

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE PROCUREMENT
OF STANDARD SERVICE OFFER
GENERATION FOR CUSTOMERS OF THE
DAYTON POWER AND LIGHT COMPANY
D/B/A AES OHIO.

CASE NO. 17-957-EL-UNC

FINDING AND ORDER

Entered in the Journal on March 23, 2022

I. SUMMARY

{¶ 1} The Commission approves the results of the auction conducted on March 22, 2022, to procure generation supply for standard service offer customers of The Dayton Power and Light Company d/b/a AES Ohio.

II. DISCUSSION

{¶ 2} The Dayton Power and Light Company d/b/a AES Ohio (AES Ohio) qualifies as an electric utility as defined by R.C. 4928.01(A)(11) and as an electric distribution utility (EDU) as defined by R.C. 4928.01(A)(6).

{¶ 3} R.C. 4928.141 provides that electric distribution utilities shall provide consumers a standard service offer (SSO) of all competitive retail electric services in accordance with R.C. 4928.142 or 4928.143. The SSO functions to make generation supply available to customers that are not receiving this supply from a competitive retail electric services provider and is sometimes referred to as default supply.

{¶ 4} On October 20, 2017, the Commission modified and approved an amended stipulation establishing AES Ohio's third ESP (ESP III). *In re Dayton Power & Light Co.*, Case No. 16-395-EL-SSO (*ESP III Case*), Opinion and Order (Oct. 20, 2017). ESP III included a competitive auction-based format for supply of AES Ohio's SSO load for the period between November 1, 2017, and October 31, 2023, a format that the Commission had previously accepted in AES Ohio's original ESP (ESP I).

{¶ 5} Following protracted litigation, which included several rounds of rehearing and a second evidentiary hearing compelled by an intervenor's withdrawal from the amended stipulation establishing ESP III, the Commission issued a Supplemental Opinion and Order further modifying and approving the ESP to eliminate AES Ohio's distribution modernization rider. *ESP III Case, Supplemental Opinion and Order* (Nov. 21, 2019).

{¶ 6} Consequently, on November 26, 2019, AES Ohio filed a notice of withdrawal of its application for ESP III pursuant to R.C. 4928.143(C)(2)(a) and signaled its intent to implement its most recent SSO—ESP I—pursuant to R.C. 4928.143(C)(2)(b) by filing proposed revised tariffs in Case No. 08-1094-EL-SSO. *ESP III Case, Notice of Withdrawal* (Nov. 26, 2019); *In re The Dayton Power and Light Co., Case No. 08-1094-EL-SSO, et al. (ESP I Case), Proposed Revised Tariffs* (Nov. 26, 2019).

{¶ 7} On December 18, 2019, in addition to approving AES Ohio's withdrawal of its ESP application and terminating ESP III, the Commission issued a Second Finding and Order approving, with modifications, AES Ohio's proposed revised tariffs in the *ESP I Case*. *ESP I Case, Second Finding and Order* (Dec. 18, 2019). Therein, the Commission noted that, in order to maintain the integrity of competitive wholesale and retail markets in the state, ESP I included and continued to embrace the competitive bid process (CBP) for procuring SSO generation. *ESP I Case, Second Finding and Order* (Dec. 18, 2019) at ¶ 28. The Commission further directed AES Ohio "to continue to request appropriate CBP auction schedules as necessary to continue to serve SSO customers until DP&L's next SSO is approved." *Id.*

{¶ 8} Since that time, AES Ohio's auction schedule has been modified due to delays in the timing of PJM Interconnection, LLC's (PJM) base residual auction (BRA). *In re the Procurement of Std. Serv. Offer Generation Customers of The Dayton Power and Light Co., Case No. 17-957-EL-UNC, Finding and Orders* (Feb. 10, 2021) and (June 16, 2021).

{¶ 9} On December 22, 2021, the Federal Energy Regulatory Commission (FERC) issued an order reversing FERC's previous determination that the backward-looking energy

and ancillary services offset (E&AS Offset) was just and reasonable. Given this reversal, FERC directed PJM to submit a compliance filing within 60 days to revise its Tariff and Operating Agreement and, in order to incorporate the revised E&AS Offset in the BRA for the 2023/2024 delivery year, directed PJM to submit a compliance filing within 30 days that proposes a new schedule for the BRA and subsequent BRAs. *Order on Voluntary Remand*, Case Nos. EL19-58-006; ER19-1486-003, at ¶ 2 (Dec. 22, 2021).

{¶ 10} On January 21, 2022, PJM submitted a compliance filing in response to the above order in which PJM proposed changing the BRA for the 2023/2024 delivery year from January 25, 2022, to June 8, 2022. *Compliance Filing Concerning Certain Proposed Revised Pre-Auction Deadlines*, Case Nos. EL19-58-010; ER19-1486-00, at 2 (Jan. 21, 2022).

{¶ 11} On February 7, 2022, AES Ohio filed an application to adjust its SSO procurement auctions. Citing to uncertainty regarding the PJM capacity rate for the 2023-2024 delivery year, AES Ohio sought to eliminate the 24-month product and offer only the 12-month product in its March 2022 auction.

{¶ 12} By Finding and Order issued February 23, 2022, the Commission approved AES Ohio's request to adjust its SSO procurement auctions scheduled for March 2022 and March 2023.

{¶ 13} On March 23, 2022, in the above-captioned case, Charles River Associates, International (CRA), the auction manager for AES Ohio's SSO auctions, and Bates White Economic Consulting (Bates White), a consultant retained by the Commission to monitor auctions, filed reports regarding the conduct of the Company's auction held on March 22, 2022, which included a 12-month product. These reports consisted of confidential versions, filed under seal, and a redacted version of the report filed by CRA, which is publicly available in this docket.

{¶ 14} While the original tranche target for the auction was 100 tranches of a 12-month product, CRA notes in its report that, shortly after the auction commenced, the

tranche target was reduced from 100 tranches to 50 tranches, based on pre-determined criteria and consistent with auction rules and procedures. According to the reports filed by CRA and Bates White, for the 50 tranches procured of the 12-month product, the auction resulted in a clearing price of \$75.13 per megawatt hour for the delivery period of June 1, 2022 to May 31, 2023. CRA and Bates White each recommended that the Commission find that the auction, within the limits of its structures, had sufficient competitive attributes and resulted in a winning price that is reasonable. Further, Bates White recommends that, for the 50 remaining tranches to be procured prior to the beginning of the June 1, 2022 delivery year, the Commission should follow the contingency plan set forth in the auction bidding rules.

{¶ 15} The Commission finds that the reports filed by CRA and Bates White do not contain any recommendation or evidence that the auction violated the CBP rules in such a manner as to invalidate the auction. Accordingly, the Commission will not reject the results of the auction. Additionally, we find reasonable the recommendation to abide by the contingency plan embedded in the bidding rules for the procurement of the remaining 50 unfulfilled tranches and direct AES Ohio to schedule an additional auction no later than 30 calendar days prior to the start of the delivery period.

{¶ 16} On March 23, 2022, Staff filed a motion for protective order, pursuant to Ohio Adm.Code 4901-1-24, requesting that both the report of the Commission's consultant regarding AES Ohio's auction and the notification of auction results filed on March 23, 2022, be kept confidential. In support of the motion, Staff submits that these documents are highly competitively sensitive, in that they identify the details of various bids and parties making the bids in the auction. According to Staff, disclosure of this information would be highly prejudicial to the bidding parties and the viability of any future auction in Ohio.

{¶ 17} Ohio Adm.Code 4901-1-24 provides that, unless otherwise ordered, protective orders issued pursuant to the rule automatically expire after 24 months. However, given the highly competitive and sensitive nature of the reports filed by CRA and

Bates White, the Commission finds it would be appropriate to grant protective treatment indefinitely, until the Commission orders otherwise. Therefore, we find that Staff's motion for protective order of the information filed on March 23, 2022, is reasonable and should be granted, to the extent set forth in this Finding and Order. Accordingly, the Bates White report and the following information related to the CRA report will be protected from public release: the names of unsuccessful bidders; price information, including starting price methodologies and round prices/quantities for individual bidders; all information contained in Part I and Part II of the bidder applications; and indicative pre-auction offers.

{¶ 18} However, the Commission finds that certain information regarding the CBP auction contained in the reports submitted by CRA should be released to the public after a brief period of time to allow the winning bidders to procure any additional necessary capacity to serve the SSO load. Therefore, unless otherwise ordered by the Commission, the following information will be subject to public release 21 days after the issuance of this Finding and Order: the names of bidders who won tranches in the CBP auction; the number of tranches won by each bidder; the first round ratio of tranches supplied compared to tranches needed; and, the redacted report filed by CRA detailing the CBP auction proceedings, subject only to redaction of any confidential information enumerated in Paragraph 17.

{¶ 19} Finally, the Commission notes that all bidders are required to immediately disclose to the Commission and Staff all prices, terms, and conditions for any post auction assignments of tranches obtained through the CBP, subject to appropriate protections for confidential or proprietary information.

III. ORDER

{¶ 20} It is, therefore,

{¶ 21} ORDERED, That AES Ohio schedule an additional auction no later than 30 calendar days prior to the start of the delivery period to procure the 50 unfulfilled tranches of 12-month product. It is, further,

{¶ 22} ORDERED, That Staff's motion for protective order be granted and the information set forth in Paragraph 17 be deemed confidential and remain under seal indefinitely, unless otherwise ordered by the Commission. It is, further,

{¶ 23} ORDERED, That, unless otherwise ordered by the Commission, the information set forth in Paragraph 18 be subject to public release 21 days after the issuance of this Finding and Order. It is, further,

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

COMMISSIONERS:

Approving:

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

MJA/mef

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Summary: Finding & Order approving the results of the auction conducted on March 22, 2022, to procure generation supply for standard service offer customers of The Dayton Power and Light Company d/b/a AES Ohio electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio