**BEFORE**
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of The Dayton Power and Light Company for an Increase in Electric Distribution Rates. | ) ) ) ) | 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 |

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# OBJECTIONS TO THE STAFF REPORT OF THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP

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## I. INTRODUCTION

On October 30, 2020, The Dayton Power & Light Company, d/b/a AES Ohio, Inc. (AES) filed a notice of intent to file an application for an increase in its electric distribution rates with the Public Utilities Commission of Ohio (Commission).[1] The Ohio Manufacturers' Association Energy Group (OMAEG) intervened in the above-captioned case on November 11, 2020. On November 18, 2020, the Commission granted AES' request to establish a test period and date certain, and to waive certain filing requirements related to AES' transmission and generation services, which are not at issue in the present proceeding.[2] The Commission ordered that the test period be the twelve-month period ending May 31, 2021, and a date certain of June 30, 2020.[3] In

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[1] *See* Notice of the Dayton Power and Light Company's Intent to File an Application to Increase its Rates for Electric Distribution Service (Oct. 30, 2020).

[2] *See* Entry at ¶¶ 5-6, 9, 11 (Nov. 18, 2020).

[3] *Id.*

its Application, AES requested a significant increase to its base distribution rates, proposing to add $120,759,887 to its base distribution revenues, which is a proposed increase of approximately 50.9% over current base distribution revenues.[4]

Commission Staff filed its Staff Report on July 26, 2021, recommending a base distribution revenue increase from $61,115,418 to $66,665,151, an increase of approximately 25% to 27%. Pursuant to R.C. 4909.19, after Commission Staff files its written report on an application for an increase in rates (Staff Report), interested parties are to file objections to the written Staff Report "within thirty days after such filing."[5] The Commission issued an Entry on July 30, 2021, deeming the Staff Report filed as of July 26, 2021, and, pursuant to R.C. 4909.19 and Ohio Adm.Code 4901-1-28, directing interested parties to file objections within thirty days of that date.[6] Therefore, in accordance with the R.C. 4909.19, Ohio Adm.Code 4901-1-28, and the Commission's July 30, 2021 Entry, OMAEG hereby respectfully submits its objections to the Staff Report.

While OMAEG supports many findings, recommendations, and proposed adjustments contained in the Staff Report, OMAEG believes that the Staff Report could have and should have made additional recommendations regarding AES' Application for an increase in its distribution rates to protect customers from unjust and unreasonable rates and charges. As such, OMAEG hereby files its objections to the Staff Report, requesting that the Commission consider the additional issues, concerns, and recommendations delineated herein as it reviews the matters set forth in AES' filed Application for an increase in distribution rates under Ohio law.

OMAEG reserves the right to supplement or modify these objections in the event that Staff makes additional findings, conclusions, or recommendations with respect to the Staff Report

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[4] *See* Staff Report at 28 (July 26, 2021).

[5] R.C. 4909.19(C).

[6] Entry at ¶¶ 3-4 (July 30, 2021).

and/or issues raised in the proceeding by AES or other parties. OMAEG also reserves the right to respond to objections or other issues (either in support or opposition) raised by other parties in these proceedings.

## II. OBJECTIONS

### A. OMAEG Objects to the Staff Report's Recommended Revenue Requirement.

OMAEG objects to the Staff Report's unreasonable and unjust recommendation of a revenue requirement in the range of $306,600,385 to $312,150,118 as excessive,[7] which will result in large, abrupt increases to customers as the pandemic continues and on the heels of a prior approximate 14% rate increase that was implemented in the fall of 2018. Adopting the Staff Report's recommendation in the pending case will result in an increase of 25% to 27% over test year operating revenue.[8]

While OMAEG agrees with several of the recommendations in the Staff Report that reduce AES' proposed revenue requirement, OMAEG objects to the extent that the Staff Report failed to recommend that additional expenses be excluded. For example, OMAEG supports the Staff Report's recommendation to exclude $9,649,258 in working capital, which was not based on a lead-lag study,[9] all expenses attributable to governmental affairs or expenses attributable to industry associations during the test year,[10] and AES' unauthorized request to defer uncollectible expenses.[11] However, OMAEG objects to the extent that the Staff Report still recommends a revenue requirement that is excessive, unjust, and unreasonable.

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[7] Staff Report, Schedule A-1 (July 26, 2021).

[8] *Id.*

[9] Staff Report at 11 (July 26, 2021).

[10] *Id.* at 17.

[11] *Id.* at 16.

Moreover, the Staff Report's recommended revenue requirement incorporates the Staff Report's recommended rate of return, rate base, and adjusted test year operating income, including the disallowance or inclusion of various expenses. As discussed further below, OMAEG objects to various components, which has the effect of overstating the proposed revenue requirement, which is unjust and unreasonable.

### B. OMAEG Objects to the Staff Report's Recommended Rate of Return, which is Excessive and Does Not Adequately Account for Factors Mitigating AES' Risk in Providing Electric Distribution Service.

OMAEG objects to the Staff Report's recommended rate of return of 7.15% to 7.70%[12] and a recommended return on equity of 8.76% to 9.78%[13] because the Staff Report failed to account for the reduced risk to AES as the sole provider of electric distribution service within its service territory, the various nonbypassable riders approved in AES' currently-effective electric security plan (ESP I), and the current economic environment.

AES is the sole provider of electric distribution service within its service territory and faces no competition from other electric distribution utilities (EDUs). Moreover, in Case Nos. 08-1094-EL-SSO, *et al.*, the Commission granted approval of several riders requested by AES when the Commission allowed AES to reinstate a modified version of its ESP I. These riders enable AES to fully and quickly recover many of its costs.[14] For example, the Commission approved the Rate Stabilization Charge (RSC), which compensates AES for risks it allegedly assumes as a provider of last resort,[15] a storm cost recovery rider, which compensates AES for storm damage expenses that it incurs, as well as deferral authority that the Commission granted AES for its COVID-19

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[12] Staff Report, Schedule A-1 (July 26, 2021).

[13] *Id.*

[14] *See In the Matter of the Application of the Dayton Power and Light Company to Establish a Standard Service Offer in the Form of an Electric Security Plan*, Case Nos. 08-1094-EL-SSO, Second Finding and Order (Dec. 18, 2019).

[15] *Id.* at ¶¶ 23, 40.

related expenses and foregone revenue.[16] These riders significantly mitigate AES' financial risks. Additionally, both of the foregoing riders are nonbypassable and guarantee AES a return even when the benefits to customers are not readily apparent.

Furthermore, in an Opinion and Order in Case Nos. 18-1875-EL-GRD, *et al.*, the Commission approved a Stipulation and Recommendation, which enables AES to continue collecting the RSC until October 1, 2023.[17] The Commission Opinion and Order in those cases also authorized AES to recover $267 million in costs for capital investments and operation and maintenance expenses associated with grid modernization through the Infrastructure Investment Rider (IIR).[18] AES may continue to recover costs through the IIR until January 1, 2025.[19] Lastly, the current economic environment does not support AES' proposed cost of long-term debt.

Accordingly, OMAEG opposes the Staff Report's recommended rate of return (as well as the Company's) because it does not adequately account for factors mitigating AES' risk (or lack thereof) in relation to its electric distribution service or the current economic climate. Additionally, the substantial risk mitigation that nonbypassable riders provide eliminates the need for the Commission to approve the excessive rate of return that the Staff Report recommends. AES, having already secured guaranteed recovery from customers for several of its costs, does not also require a rate of return in the range of 7.15% to 7.70%. The Staff Report should have

[16] *Id.* at ¶ 39; *see also In the Matter of the Application of the Dayton Power and Light Company for Approval of its Temporary Plan for Addressing the COVID-19 State of Emergency*, Case Nos. 20-651-EL-UNC, *et al.* Finding and Order (May 20, 2020).

[17] *See In the Matter of the Application of the Application of Dayton Power and Light Company for Approval of Its Plan to Modernize Its Distribution Grid*, Case Nos. 18-1875-EL-GRD, Opinion and Order at ¶¶ 48, 57 (June 16, 2021).

[18] *Id.* at ¶ 26.

[19] *Id.* at ¶ 42(3)(c).

recommended a lower range. At a minimum, the Staff Report should have recommended that the Commission adopt a rate of return at the lower end of the Staff Report's range.

### C. OMAEG Objects to the Staff Report's Failure to Recognize Issues Associated with the COVID-19 Pandemic that Occurred During the Test Year.

The Commission Staff Report failed to acknowledge the deferral authority that the Commission granted AES in Case Nos. 20-651-EL-UNC, *et al.*, for its COVID-19 related expenses and foregone revenue. Although AES states that it is not seeking recovery of COVID-19-related expenses and foregone revenues as a regulatory asset, it continues to defer these expenses, while waiting to see if the total costs outweigh the total savings.[20] Additionally, AES argues that the economic impact of COVID-19 warrants a higher proposed rate of return.[21] However, AES did not present any data or studies supporting its assertion.

Although AES is not seeking recovery of COVID-19 related expenses in this case, its risk is somewhat mitigated by its deferral authority for these costs. Should the savings ultimately not exceed the costs, AES will likely not seek recovery; if the costs ultimately exceed the savings, AES is free to seek recovery for these deferred costs. AES, therefore, has the ability to mitigate the long-term impacts of COVID-19, if any, on its finances. As such, when determining whether or not the impact of COVID-19 warrants a higher rate of return, the Commission should consider the deferral authority already granted to AES.

### D. OMAEG Objects to the Staff Report's Proposed Customer Charges.

OMAEG objects to the Staff Report's acceptance of AES' proposed recommended increase in customer charges, particularly for Secondary and Primary Service customers. AES' proposed changes are unjust and unreasonable, and result in an increase of 17.35% for the Three Phase

[20] *See* Application, Book II, Vol. 1, Direct Testimony of Patrick Donlon at 4 (Dec. 14, 2020).

[21] *See* Application, Book II, Vol. 2, Direct Testimony of Adrien M. McKenzie at 23-25 (Dec. 14, 2020).

Secondary Service customer charge and an increase of 13.88% for the Primary Service customer charge.[22] However, according to AES' discovery responses,[23] there was an error in the calculation of the Secondary Service customer charge. OMAEG objects to the extent that the Staff Report failed to correct errors in the calculation of the Secondary Service customer charges, which will impact the customer charges.

The Staff Report also did not make any recommendations as to the proposed increases to the demand charges (per kW).[24] However, AES proposed an increase to the Secondary Service demand charge of 51.96%, and a 105.33% increase to the Primary Service demand charge.[25] These increases are unreasonable and excessive, and will result in abrupt and excessive bill increases for Secondary and Primary customers. The Staff Report noted that an error was identified in the calculation of AES' proposed kW and kVar rates, and noted that Staff proposes to continue to work with AES to develop these rates.[26] Therefore, to the extent that the Staff Report does not reject AES' excessive proposed increases to the customer charges and demand charges for Secondary and Primary Service, OMAEG objects.

### E. OMAEG Objects to the Staff Report to the Extent it Unfairly and Unjustly Causes Customers to Subsidize Low Load Factor Customers.

OMAEG objects to the Staff Report's recommendations regarding the maximum charge provision for low load Secondary and Primary customers (Low Load Factor Provision).[27] The Low Load Factor Provision "provides a capped $/kwh rate (Energy Rate) to help mitigate the impacts

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[22] Staff Report at 30-31.

[23] See AES Discovery Responses. For example, see AES's response to Kroger-RFP-02-002 (July 19, 2021).

[24] Staff Report at 30-31.

[25] Staff Report at 31.

[26] *Id.*

[27] Staff Report at 31-32 (July 26, 2021).

of the demand charges low load factor customers are otherwise charged under the Secondary and Primary rate schedules."[28] However, in order to recoup the charges that low load factor customers would be otherwise charged,[29] other customers pay comparatively more. As such, the lower the Low Load Factor Rate for low load factor customers, the higher the charges for other customers.

In its Application, AES proposed increasing the Low Load Factor Rate.[30] Accordingly, fewer customers would qualify for the capped energy-only rate of the Low Load Factor Provision.[31] This would help reduce the subsidization of low load factor customers by other customers. However, the Staff Report opposed the Low Load Factor Rates proposed by AES, stating that the proposed rates would result in substantial increases to low load factor customers.[32] Instead, the Staff Report recommended that the Low Load Factor Rate for Secondary customers be two times the level of the average rate and that the Low Load Factor Rate for Primary customers be two and one half times the level of the average rate.

While OMAEG recognizes the potential increases that could result from AES' proposal on low load factor customers, other customers will be negatively affected by continuing to absorb the costs not recovered from low load factor customers. Thus, OMAEG objects to the Staff Report's recommendation to the extent it causes non-low load factor customers to subsidize low load factor customers. By maintaining the current Low Load Factor Rate, the Staff Report proposal ensures that low load factor customers pay less than they otherwise would under the Primary and Secondary Rate Schedules, and other customers pay more.

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[28] Staff Report at 31 (July 26, 2021).

[29] *Id.*

[30] *Id.* at 32.

[31] *Id.*

[32] *Id.*

### F. OMAEG Objects to the Staff Report's Failure to Address Issues Associated with the Interplay between the Rate Case and ESP I.

OMAEG objects to the Staff Report to the extent that it does not address the impact, if any, of the rate freeze approved in ESP I now that ESP I has been reinstated by the Commission. Issues have been raised by the Office of the Ohio Consumers' Counsel regarding whether the ESP I rate freeze is in effect and the impact of that rate freeze on AES' pending Application.[33]

## III. CONCLUSION

For the aforementioned reasons, OMAEG recommends that the Commission adopt its objections and recommendations to the Staff Report as it evaluates AES' application for an increase in electric distribution rates.

Respectfully submitted,

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[33] *See* Motion to Dismiss DP&L's Application for a Rate Increase by Office of The Ohio Consumers' Counsel (Aug. 5, 2021).

## CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the parties of record via electronic mail on August 25, 2021.

*/s/ Kimberly W. Bojko*
Kimberly W. Bojko