approved regional entities focused on reliability) in 2006. Surely there is more recent guidance that can and should be relied upon.

13. The Mismatch between COSS Methods and Actual billing Methods

One Energy objects to Staff's acceptance of DP&L's class cost-of-service study ("COSS") submitted in this case. DP&L uses the non-coincident peak with the 1NCP as the deciding factor for allocation of costs. The 1NCP approach, while archaic, is still one of the generally used methods. Staff however, failed to object to the following:

- The COSS uses 1NCP, but the tariffs use monthly peaks, the two of which have no direct correlation. The method used to bill customers should be consistent with the method used to allocate costs to those customers (and customer classes). Absent a correlation, there is no incentive to reduce load when it should matter the most, and there is no equitable cost causation. And, that lack of cost causation in actual billing discourages investments in energy efficiency and distributed generation.

- The load profiles used for the 1NCP analysis were based on a January 1, 2019 to December 31, 2019 time period. This period is outside of the test year and there is no way to know if it is an adequate representation of the test year or even the date certain. Surely a modern utility can use a load profile from the test year for its cost of service study.

- Continued reliance on a manual from 1992 when multiple newer publications are available should, at the very least, be considered.

- Based on testimony from DP&L Witness Chapman, DP&L appears to have used each customer class' "single maximum level of consumption over the course of a year." By using a non-coincident event, this approach is not accurately reflecting engineering principles that govern electrical system design for shared system costs. Under this approach, each class is not encouraged to reduce their load at the coincident peak since it will result in no financial benefit to them.

As such, either the COSS should be redone or the tariffs rewritten in order to ensure that the same determinative factors for demand are used in both.

14. Rate and Revenue Analysis: Primary and Secondary Service

One Energy objects to the Rate and Revenue Analysis section of the Staff Report, in particular as it relates to secondary and primary service customers, because Staff admits that its analysis is incomplete. Specifically, page 31 of the Staff Report states: "During Staff's Investigation, an error was identified in the calculation of Application's proposed kW and kVar. . . . Staff proposes to continue to work with the Applicant to develop appropriate rates for secondary and primary customers." Simply put, One Energy objects to the incomplete nature of the Staff Report, and its corresponding ability to analyze the Staff's position and raise objections. Staff should, as it suggests, continue to work with the Company to develop a position, then reissue the Staff Report with a complete analysis.

15. Miscellaneous Tariff Issue – Subject to Refund

One Energy objects to Staff's failure to include a general provision in all riders and tariffs stating that, unless expressly stated otherwise, any and all charges are subject to refund if they are eventually determined by a court to be unlawful, unreasonable, unjust or unduly discriminatory.

16. Miscellaneous Tariff Issue – CRES Provider Registration and Credit Requirements

One Energy objects to DP&L's failure to include its Alternate Generation Supplier Coordination Tariff as part of its filing (and Staff's failure to require DP&L to do so). The tariff included in DP&L's application and reviewed by the Staff references the Alternate Generation Supplier Coordination Tariff and certain requirements in it on a number of occasions. That tariff necessarily should be part of this case, and the parties should have reasonable opportunity to review any proposed changes by DP&L and to provide comments. At a minimum, One Energy would propose changes to the following unreasonable and anti-competitive registration and credit requirements placed on brokers (a specific category of CRES providers in Ohio) in the Alternate Generation Supplier Coordination Tariff. These requirements, are unreasonable for the reasons set forth below.

- Evidence of PJM membership: Section 2.2(d) of DP&L's Alternate Generation Supplier Coordination Tariff requires a CRES to provide DP&L with "written evidence that the AGS or its TSA is a signatory to the Operating Agreement and Reliability Assurance Agreement of the PJM Interconnection LLC." If a broker needs to obtain membership in PJM, then that is a matter between the broker and PJM. Requiring PJM membership of a broker that is not required to have such membership by PJM is unduly burdensome and anti-competitive.

- EDI: Section 2.2(g) of DP&L's Alternate Generation Supplier Coordination Tariff requires a CRES to provide DP&L with "an EDI Trading Partner Agreement, fully executed by a duly authorized representative of the supplier." Brokers should not be required to fill out forms for, and complete, EDI certification testing if that broker has no intention of using that functionality. This creates an unnecessary and anti-competitive administrative burden on becoming a registered broker in DP&L's service territory and the requirement should be removed from the tariff.

- Collateral: Section 2.2(i) of DP&L's Alternate Generation Supplier Coordination Tariff requires a CRES to provide DP&L with "collateral pursuant to Section 12.4." Section 12.4 requires a CRES provider to submit independently-audited financial statements, demonstrate that it has (and maintains) investment grade long-term bond ratings," and allows DP&L to apply "reasonable financial standards to assess and examine a supplier's

> creditworthiness." These requirements make little sense for brokers as they are not taking title to any electricity, and are not creating financial risks for parties by arranging the transactions of others. In addition, that information is a protected trade secret. The most secure way to protect confidential trade secret information is to not require unnecessary financial information be released to competitors or third parties in the first place. This tariff provision should not apply to brokers.

