

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE PROCUREMENT  
OF STANDARD SERVICE OFFER  
GENERATION FOR CUSTOMERS OF  
DAYTON POWER & LIGHT COMPANY.

CASE NO. 17-957-EL-UNC

## FINDING AND ORDER

Entered in the Journal on February 10, 2021

### I. SUMMARY

{¶ 1} The Commission approves the Dayton Power & Light Company's application to modify its standard service offer auction schedule.

### II. PROCEDURAL BACKGROUND

{¶ 2} Dayton Power & Light Company (DP&L) is an electric utility as defined by R.C. 4928.01.

{¶ 3} R.C. 4928.141 provides that electric 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 may either be a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 4} On October 20, 2017, the Commission modified and approved an amended stipulation establishing DP&L'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 DP&L's SSO load for the period between November 1, 2017, and October 31, 2023, a format that the Commission had previously accepted in DP&L's original ESP (ESP I). As part of the competitive bid process (CBP) outlined in ESP III, DP&L was expected to conduct auctions in March 2020 and March 2021.

{¶ 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 ESP III to eliminate DP&L's distribution modernization rider. *ESP III Case*, Supplemental Opinion and Order (Nov. 21, 2019). Consequently, on November 26, 2019, DP&L 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).

{¶ 6} On December 18, 2019, in addition to approving DP&L's withdrawal of its ESP application and terminating ESP III,<sup>1</sup> the Commission issued a Second Finding and Order approving, with modifications, DP&L'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 CBP process for procuring SSO generation. *ESP I Case*, Second Finding and Order (Dec. 18, 2019) at ¶ 28. The Commission further directed "DP&L 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.*

{¶ 7} Meanwhile, on July 25, 2019, the Federal Energy Regulatory Commission (FERC) issued an order directing PJM Interconnection, LLC (PJM) to not conduct its base residual auction (BRA) regarding the 2022-2023 delivery year, previously scheduled for August 2019. *Order on Motion for Supplemental Clarification*, Case No. EL16-49-00, at ¶ 2 (July 25, 2019). This direction prevented PJM from moving forward with a wholesale competitive bidding process the output of which informed potential bidders in each EDU retail competitive bidding process associated with the SSO development of the forward cost of the capacity obligation arising from the provision of SSO generation supply.

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<sup>1</sup> *ESP III Case*, Finding and Order (Dec. 18, 2019).

{¶ 8} Thereafter, on December 19, 2019, FERC ordered that PJM must submit a new schedule regarding the BRA within 90 days. *Order Establishing Just and Reasonable Rate*, Case No. EL16-49-00, at ¶ 4 (Dec. 19, 2019).

{¶ 9} In response to these FERC orders, DP&L filed an application requesting a modification to its CBP auction schedule on February 7, 2020. Citing to uncertainty regarding the PJM capacity rate for the 2022-2023 delivery year, DP&L sought to eliminate the 36-month product and offer only the 12- and 24-month products in its March 2020 auction.

{¶ 10} Subsequently, on February 14, 2020, the Commission granted the application and modified DP&L's March 2020 SSO auction. Specifically, the Commission directed DP&L to eliminate the 36-month product and offer only the 12- and 24-month product covering the period ending May 31, 2022. Thereafter, the remaining product (for the period of June 1, 2022, to May 31, 2023) would be adjusted appropriately once a final PJM rate is established. Further, the Commission directed Staff to file a proposal for a modified product which contains capacity flow-through provisions since the uncertainty caused by FERC's order precludes the use of a more traditional three-year auction product at a time when market fundamentals were signaling opportunities to use a forward looking competitive bidding process to lock in historically low energy prices for the benefit of Ohio retail electric customers.

{¶ 11} On March 13, 2020, Staff filed its proposal and recommendation, as directed by the Commission in its February 14, 2020 Entry.

{¶ 12} By Entries issued on April 6, 2020, and on May 15, 2020, the attorney examiner invited interested stakeholders to file public comments discussing Staff's proposal and recommendation and subsequent stakeholder proposals. Several stakeholders submitted comments regarding the recommendation and proposals.

{¶ 13} On July 15, 2020, the Commission issued its Finding and Order in which EDUs

were directed, in part, to modify their SSO procurement auctions by submitting a plan to change the current auctions scheduled for Fall 2020 and Spring 2021 to substitute a 12-month product for the current, planned products. *In re the Procurement of Standard Service Offer Generation as Part of the Fourth Electric Security Plan for Customers of Ohio Edison Co., The Cleveland Elec. Illuminating Co., and The Toledo Edison Co.*, Case Nos. 16-776-EL-UNC, et al. (*Procurement Case*), Finding and Order (July 15, 2020) at ¶ 35.

{¶ 14} On August 14, 2020, DP&L, among other parties, filed an application for rehearing in response to the above Finding and Order. On September 9, 2020, the Commission issued an Entry on Rehearing granting rehearing for further consideration of the matters specified in the applications for rehearing filed by certain parties, including DP&L. *Procurement Case*, Entry on Rehearing (Sept. 9, 2020) at ¶ 28.

{¶ 15} On August 7, 2020, AEP Ohio filed a motion to adjust its auctions scheduled for Fall 2020 and Spring 2021. On August 14, 2020, in Case No. 17-1263-EL-SSO, et al., Duke filed its motion to adjust its Fall 2020 and Spring 2021 auctions. Although Duke filed its motion in the above SSO case, the Commission addressed the filing in the *Procurement Case*. On August 21, 2020, FirstEnergy filed a motion to adjust its auctions scheduled for Fall 2020 and Spring 2021.

{¶ 16} On August 26, 2020, the Commission issued a Finding and Order granting the EDUs' motions to adjust their SSO procurement auction processes for the Fall 2020 and Spring 2021 auctions. *Procurement Case*, Finding and Order (Aug. 26, 2020) at ¶ 12.

{¶ 17} Thereafter, on October 15, 2020 and November 12, 2020, FERC issued orders that enabled PJM to schedule its next capacity auction. *Order on Compliance, Granting Waiver Request, Addressing Arguments Raised on Rehearing, and Setting Aside Prior Order, in Part*, Case No. EL16-49-003, et al., (Oct. 15, 2020); *Order on Compliance*, Case No. EL19-58-002, et al., (Nov. 12, 2020). Accordingly, PJM reestablished its capacity auction schedule, with the next capacity auction, for delivery year 2022-2023, to open May 19, 2021, and close May 25, 2021. *PJM Interconnection, LLC, PJM Reestablishes Capacity Auction Schedule*, (Nov. 19, 2020)

<https://insidelines.pjm.com/pjm-reestablishes-capacity-auction-schedule/> (accessed Feb. 4, 2021).

{¶ 18} On February 3, 2021, DP&L filed an application to modify its auctions scheduled for March 2021 to solely use a 12-month product and temporarily eliminate the 24- and 36-month product.

### III. DISCUSSION

#### A. Summary of DP&L's Application

{¶ 19} In its application, DP&L acknowledges the uncertainty created by the FERC rulings and notes that, despite the recent decisions that enabled PJM to reestablish the 2022-2023 BRA later in Spring 2021, prospective bidders still do not know what their capacity costs will be for 2022-2023. Combining prospective bidders' lack of knowledge of forward capacity prices along with the uncertainty surrounding changes made by FERC to the capacity auction process, DP&L asserts that a substantial increase in risk exists that will likely be factored into potential SSO bids and may result in unusually high prices in years two or three of the 24-month or 36-month product. Consequently, in the interest of maintaining beneficial and stable rates for its customers, DP&L proposes eliminating the 24- and 36-month product and only offer the 12-month product in its upcoming March 2021 auction. DP&L states that its request is consistent with the Commission's approval of the other EDUs' motions to adjust their Fall 2020 and Spring 2021 SSO procurement process auctions. *Procurement Case*, Finding and Order (Aug. 26, 2020) at ¶ 12.

#### B. Commission's Decision

{¶ 20} The Commission finds that DP&L's application is reasonable and should be approved. The Commission is entitled to revisit and modify a prior order so long as we provide an explanation and the modification is substantively reasonable and lawful. *In re Application of Ohio Power Co.*, 144 Ohio St.3d 1, 2015-Ohio-2056, 40 N.E.3d 1060, ¶ 16-17. Moreover, pursuant to Paragraph 35(a) of the Commission's July 15, 2020 Finding and Order

in the *Procurement Case*, DP&L was directed to change its current auctions scheduled for Spring 2021 to substitute a 12-month product for the current, planned products. With the subject application, DP&L has now complied with this Commission directive. As mentioned by the Commission in prior orders and as indicated by DP&L in its application, the uncertainty caused by FERC's ruling regarding the BRA could have significant effects on the auction process, including limiting participation and altering bidding strategies. Despite PJM reestablishing the capacity auction schedule, with the capacity auction for delivery year 2022-2023 currently set to commence in May 2021, capacity costs for 2022-2023 will be unknown heading into DP&L's SSO procurement auction in March 2022. Therefore, the Commission determines that it is reasonable to adjust the auction schedule as requested to provide greater market certainty. Accordingly, DP&L should eliminate the 24- and 36-month product, offering only the 12-month product covering the period ending May 31, 2022, in its upcoming March 2021 auction.

#### IV. ORDER

{¶ 21} It is, therefore,

{¶ 22} ORDERED, That DP&L's application to modify its SSO procurement auction schedule be granted as described in Paragraph 20. It is, further,

{¶ 23} ORDERED, That a copy of this Entry be served upon all parties of record.

COMMISSIONERS:

*Approving:*

M. Beth Trombold  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

MJS/kck

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