

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
THE DAYTON POWER AND LIGHT
COMPANY D/B/A AES OHIO TO ESTABLISH
THE TAX SAVINGS CREDIT RIDER.

CASE NO. 19-568-EL-ATA

FINDING AND ORDER

Entered in the Journal on October 19, 2022

I. SUMMARY

{¶ 1} The Commission approves the application of the Dayton Power and Light Company d/b/a AES Ohio to update its tax savings credit rider.

II. DISCUSSION

{¶ 2} Dayton Power and Light Company d/b/a AES Ohio (AES Ohio or the Company) is an electric distribution utility as defined in R.C. 4928.01(A)(6) and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4909.18 provides, in part, that a public utility may file an application to establish or change any rate, charge, regulation, or practice. If the Commission determines that the application is not for an increase in any rate and does not appear to be unjust or unreasonable, the Commission may approve the application without the need for a hearing.

{¶ 4} The Tax Cuts and Jobs Act of 2017 (TCJA), which was signed into law on December 22, 2017, made numerous changes to the federal tax system. As is relevant herein, the TCJA reduced the federal corporate income tax rate from 35 percent to 21 percent, effective January 1, 2018.

{¶ 5} In Case No. 18-47-AU-COI, a Commission-ordered investigation was opened to study the impacts of the TCJA on the Commission's jurisdictional rate-regulated utilities and to determine the appropriate course of action to pass benefits on to ratepayers. *In re the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on*

Regulated Ohio Utility Companies, Case No. 18-47-AU-COI (*Tax COI Case*), Entry (Jan. 10, 2018), Second Entry on Rehearing (Apr. 25, 2018).

{¶ 6} On March 1, 2019, AES Ohio initiated this matter, together with Case No. 19-0572-EL-UNC, by filing applications for the sole purpose of returning certain benefits of the TCJA to customers in accordance with commitments made by the Company in the stipulation adopted by the Commission in the Company's base rate case. Through litigation in this proceeding, the parties negotiated a joint stipulation and recommendation (Stipulation) to resolve outstanding issues related to the Company's implementation of the TCJA. Specifically, the Stipulation outlined the establishment of a Tax Savings Credit Rider (TSCR) to provide retail customers with a credit reflecting the Company's reduced tax expense.

{¶ 7} By Finding and Order issued September 26, 2019, the Commission approved and adopted the Stipulation, thus authorizing the TSCR. The Commission further found that the TSCR should be subject to a financial audit and reconciliation process.

{¶ 8} On February 26, 2020, in a separate proceeding, the Commission directed AES Ohio to provide a credit to all customers through a nonbypassable rider representing all PUCO/OCC assessment fees collected through the standard offer rate rider (SOR). *In the Matter of the Application of the Dayton Power and Light Company to Update Its Standard Offer Rate Tariffs*, Case No. 19-841-EL-RDR, Second Finding and Order (Feb. 26, 2020) (SOR Order). The SOR Order also instructed the Company to confer with Staff to identify the appropriate nonbypassable rider to be used to effectuate the intended credit and to file commensurate tariffs for Staff's review within the next 60 days. SOR Order at ¶ 12, 14.

{¶ 9} On April 23, 2020, AES Ohio filed revised tariffs in this docket proposing to use the TSCR tariff to comply with the SOR Order. On June 8, 2020, Staff filed a letter agreeing that the TSCR is an appropriate rider to incorporate the credit. Upon its review of the tariff and supporting workpapers, Staff additionally found the revised TSCR rate to be accurate.

{¶ 10} By Finding and Order issued October 7, 2020, the Commission approved the Company's August 17, 2020 application to update the TSCR.

{¶ 11} By Finding and Order issued October 20, 2021, the Commission approved the Company's subsequent application to update the TSCR.

{¶ 12} More recently, on September 27, 2022, AES Ohio filed an application to update the TSCR in the form of a proposed tariff (Application or Proposed Tariff).¹ The Company states that the Application is consistent with the September 26, 2019 Finding and Order's directive that the TSCR be annually trued-up and, if approved, will credit certain distribution revenue to customers over the next twelve months, starting November 1, 2022. The Company additionally represents that the Application includes a reconciliation from the TSCR's November 2020 through October 2021 rate, with the November 2021 through October 2022 rate to be reconciled with the next annual filing. Finally, AES Ohio affirms that the Proposed Tariff rate includes a credit for both the historical and ongoing portion of the PUCO/OCC assessment fees recovered through the SOR.

{¶ 13} On September 27, 2022, Staff filed a letter regarding the Application. Staff states that it reviewed the represents that it has reviewed the Proposed Tariff and finds that it complies with the Commission's original order in this case. Staff additionally recommends that AES Ohio continue to include a true-up to ensure the correct amount of tax savings is refunded to customers.

III. CONCLUSION

{¶ 14} The Commission finds that AES Ohio's Application to update its TSCR is consistent with the September 26, 2019 Finding and Order in this proceeding, as well as the SOR Order, does not appear to be unjust or unreasonable, and should be approved. In accordance with Staff's letter, the Company is instructed to continue to include a true-up in its next update to the TSCR to ensure the correct amount of tax savings is refunded to

¹ The September 27, 2022 filing replaced and superseded a proposed tariff filed August 15, 2022.

customers. Further, the Commission instructs the Company to include tariff language indicating that the proposed tariff will be automatically approved 60 days after filing or November 1, whichever is later, unless otherwise ordered by the Commission. Finally, the Commission finds that it is not necessary to hold a hearing in this matter.

IV. ORDER

{¶ 15} It is, therefore,

{¶ 16} ORDERED, That AES Ohio's September 27, 2022 Application be approved and the Company be authorized to adjust the TSCR, in accordance with Paragraph 14. It is, further,

{¶ 17} ORDERED, That AES Ohio be authorized to file tariffs, in final form and with the instructed additional language, consistent with this Finding and Order. AES Ohio shall file one copy in these case dockets and one copy in its TRF docket. It is, further,

{¶ 18} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date upon which the final tariff pages are filed with the Commission. It is, further,

{¶ 19} ORDERED, That AES Ohio shall notify customers via bill message or bill insert within 30 days of the effective date of the tariffs. Additionally, the Company shall submit a copy of the customer notice to the Commission's Service Monitoring and Enforcement Department prior to its distribution to customers. It is, further,

{¶ 20} ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 21} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

PAS/hac

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Case No(s). 19-0568-EL-ATA

Summary: Finding & Order approving the application of the Dayton Power and Light Company d/b/a AES Ohio to update its tax savings credit rider electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio