

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the OVEC Generation	:	
Purchase Rider Audits Required by R.C.	:	Case No. 21-477-EL-RDR
4928.148 for Duke Energy Ohio, Inc., The	:	
Dayton Power and Light Company, and	:	
AEP Ohio	:	

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**COMMENTS OF AES OHIO**

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Pursuant to the April 7, 2023 Entry in this proceeding, The Dayton Power and Light Company d/b/a AES Ohio (“AES Ohio” or the “Company”) files these Comments regarding the December 17, 2021 Audit of the Legacy Generation Resource Rider of AES Ohio – Final Report (“AES Ohio LGR Rider Report”) prepared by London Economics International LLC (“LEI”).

The Commission established the LGR Rider pursuant to R.C. 4928.148 as a mechanism for the retail recovery of prudently incurred costs relating to a legacy generation resource. *In the Matter of Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC, Entry (Nov. 21, 2019). Section 4928.148(A)(1) requires the Commission to determine the prudence and reasonableness of the actions of electric distribution utilities with ownership interests in the LGR on a periodic basis. The LGR encompasses two power plants owned by the Ohio Valley Electric Corporation (“OVEC”).

By Entry on July 14, 2021, the Commission selected LEI as the third-party auditor to assist the Commission with its prudency and performance review of the LGR Rider of the Ohio EDUs with interests in OVEC, *i.e.* the Ohio Power Company (“AEP Ohio”), Duke Energy Ohio, Inc. (“Duke Energy Ohio”), and AES Ohio (collectively, the “Companies”), for the period from January 1, 2020 through December 31, 2020. *Accord*: Request for Proposal No. RA-PPA-1

(attached to the May 5, 2021 Entry), p. 6 (“The audit shall investigate the prudence of all costs and sales flowing through the EDU riders and demonstrate that the Companies’ actions were in the best interest of retail ratepayers.”). AEP Ohio has the largest interest in OVEC among the Companies at 19.93%. AES Ohio LGR Rider Report, p. 14. Duke Energy Ohio has a 9.00% interest, while AES Ohio has a 4.90% interest. *Id.*

Following an extension collection of data, LEI found that as for AES Ohio, “the processes, procedures, and oversight were mostly adequate and ***consistent with good utility practice***, given that the [Amended and Restated Inter-Company Power Agreement (“ICPA”) is in place and customers will be charged for the cost of the plants until at least May 2024.” *Id.* at 9 (emphasis added). The report considered:

1. Industry context, including review of current dynamics of the PJM wholesale markets in which OVEC operates and the impact of those dynamics on OVEC’s operations and practices;
2. OVEC bill and LGR Rider reconciliation, including whether charges on the Companies’ respective OVEC bills are accurately reflected in their respective accounts and LGR Riders;
3. Disposition of energy and capacity, including a review of unit scheduling and offering of energy into PJM-administered wholesale markets, offering behavior in PJM-administered capacity markets, and offering behavior and participation in any other market that may provide revenue above and beyond what is received in energy and capacity markets;

4. Fuel and variable costs, including an assessment of OVEC's fuel operations and maintenance-related expenses, including a comparison between fuel costs and market prices to evaluate the reasonableness of fuel expenses during the audit period;
5. Capital expense, including an examination of the prudence of OVEC's process for allocating capital and conducting capital projects, and an assessment of whether the fixed costs incurred by OVEC are properly allocated to the respective Companies, including depreciation, debt service, and plant maintenance expenses;
6. Environmental compliance, including a review of OVEC's environmental compliance activities, such as the impact compliance activities had on OVEC's fuel procurement strategy, overall emission allowance management strategy, and methods used to analyze compliance options and develop overall mitigation strategies; and
7. Power plan performance, including a review of significant plant outages and other degradations observed in the operating availability, equivalent availability, or capacity factors of OVEC's plants and an assessment of at least one of OVEC's generating stations based on a virtual site visit.

AES Ohio LGR Audit Report, pp. 8-9.

The AES Ohio LGR Audit Report includes various findings and recommendations by LEI. *Id.* at 9-10. Although AES Ohio generally agrees with many of those findings and recommendations (insofar as they can be implemented given its 4.90% interest), AES Ohio disputes LEI's concern regarding Component D of the demand charge on the OVEC bill.

Pursuant to Section 5.03 of the ICPA, Component D contractually requires Sponsoring Companies (*i.e.*, entities with interests in OVEC) to pay monthly an amount that "shall consist of an amount equal to the product of \$2.089 multiplied by the total number of shares of capital

stock of the par value of \$100 per share of Ohio Valley Electric Corporation which shall have been issued and which are outstanding on the last day of such month.” Although LEI found that “[t]he components of fixed costs were billed properly” and had “no recommendations,” it noted that the “Commission may wish to re-examine the role of Component D,” which “appears to LEI to be a return on capital.” AES Ohio LGR Rider Report, pp. 27, 29. *See* R.C. 4928.01(A)(42) (defining “prudently incurred costs related to a legacy generation resource,” which may be recovered through the LGR Rider under R.C. 4928.148(A)(1), to “exclude any return on investment in common equity”).

LEI’s concern is misplaced. Component D is one component of the monthly demand charge imposed on each Sponsoring Company under the ICPA, including AES Ohio, which receive the right to OVEC output. This amount represents the portion of the demand charge associated with the allowed return for OVEC on initial investment, as permitted as part of the cost-based wholesale rate approved by the Federal Energy Regulatory Commission. It has remained unchanged since 1953 when the ICPA was initially executed, through 17 amendments approved by the Federal Power Commission and later the FERC.

Those costs, as incurred by AES Ohio, are not a return to AES Ohio on investment in common equity or reflective of AES Ohio’s cost of capital. From OVEC’s perspective, the charge could be construed as a return on common equity; however, amounts received by OVEC through Component D as well as amounts received by OVEC for all other components of the demand and energy charges are used by OVEC to pay its present and future costs, including debt service, fuel costs, O&M, taxes, and other costs. OVEC ceased paying dividends to owners many years ago and, thus, no part of current Component D charges could be construed as being returned to AES Ohio or other owners through a dividend.

AES Ohio reserves the right to file reply comments in this proceeding.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I certify that the foregoing document was e-filed with the Public Utilities Commission of Ohio on May 8, 2023. The PUCO's e-filing system will electronically serve notice of the filing of this document.

/s/ Christopher C. Hollon  
Christopher C. Hollon (0086480)

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Summary: Comments Comments of AES Ohio electronically filed by Mr.  
Christopher C. Hollon on behalf of The Dayton Power and Light Company d/b/a  
AES Ohio.