

In the Matter of the Procurement of )  
Standard Generation for Customers of ) Case No. 17-957-EL-UNC  
the Dayton Power and Light Company )

## I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") raises concerns about the state's unlawfully high electricity charges for the low-income PIPP<sup>1</sup> consumers of Dayton Power and Light Company ("DP&L"). After some background, we will explain why action is needed in this auction.

DP&L has filed an application seeking authority to modify its competitive bid process for obtaining generation to supply standard service offer consumers. Specifically, DP&L asks for authority to hold auctions in November 2022 and March 2023 (rather than one auction in Spring 2023) to procure generation to supply standard service offer consumers for the 2023/2024 delivery year.<sup>2</sup> Further, DP&L requests authorization to procure a 12-month supply of 35 tranches at the November auction, and both a 12-month supply of 25 tranches and a 24-month supply of 40 tranches at the March auction.<sup>3</sup>

<sup>1</sup> PIPP is the Percentage of Income Payment Plan program that ODOG (and the PUCO) administer for low-income electric consumers under state law. The natural gas PIPP program that the PUCO administers for low-income Ohioans is not the subject of this filing.

<sup>2</sup> Application at 1-2.

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

R.C. 4928.02(L) requires the Ohio Department of Development (“ODOD”) and the Public Utilities Commission of Ohio (“PUCO”) to protect at-risk Ohioans. They have not done so when it comes to procuring generation for low-income electric PIPP consumers. Electricity prices for PIPP consumers have been determined by bids from energy marketers in PIPP-specific auctions.

Per R.C. 4928.542, the electric generation prices charged to electric PIPP consumers cannot exceed their electric utility’s standard service offer prices. But DP&L’s low-income PIPP consumers are being charged in excess of DP&L’s standard offer.

DP&L’s low-income PIPP consumers are vulnerable to poverty, food and housing insecurity, inflation, and a resurging pandemic. They are at-risk. But DP&L’s electric PIPP consumers are being billed an estimated **\$584** more a year (June 1, 2022 to May 31, 2023) in excess of what consumers are being billed on DP&L’s standard service offer.<sup>4</sup> That is in violation of R.C. 4928.542. It’s also nonsensical and unconscionable for these people (PIPP consumers) who lack money.

Eligibility for PIPP benefits had been limited to households with incomes below 150% of the federal poverty guidelines.<sup>5</sup> But, on July 27, 2022, Governor DeWine expanded PIPP eligibility to include households up to 175% of the poverty guidelines, in Executive Order 2022-12D. We appreciate the Governor’s good intentions for Ohioans. But those good intentions have been compromised by the results of the PIPP electricity auctions. There, the results of bidding by energy marketers exceeds the applicable

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<sup>4</sup> PIPP electricity charges for other electric utilities’ consumers also exceed the applicable utility standard offer prices. Those excess charges (based on estimates and projections) for the year ending May 31, 2023, are as follows: AEP (\$1,154); Duke (\$1289); CEI (\$324); Toledo Edison (\$321); Ohio Edison (\$329). These estimates are based on usage of 1,100 kWh per month and incorporate summer/winter rate differentials.

<sup>5</sup> See O.A.C. 122:5-3-02(B).

utility's standard offer price. It is unlawful to charge PIPP consumers in excess of the utility standard offers, per R.C. 4828.542. So, unfortunately, expanding people's eligibility for PIPP to 175% of federal poverty guidelines exposes more at-risk consumers to higher charges.

In addition, there are strict requirements for payments to be made in-full and on-time for PIPP consumers to avoid accumulating arrearages (i.e., debt).<sup>6</sup> If their arrearages become due, it is difficult to imagine where people who lack money will find the money to pay off such increases to their utility debt.

The PUCO must do its part to stop this injustice. Accordingly, OCC objects to DP&L's application. The standard-offer auction is one of the places where the PUCO (and utilities) should work to end the energy injustice described above. One solution could be including PIPP consumers in the standard-offer auction instead of the PIPP-specific auction.

## II. OBJECTION AND RECOMMENDATIONS

- A. **The ODOD/PUCO PIPP program is violating R.C. 4828.02(L) and 4928.542 for protecting at-risk PIPP consumers of DP&L by charging them prices for electricity in excess of DP&L's standard offer. This case affords an opportunity for avoiding a future repetition of this plight for DP&L's PIPP consumers by including PIPP consumers in the standard-offer auction. There is also a solution needed for the *present* plight of DP&L's PIPP consumers where, for the year ending May 31, 2023, they are being billed an estimated \$584 more than DP&L's standard offer.**

The Universal Service Fund ("USF"), in R.C. 4928.51 *et seq.*, is the state funding mechanism for electric bill payment assistance through PIPP. The program is

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<sup>6</sup> O.A.C 122:5-3-04.

administered by ODOD, with a role for the PUCO. ODOD requested that the PUCO design, manage, and supervise the competitive procurement process for PIPP consumers.<sup>7</sup>

By law, PIPP consumers are not permitted to shop for their generation supply. Rather, they must rely on the ODOD (and the PUCO) to make sure that they are provided lawful, nondiscriminatory and reasonably priced retail electric service through the PIPP-specific auctions with energy marketers.<sup>8</sup>

As stated, DP&L's PIPP consumers are paying *more* than consumers being served under the standard service offer -- \$0.1577/kWh versus \$0.1091/kWh during the summer months.<sup>9</sup> This means PIPP consumers are charged \$0.0486/kWh *more* for their generation than standard service offer consumers. For a PIPP consumer using an average of 1,100 kWh per month, that equals an estimated excess charge of **\$584** per year above DP&L's standard offer. That is nonsensical and unconscionable for these Ohioans lacking money – and unlawful.

Per R.C. 4928.542(B), a winning bid shall ***reduce*** the cost of the PIPP program relative to the otherwise applicable standard service offer rate established under R.C. 4928.141, 4928.142 and 4928.143. And a winning bid shall result in the ***best value*** for persons paying the universal service rider, under R.C. 4928.542.<sup>10</sup>

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<sup>7</sup> *In the Matter of the Application of the Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 22-556-EL-USF, Notice of Intent to File an Application for Adjustments to Universal Service Fund Riders (May 27, 2022) at 10.

<sup>8</sup> See R.C. 4928.02(A); R.C. 4928.542.

<sup>9</sup> The Dayton Power and Light Company d/b/a AES Ohio Twenty-Third Revised Tariff Sheet No. G10 Effective June 1, 2022.

<sup>10</sup> Also, a winning bid must be designed to provide a reliable electricity supplier to PIPP customers, per R.C. 4928.542.

Unfortunately for PIPP consumers, ODOD and the PUCO are failing to require compliance with the law. This independent PIPP auction has yielded mixed results (sometimes benefiting PIPP consumers as required by law) over the years. But the last two auctions have resulted in significant overcharges to DP&L PIPP consumers.<sup>11</sup> At-risk, low-income PIPP consumers cannot lawfully be billed higher generation rates on a per kWh basis than non-PIPP consumers served under the DP&L standard service offer, per R.C. 4928.542.

The PUCO has routinely approved these unfair PIPP generation rates over the past two years, saying only: “Accordingly, the Commission will not reject the results of the competitive RFP auction.”<sup>12</sup> DP&L’s application does not improve the plight of PIPP consumers, present or future, but it should. DP&L should protect its low-income PIPP consumers. And the PUCO should take action to give PIPP consumers the protection of the law for their electric generation rates.

That could be done in this case by combining PIPP consumers’ service into the standard-offer auctions. This approach is permissible under ODOD’s electric aggregation rules -- O.A.C. 122:5-3-06. The rule states that the ODOD Director *may* aggregate PIPP consumers for competitive auctions *if* “substantial savings for the PIPP plus program can be realized . . .”

As our estimates show, savings have *not* been realized in the past two stand-alone PIPP auctions for DP&L. This harms PIPP consumers. It also harms non-PIPP consumers

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<sup>11</sup> *In the Matter of the Procurement of Percentage of Income Payment Plan Customers of Dayton Power and Light Company*, Case No. 17-1163-EL-UNC, Notification of CBP Auction Results filed on May 25, 2022 and May 26, 2021.

<sup>12</sup> *Id.*, Finding and Order (May 5, 2021) at 3; Finding and Order (May 18, 2022) at 3.

who pay for the universal service fund rider to fund the PIPP program. Thus, a solution for the future would be for generation for PIPP consumers to be procured in the same auction as the standard service offer.

But fixing the problem going forward is just part of what is needed for DP&L's PIPP consumers. They need help now. They are presently being charged higher electricity prices in violation of law, R.C. 4928.542. Their current plight also needs a solution from ODOD, the PUCO and DP&L.

### **III. CONCLUSION**

The General Assembly has required ODOD and the PUCO to protect at-risk consumers, under R.C. 4928.02(L). PIPP consumers are at-risk consumers. The PUCO has the opportunity to protect them in this case. The electricity for PIPP consumers can be procured as part of the same auction as the standard service offer. That would comply with R.C. 4928.542 and with O.A.C. 122:5-3-06.

But fixing the problem going forward is just part of what is needed for DP&L's PIPP consumers. They need help now. Based on our estimates, they are presently being charged higher electricity prices in violation of law, R.C. 4928.542. Their current plight also needs a solution.

Respectfully submitted

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Objections was served on the persons stated below via electronic transmission, this 12<sup>th</sup> day of September 2022.

/s/ William J. Michael  
William J. Michael  
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

**9/12/2022 4:45:06 PM**

**in**

**Case No(s). 17-0957-EL-UNC**

Summary: Objection Objections for Protecting At-Risk Ohio Consumers from  
DP&L's Application by Office of the Ohio Consumers' Counsel electronically filed by  
Ms. Alana M. Noward on behalf of Michael, William J.