

# 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 March 24, 2021

### I. SUMMARY

{¶ 1} The Commission accepts the results of the auction conducted on March 22, 2021, to procure generation supply for standard service offer customers of the Dayton Power & Light Company.

### 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 electric distribution utility (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. Thereafter, on December 19, 2019, FERC ordered that PJM must submit a new schedule

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

regarding the BRA within 90 days. *Order Establishing Just and Reasonable Rate*, Case No. EL16-49-00, at ¶ 4 (Dec. 19, 2019).

{¶ 8} In order to mitigate potential significant effects caused by the uncertainty surrounding PJM's BRA, the Commission issued a Finding and Order on July 15, 2020, in the above-captioned case. Among other things, the Commission directed DP&L and the other electric distribution utilities to submit a plan to substitute a 12-month product for their currently planned products for the fall 2020 and spring 2021 auctions.

{¶ 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, Ohio Power Company d/b/a 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 Energy Ohio, Inc. (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, Ohio Edison Company, The Cleveland Electric Illuminating Company, and Toledo Edison Company, (collectively, 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 auction scheduled for March 2021 to solely use a 12-month product and temporarily eliminate the 24- and 36-month product.

{¶ 19} On February 10, 2021, the Commission granted DP&L's February 3, 2021 application to modify its auction scheduled for March 2021 to solely use a 12-month product and temporarily eliminate the 24-month and 36-month product.

{¶ 20} On March 24, 2021, in the above-captioned case, Charles River Associates, International (CRA), the auction manager for DP&L'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, 2021, 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.

{¶ 21} According to the reports filed by CRA and Bates White, for the 12-month product, the auction resulted in a clearing price of \$47.22 per megawatt hour for the delivery period of June 1, 2021 to May 31, 2022. 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.

{¶ 22} 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.

{¶ 23} On March 24, 2021, 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 DP&L's auction and the notification of auction results filed on March 24, 2021, 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.

{¶ 24} 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 24, 2021, 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.

{¶ 25} However, the Commission finds that certain information regarding the auction contained in the report 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 energy or capacity to serve the SSO load. Therefore, unless otherwise ordered by the Commission, the following information will be subject to release 21 days after the issuance of this Finding and Order, or on April 14, 2021: the names of bidders that won tranches in the 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 auction proceedings,

subject only to redaction of any confidential information enumerated in Paragraph 24. The Commission's docketing division is directed to work with Staff to assure the appropriate public release of information.

{¶ 26} Finally, 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 CBF, subject to appropriate protections for confidential or proprietary information.

### III. ORDER

{¶ 27} It is, therefore,

{¶ 28} ORDERED, That Staff's motion for protective order be granted and the information set forth in Paragraph 24 be deemed confidential and remain under seal indefinitely, until otherwise ordered by the Commission. It is, further,

{¶ 29} ORDERED, That, unless otherwise ordered by the Commission, the information set forth in Paragraph 25 be subject to public release 21 days after the issuance of the Finding and Order, or on April 14, 2021. It is, further,

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

COMMISSIONERS:

*Approving:*

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

MLW/hac

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Summary: Finding & Order accepting the results of the auction conducted on March 22, 2021, to procure generation supply for standard service offer customers of the Dayton Power & Light Company. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio