

**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

**INITIAL POST-HEARING BRIEF
OF
THE CITY OF DAYTON**

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I. INTRODUCTION

Rates must be based on something.¹ The Commission has recognized the importance of aligning cost causation with cost recovery in order to further Ohio’s policy goals of competition, increased energy efficiency, and the encouragement of distributed generation.² Despite this fundamental principle of ratemaking, AES Ohio d/b/a Dayton Power & Light (“AES Ohio,” “DP&L,” or the “Company”) has failed to provide justification for charging the City of Dayton (the “City”) for taking redundant service to power its essential water treatment facilities.³

The City’s facilities, which are essential, must-run water treatment facilities, require redundant service. Despite previously agreeing to conduct a cost of service (“COS”) study to determine the costs associated with the provision of redundant service to the City’s facilities, AES Ohio has failed to do so. AES Ohio failed to follow the Commission’s order requiring the performance of the COS study; AES Ohio failed to calculate or recommend a rate for the provision of redundant service to the City’s facilities; AES Ohio failed to support the redundant service charge set forth in Tariff D-10.

Without a cost of service study to justify the proposed charge, pursuant to the Commission’s Order in 15-1830-EL-AIR,⁴ the City’s water treatment facilities should not be subject to AES Ohio’s tariff charge. To be clear, the City is not opposed to paying a charge for redundant service. However, that charge must be calculated in a way that is based on a cost of

¹ See R.C. 4909.18, regarding Applications to establish or change rates (“[s]uch application shall contain a schedule of the existing rate, joint rate, toll, classification, charge, or rental, or regulation or practice affecting the same, a schedule of the modification amendment, change, increase, or reduction sought to be established, and a statement of the facts and grounds upon which such application is based.”)

² *In the Matter of Electric Distribution Utility Rate Structure with Ohio’s Public Policies to Promote Competition, Energy Efficiency, and Distributed Generation*, Case No. 10-3126-EL-UNC, Finding and Order (Aug. 21, 2013) ¶ 63.

³ PUCO No. 17, First Revised Sheet No. D-10, Page 4 of 4, (G) “Redundant Service.”

⁴ *In the Matter of the Application of The Dayton Power and Light Company for an Increase in its Electric Distribution Rates*, Case No. 15-1830-EL-AIR et al., Opinion and Order (Sept. 26, 2018). (“15-1830-EL-AIR”).

service study, fair to all customers taking service under this tariff, and be included in revenue projections so it does not provide a windfall to AES Ohio. The City's residents deserve no less.

II. BACKGROUND

The City of Dayton operates essential water treatment facilities. The nature of the treatment facilities requires connection to two separate electricity circuits such that, in the event of an outage on the primary line ("Line A"), the facilities can quickly and seamlessly switch to receiving electricity from a secondary line ("Line B"). This is referred to as "redundant service." Without such a redundant service connection, in the event of an outage, the facilities would be unable to operate. Thus, the facilities are obligated to receive redundant service. The City assumed all capital costs related to the installation of Line B. However, given the nature of the facilities' use of the redundant service line, in the event that no outage occurs, the City may never utilize Line B. As long as Line A functions properly, the City has no reason to switch to Line B.

Thus, the only cost associated with the City's redundant service is any cost that would result from the City's requirement that Line B be able to, at any time, support the facilities' load demand in addition to its regular load capacity. In other words, theoretically, the only cost to AES Ohio with regard to the Line B is the cost of reserving capacity.

However, a theoretical cost which has not been qualified does not support cost recovery in rate cases. The Commission indicated as much when it addressed this exact issue in AES Ohio's previous rate case, 15-1830-EL-AIR. On November 30, 2015, AES Ohio submitted a Notice of Intent to File an Application for Increase of Rates in 15-1830-EL-AIR. In Schedule E-1, included within that Application, AES Ohio provided clean copies of its proposed tariff schedules.⁵ Tariff Sheet D-10, Section (G), included the following tariff charge for redundant service customers:

⁵ AES Exhibit 12; Book II, Volume II, Appendix A, Chapter II, Section E(B)(1), Schedule E-1, Tariff D-10, Section (G).

Any Customer requesting a redundant service connection to the Company's facilities for reliability purposes must pay the Company for the entire cost for providing this redundant service connection and enter into a Service Agreement with the Company as outlined in Section D3 of this tariff. The Company reserves the right to refuse redundant service to any Customer where such redundant service is estimated by the Company to impede or impair current or future Distribution Service to the Customer or any other customer.

On January 22, 2016, the City of Dayton intervened.⁶ On March 12, 2018, a Staff Report was filed.⁷ In that Staff Report, regarding Emergency Auxiliary Service, Staff noted:

Essentially, customers taking this service will pay a kW rate for both the actual monthly registered demand and the registered demand associated with backup service to avoid interruption. Staff does not disagree with the proposed language, yet does see a problem with the Company's lack of demonstrating why the customer should pay the kW tariff rate at 100 percent of the cost of service for backup service. ... While the cost of service is sufficient in providing data showing how the demand charge is developed, it does not provide any further analyses supporting how 100 percent of the costs used to develop the kW charge for standard service is indeed appropriate for emergency and auxiliary service. Staff believes that the Applicant failed to provide sufficient studies pertinent to emergency and auxiliary service, supporting why the company should be allowed to impose a charge at the same rate as the standard kW tariff rate. The Applicant did not provide any detail with a breakdown of the continuous costs and/or incremental costs related to this service.⁸

On April 11, 2018, the City filed Objections to the Staff Report, adding:

The only costs which DP&L would actually incur to provide service on a secondary feed are the incremental costs associated with reserving capacity on that secondary feed for those customers taking service under the Redundant Service Charge tariff. Until DP&L affirmatively presents evidence as to the amount of those incremental costs, no redundant service charge is appropriate.⁹

15-1830-EL-AIR was resolved via stipulation, which was submitted for Commission consideration on June 18, 2018.¹⁰ On July 12, 2018, a Supplemental Stipulation signed by AES Ohio and the City was submitted for Commission consideration.¹¹ Within that Stipulation, the

⁶ 15-1830-EL-AIR, Motion to Intervene of City of Dayton (Jan. 22, 2016).

⁷ Company Exhibit 58.

⁸ Company Exhibit 58, pp. 25–25.

⁹ 15-1830-EL-AIR, City of Dayton Objections to the Staff Report, (Apr. 11, 2018), p. 9.

¹⁰ 15-1830-EL-AIR, Stipulation and Recommendation (June 18, 2018).

¹¹ 15-1830-EL-AIR, Supplemental Stipulation and Recommendation (July 12, 2018).

parties agreed that AES Ohio would waive the redundant service charge described in Tariff D-10 until a final order is issued in AES Ohio's next distribution rate case.¹² In response to the portion of the Staff Report that identified the failure of AES Ohio to properly calculate the demand charges associated with redundant service, the signatory parties agreed:

[A]s part of DP&L's next rate case[,] DP&L shall conduct a cost of service study. That cost of service study shall include, among other things, an analysis to determine what incremental costs are associated with redundant service and are not currently being recovered by DP&L under base distribution rates, and should therefore be included in the redundant service charge as described in the Staff Report. That cost of service study shall also recommend a rate to be charged to customers taking redundant service. Signing this Supplemental Stipulation does not obligate any party to support or oppose the results of that cost of service study.¹³

On September 26, 2018, the Commission adopted the stipulations filed, including the Supplemental Stipulation in its entirety and without modification.¹⁴ At that point, AES Ohio's obligation to conduct a cost of service study to measure the incremental costs associated with the City's redundant service became Commission Order.

Two years later, on November 30, 2020, AES Ohio filed its next rate case in the above captioned matters. The Company's application included the same Tariff Sheet D-10, Section (G), regarding Redundant Service.¹⁵ The language contained within Section (G) is identical to the tariff filed in the 2015 rate case. None of the associated workpapers or schedules submitted by the Company indicate that a cost of service study was completed to calculate the incremental costs associated with redundant service as instructed by the Commission in 15-1830-EI-AIR. Additionally, no rate was recommended to charge the City for its redundant service. At the evidentiary hearing in this matter, no witness could testify that redundant service had been studied

¹² *Id.*, p. 2.

¹³ *Id.*, p. 3.

¹⁴ 15-1830-EL-AIR, Opinion and Order (Sept. 26, 2018).

¹⁵ Book II, Volume II, Appendix A, Chapter II, Section E(B)(1), Schedule E-1, Tariff D-10, Section (G).

within the cost of service study or that the costs associated with the City's redundant service had been measured in any way. Because AES Ohio has failed to fulfill its obligations per the Supplemental Stipulation and Commission Order in 15-1830-EL-AIR, the City should not be subject to the tariff charge for redundant service.

III. ARGUMENT

AES Ohio has failed to justify charging the City's water treatment facilities the full tariff charge for redundant service in three ways. First, the Company failed to study the incremental or continuous costs of providing redundant service to the City. Second, the Company failed to include redundant service revenue from the City in their revenue projections. Third, the Company failed to recommend a rate to charge the City for its redundant service. Thus, AES Ohio has not upheld its end of the bargain of the Supplemental Stipulation and Commission's Order in 15-1830-EL-AIR, and the City's water treatment facilities should not be subject to the tariff charge.

A. AES Ohio failed to study the incremental or continuous costs associated with the provision of redundant service.

The cost of service study AES Ohio performed in this matter did not measure any costs associated with providing redundant service to the City and therefore, subjecting the City to the tariff charge would directly violate the Commission's Order in 15-1830-EL-AIR. Even if AES Ohio's COS study contemplated redundant service charges, the methodology used would result in highly inaccurate demand charges that are unsupported by fundamental ratemaking principles.

1. AES Ohio failed to perform a cost of service study measuring the incremental costs associated with redundant service.

First and foremost, neither the COS study submitted by the Company nor any of its underlying workpapers identify or analyze any costs associated with the redundant service charge. Schedule E-3.2 sets forth the Company's COS study, which breaks down the total jurisdictional

costs by category and line item.¹⁶ No line item specifically references costs, revenues, accounts, or charges relating to redundant service. Even further, the witness sponsoring the Company's COS study, Bruce Chapman, admitted outright that he did not conduct a study of AES Ohio's redundant service charges:

Q: Okay. But you did not conduct a study of Dayton Power & Light's redundant service?

A: I did not.¹⁷

The only other witness who provided testimony regarding how the Company planned on measuring the cost of redundant service was Company Witness Adams, who explained that AES Ohio is still proposing to charge redundant service customers the full standard rate for the secondary line "less costs that are continuous."¹⁸ Mr. Adams admitted that "there should have been a redline" in which the phrase "less costs that are continuous" would be included in the language of the tariff charge.¹⁹

Even if Mr. Adams is correct, and the redundant service charge would apply "less costs that are continuous," it is clear that AES Ohio has not analyzed what costs would constitute "continuous costs," much less how they would be calculated. Mr. Adams was unable to provide a definition of "continuous costs."²⁰ He explained that in the 2015 rate case, AES Ohio did not

¹⁶ Company Exhibit 10, Schedule E-3.2.

¹⁷ Transcript, Volume II, p. 297.

¹⁸ Transcript, Volume I, p. 84.

¹⁹ *Id.*

²⁰ Transcript, Volume I, p. 78. Mr. Adams did point to language on page 24 of the 2015 Staff Report (Company Exhibit 58) and explained that continuous costs included, as Staff recommended, "O&M expenses associated with customer accounts expenses, customer service and information, and administrative and general expenses." However, he agreed that AES Ohio's proposal now is that those continuous costs "be individually negotiated with each customer." *See* Transcript, Volume I, p. 86.

quantify those costs that were continuous.²¹ Mr. Adams also agreed that AES Ohio *still* has not provided any breakdown of the continuous and/or incremental costs related to redundant service.²²

Mr. Chapman was also unable to verify Mr. Adams' statement, testifying that he did not even know what "continuous costs" are:

Q: Did the cost-of-service study you provided in this case provide any breakdown of continuous costs versus incremental costs?

A: I am not familiar with the term continuous costs.

Q: Did, as part of your work to prepare a cost-of-service study in this case, Dayton Power & Light provide you with any evidence regarding which costs were continuous?

A: Since the term hasn't come up, then the answer is no.²³

Clearly, the COS study conducted in this case did not contemplate incremental and/or continuous costs associated with the City's redundant service line. AES Ohio was unable to demonstrate otherwise. Further, no witness was able to testify that such costs were even definitively contemplated in any item contained within the COS study. Company witness Adams stated that "the Company did not provide an exhibit or any support within the case to illustrate [the redundant service] cost."²⁴ Staff witness Smith also noted that the Company "did not provide a detailed cost of service for redundant services"²⁵ and that it was his belief that they "failed to perform such a study."²⁶

AES Ohio has provided no data, analysis, or even testimony evidencing what costs are associated with the City's redundant service. Without "an analysis to determine what incremental

²¹ Transcript, Volume I, p. 87.

²² Transcript, Volume I, p. 84.

²³ Transcript, Volume II, p. 303.

²⁴ Transcript, Volume I, pp. 84–85.

²⁵ Transcript, Volume VI p. 1265.

²⁶ Transcript, Volume VI, p. 1275.

costs are associated with redundant service and are not currently being recovered by [AES Ohio] under base distribution rates,” as set forth in the Supplemental Stipulation in 15-1830-EL-AIR, AES Ohio has failed to comply with the Commission’s Order adopting the Supplemental Stipulation.²⁷ Until AES Ohio affirmatively presents evidence as to the nature of those incremental costs, requiring the City to pay the full tariff charge is inappropriate.

2. Even if AES Ohio’s cost of service study contemplated redundant service costs, the demand cost would be inaccurate due to the flawed methodology used.

The Company’s demand allocation does not appropriately consider each customer’s peak usage, skewing demand costs applicable to customers who, like the City, operate during off-peak hours. Company Witness Teuscher explained that a customer’s demand charge is based on their monthly demand independent of the system peak.²⁸ The demand charge developed by the Company thus assumes that Line B of a redundant service customer incurs the demand charges associated with serving the customer’s entire load during on-peak hours.²⁹ Measuring demand costs this way does not account for customers, like the City, that do not take the majority of their load during off-peak hours. The City is required to operate a filtration process once every 24-hours and operates that process during off-peak hours.

Despite this, according to Mr. Teuscher’s testimony, the City’s demand charges would be measured against peak demand for Line B. Thus, under the Company’s proposed model, the City is responsible for 100% of its demand charge during on-peak hours for Line B, despite the fact that (1) Line B may never actually be used and (2) if used, would only incur the demand capacity during off-peak hours. It defies common sense to charge the City the full demand charge during

²⁷ 15-1830-EL-AIR, Supplemental Stipulation and Recommendation (July 12, 2018), p. 3.

²⁸ Transcript, Volume IV, pp. 747–748.

²⁹ Transcript, Volume IV, pp. 749–750.

on-peak hours for a service it may never take at all and will never take during on-peak hours. While it may be reasonable for the City to pay some demand charge for Line B, AES Ohio has failed to study or calculate what continuous cost it incurs for that demand.

Even if AES Ohio could argue that the cost of providing redundant service to the City's water treatment facility was somehow included in the cost of service study, AES Ohio's demand charge calculation is inherently inaccurate and does not properly reflect the demand charges incurred by the City. Until AES Ohio justifies those charges, subjecting the City to the full tariff charge is inappropriate.

B. AES Ohio failed to include redundant service revenue in its revenue projections.

AES Ohio's revenue requirement does not include revenues resulting from redundant service charges. Company witness Chapman stated that he was unaware as to whether the Company received any revenue from redundant service customers in the test period because "[t]he issue never came up when [he] was conducting [his] analysis."³⁰

Schedule C-3 contains the summary of jurisdictional adjustments to the Company's operating income.³¹ Schedule C-3 is based upon Workpaper C-2.1, which sets forth the actual and projected operating revenue and expenses by account.³² Company witness Teuscher sponsored the actual test year operating income, while Company witness Hale sponsored the forecasted months.

Regarding the actual test year operating income, Mr. Teuscher testified that he relied upon Mr. Chapman's COS study, which, as established above, did not address the cost of providing redundant service to the City.³³ With regard to the Company's forecasted months, Witness Hale

³⁰ Transcript, Volume II, p. 307.

³¹ Company Exhibit 8.

³² *Id.*

³³ Transcript, Volume IV, pp. 705–706.

testified that revenue received from redundant service customers would fall into the category of “other operating revenue” contained in Workpaper C-2.1.³⁴ Witness Hale testified that redundant service revenue would appear in the “other operative revenue” bucket only if the Company had received that revenue in the 2018 actuals.³⁵ Ms. Hale did not know whether the City paid a redundant service charge in 2018.³⁶

The City did not pay that charge in 2018, pursuant to the Supplemental Stipulation in 15-1830-EL-AIR.³⁷ Mr. Adams confirmed this when he answered questions regarding the “total other operating revenue” included in Schedule E-4:

Q: And so the current revenue shows the amount of redundant service charges received by the DP&L during the forecast period; is that correct?

A: That’s correct.

Q: And so for customers like OHA or the City of Dayton that did not pay redundant service as a result of the Stipulations you and I discussed before, the revenue from those customers would not be included in what’s shown here in row 56?

A: That’s correct. That revenue will not be shown here.³⁸

Therefore, according to Ms. Hale’s testimony, even if the revenue requirement included some revenues resulting from redundant service customers paying the tariff charge in the test year, because the City has not paid the charge pursuant to the Commission’s Order, those revenues are not included in the operating revenue contained within Schedule C-3.

Because AES Ohio’s proposed revenue requirement does not include revenues resulting from redundant service, the City’s payment of the full tariff charge would result in an unaccounted

³⁴ Transcript, Volume II, p. 390.

³⁵ Transcript, Volume II, p. 390.

³⁶ Transcript, Volume II, p. 391.

³⁷ 15-1830-EL-AIR, Supplemental Stipulation and Recommendation (July 12, 2018), p. 2. “The Dayton Power and Light Company (“DP&L”) agrees to waive the Contract Capacity Charge related to Redundant Service (aka “Alternate Feed Service”) described in DP&L’s current Tariff No. D-10, any other applicable tariff, or any equivalent service until a final order is issued in DP&L’s next base distribution rate case in the following manner.”

³⁸ Transcript, Volume I, p. 94, referencing Company Exhibit 10, Schedule E-4, “Tariff Class Revenue Summary.”

surplus of revenue for the Company. AES Ohio clearly did not contemplate receiving revenue from the City's redundant service, and the City should therefore not be subject to the full tariff charge.

C. AES Ohio failed to propose a rate to charge the City for its redundant service usage.

Finally, AES Ohio failed to recommend a rate to be charged for the City's redundant service. The Supplemental Stipulation in 15-1380-EL-AIR stated that the COS study "shall also recommend a rate to be charged to customers taking redundant service."³⁹ No rate was included in Tariff D-10. Mr. Chapman and Mr. Smith both agreed that the cost-of-service study did not result in a rate recommendation.⁴⁰ While Mr. Adams stated that the proposed rate is the tariff charge "less costs that are continuous," as previously discussed, those costs have never been identified. Mr. Adams went on to state that AES Ohio's current proposal is to "individually negotiate with each customer" those continuous costs, and therefore the redundant service rate.⁴¹ However, no proposed service agreement has been presented to the City in which AES Ohio has proposed a rate for the City to pay for its redundant service.

Staff Witness Smith explained his belief that the Company did recommend a rate, and that the rate is "the same rate as they pay with their normal service."⁴² When questioned in more detail on the rate Mr. Smith believed AES Ohio had proposed, he noted that it has "never been really clear whether [redundant service charges] are a premium or whether they are discount or whether they are similar. That's why we were looking for a cost-of-service study or some type of analysis from the Company...to give us some data to understand whether—which category it lies in so we

³⁹ 15-1830, Supplemental Stipulation and Recommendation (July 12, 2018), p. 3.

⁴⁰ Transcript, Volume II, p. 309; Volume VI, p. 1266.

⁴¹ Transcript, Volume I, p. 86.

⁴² Transcript, Volume VI, p. 1265.

can assign a proper cost.”⁴³ Mr. Smith admitted that Staff had not completed an analysis to determine which of the Company’s distribution costs are continuous⁴⁴ and that Staff did not conduct a cost of service study to determine the cost of redundant service.⁴⁵ Mr. Smith stated his belief that the costs associated with providing redundant service “are not zero” and are likely “closer to 100 percent than 0.”⁴⁶ However, this belief went completely unsupported:

Q: What study have you done to determine the costs are closer to 100 percent than 0?

A: What study have I done?

Q: Yes.

A: It’s just commonsense. If you have to run—if you are running two lines, you are going to have costs associated with that. The reference in the Staff Report to the continuous is that there may be some parts of the cost—some expenses that the Company incurs that are duplicative that we didn’t want—that we weren’t sure about that may be duplicative that you—that are either in kW or I don’t think it’s in kWh but it’s probably in their demand but there is probably some duplicative costs. *We really aren’t sure.*⁴⁷

And that is the crux of the matter; nobody knows what costs are associated with providing redundant service to the City because AES Ohio failed to conduct a COS study to determine them. Nobody knows how much revenue the Company expects to receive from charging redundant service customers because AES Ohio failed to include those revenues in their revenue requirement. Nobody knows what rate redundant service customers will be charged because AES Ohio failed to recommend one.

⁴³ Transcript, Volume VI, p. 1264.

⁴⁴ Transcript, Volume VI, p. 1275.

⁴⁵ Transcript, Volume VI, p. 1277.

⁴⁶ Transcript, Volume VI, pp. 1271–72.

⁴⁷ Transcript, Volume VI, pp. 1271–72 (emphasis added).

It is a fundamental principle of ratemaking to allocate costs to cost-causers.⁴⁸ However, AES Ohio has completely failed to demonstrate what, if any, costs the City has caused and therefore should be responsible for covering. As such, the City should not be subject to the tariff charge for redundant service pursuant to Commission Order in 15-1830-El-AIR.

IV. CONCLUSION

Per agreement within the Supplemental Stipulation and Commission Order, AES Ohio was obligated to perform a cost of service study that was to include, among other things, an analysis to determine what incremental costs are associated with redundant service and are not currently being recovered by the Company under base distribution rates and should therefore be included in the redundant service charge as described in the Staff Report. That cost of service study was also required to recommend a rate to be charged to customers taking redundant service. AES Ohio failed to do either. As such, the City should not be subject to the tariff charge for redundant service.

⁴⁸ Transcript, Volume IV, pp. 762–763.

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 4th day of March, 2022. The PUCO's e-filing system will electronically service notice of the filing of this document on counsel for all parties.

/s/ N. Trevor Alexander

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