Simply stated, all of these requirements are unnecessary to protect DP&L relative to brokers. Instead, they act to stifle competition and prevent brokers from registering in DP&L's territory. The simple and just fix is to exempt brokers from these requirements under DP&L's tariff.

MANAGEMENT AND OPERATIONS REVIEW

As part of this case, and pursuant to O.R.C. 4909.154, the Commission has broad authority to consider and analyze the management policies, practices and organization of DP&L. For purposes of the Staff Report, however, Staff selected only two management topics to review: "Staff chose to conduct an operations review of DP&L's management of processing and closing projects and the processes and controls associated with its internal controls over the issuance and return of materials and supplies associated with storm restoration equipment, specifically storm skid kits and the return of unused supplies." (Staff Report at p. 39). Although One Energy understands that it would be unmanageable for the Staff to do a comprehensive review of DP&L's management practices, One Energy objects to the Staff's failure to examine or even mention two elephants in the room which directly relate to DP&L's management activities during the test year. In this unprecedented year (and test year), Staff should be required to re-examine DP&L's filing and management practice with a focused lens on the following topics.

1. A Commitment to Diversity, Equity and Inclusion: Failure to Review Salary Gender and Race Parity

In a December 14, 2018 letter AES President and CEO stated the following[6]:

> *The energy sector has traditionally been male-dominated. The women who did choose to work in power or utilities often faced obstacles preventing them from reaching their highest potential. A lack of female leadership at the highest levels also contributed to the sector being one of the least gender-diverse. We're intent on closing this gap, and believe the future depends on it.*

One Energy completely agrees.

Diversity, equity and inclusion efforts have taken center stage in 2020 and 2021. Yet, the Staff chose not to evaluate this critical corporate management issue and any resulting implications to Operating Income as part of the Staff Report. For example, Staff did not investigate whether the Company has a wage gap based on gender (or race). Given that DP&L has failed, to One Energy's knowledge, to make a public announcement that it has achieved gender wage parity since its 2018 letter, it is reasonable to conclude that DP&L, to this day, has a gender pay gap. Consequently, if the test year salary expenses included for men are in excess of what would have been paid to women in the same roles at DP&L, then they are inherently unreasonable and imprudent and should be reduced accordingly. Additionally, all salaries paid to men in excess of what DP&L would have paid to women that were ultimately capitalized into rate base expenses are not used and useful, and should be excluded from rate base.

Although this diversity-related management issue, and its impact on DP&L's management practices and policies, may be unusual in the context of a distribution rate case, this type of review should not be. Looking into this issue is the right thing to do when looking at the management practices of a regulated monopoly. And, in the words of the late John Lewis, sometimes it is

[6] See https://www.aes.com/how-aes-closing-gender-gap-energy-sector.

important to "get in good trouble, necessary trouble,” and dive into somewhat uncomfortable topics and management practices. Here, that did not happen. In addition to the proposals above, the Commission should adjust downward DP&L’s rate of return as a challenge to do better and continue to prioritize its diversity, equity and inclusion efforts.

2. The COVID-19 Pandemic

The AES Corporation’s FY 2020 10-K report filed with the SEC states as follows: “In response to the COVID-19 pandemic, we implemented significant changes that we determined were in the best interest of our employees, as well as the communities in which we operate.” Any time a regulated utility implements “significant changes,” those changes should be evaluated when given the opportunity to do so. Yet, the Staff Report only uses the word “covid” twice despite the fact that it may be the single most consequential disruption that businesses have experienced in the past century, and has resulted in “significant changes” to DP&L’s operations. Staff should have thoroughly investigated these “significant changes” as part of this rate case, even if only to affirm that they are reasonable.

Further, COVID-related costs should be thoroughly examined in the context of this rate proceeding to ensure that none are included in test year expenses. They are not representative of ordinary expenses going forward. Since DP&L failed to adequately discuss the pandemic in its application, it is impossible to quantify the additional test year expenses that it incurred that were unique and extraordinary. Accordingly, One Energy recommends that all COVID-19 pandemic-related expenses, including additional operating expenses, additional overtime, and additional capital project expenses, be removed from the test year expenses and DP&L’s rate base.

SUMMARY OF MAJOR ISSUES

The major issues for the PUCO’s consideration this case include:

1. DP&L's policies, practices, tariffs and rate design proposed in this proceeding violate the State of Ohio's energy policies by, among other things, inhibiting innovation, demand reduction, and the implementation of energy efficiency technologies and distributed generation resources;

2. DP&L's failure to address the effect on its policies, practices and rates resulting from the degree of its commitment to diversity equity and inclusion, and its response to the COVID-19 pandemic;

3. The appropriate rate design and corresponding rates for commercial and industrial customers;

4. The modernization of DP&L's tariff;

5. The appropriate level of revenues that DP&L should be authorized to collect through its rates;

6. The appropriate rate of return for ratemaking purposes;

7. The appropriate level of test-year revenues;

8. The appropriate level of rate base.

Respectfully submitted on behalf of
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CERTIFICATE OF SERVICE

I hereby certify that a service copy of the foregoing was sent by, or on behalf of, the undersigned counsel to the following parties of record this 25th day of August 2021.

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