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Summary of DP&L ESP III Settlement and OMAEG's Position

Case Nos. 16-395-EL-SSO, et al.

Application

DP&L filed its ESP III Case on February 22, 2016 with a PPA proposal, but then after the FirstEnergy ruling, DP&L filed an amended application on October 11, 2016, in which it sought the creation of a distribution modernization rider (DMR) similar to the one that FirstEnergy received. DP&L's initial request was for a $145M/year DMR for 7 years, totaling approximately $1.015B.

Settlement

Under the Settlement that was filed on January 30, 2017, DP&L will receive from customers $125M/year for 5 years ($90M for a DMR rider and $35M for a Distribution Investment Rider (DIR-B) rider), totaling approximately $625M. While this is a slight improvement over the application, $625M to DP&L to reduce its debt and allegedly invest in its grid is **too large of a subsidy to bailout** DP&L's parent, DPL Inc, and the holding company, AES. Also:

1. it is not comparable to the level of DMR that FirstEnergy received;
2. it is contradictory to merger commitments that DP&L, DPL Inc., and AES previously made, which was to not pass on any costs of the purchase of DPL Inc. by AES to Ohio ratepayers; and
3. it is structured in a way that violates FirstEnergy precedent and Ohio law.

Why is the Settlement bad for manufacturers?

The Settlement as it is currently drafted is problematic for manufacturers for many reasons:

1. The distribution utility, DP&L, is financially healthy. The claimed debt problem is due to an acquisition premium of the purchase of DPL Inc. by AES and lies with DPL Inc., which DP&L, DPL Inc., and AES all agreed to not collect from customers in the merger proceeding.

2. The structure of DP&L's DMR is flawed as it is being used to pay down debt, which has nothing to do with distribution modernization as required by Ohio law and FirstEnergy precedent.

3. DP&L has been unlawfully collecting $73M as a stability charge after the Supreme Court of Ohio decision eliminated DP&L's stability rider (SRR) as unlawful. The RSC or similar financial integrity charges have been found to be unlawful in other cases by the Supreme Court.

4. The Settlement requires Signatory Parties and Non-opposing Signatory Parties to forgo challenging the unlawful collection of the $73M RSC with the Supreme Court and the pending FERC case, EC16-173-000.

5. DP&L's request will be a rate increase for all manufactures, especially given that DP&L is currently recovering $73M from customers unlawfully.

6. The bill impacts produced by the Company (which do not include all of the costs embedded in the Settlement) show an increase in rates for manufacturers, on average, for the secondary class in the magnitude of 5-20% (very small users may see a decrease). Primary service class and high voltage customers may see a decrease of 1-4.7% because of a rate design change (but others may see an increase depending on usage). Residential class shows 1-24% increase, with an average customer at a 2.5% increase. Any potential decreases will likely be diluted or eliminated with the additional costs that the Company has not accounted for in its bill impacts, and any increases will be exacerbated.

7. Under the settlement, DP&L will obtain $125M from customers for 2 riders (DMR & DIR-B) regardless of the level of tax. So if the federal government reduces the taxes from approximately 36%, DP&L will still collect the full $125M whereas FirstEnergy will lower the amount it collects from customers.

8. The level of the DMR far exceeds the level provided to FirstEnergy. DP&L is approximately less than a third of the size of FirstEnergy with a third of the sales. If you take the amount given to FirstEnergy ($131M plus the tax gross up or $204M), an equivalent amount for DP&L would be approximately $43M plus tax gross up or $55M (at the high end). FirstEnergy only received its DMR for 3 years with an option for a 2 year extension, while DP&L is guaranteed its DMR for 5 years. This is a concern as FirstEnergy will return to the PUCO for more ratepayer dollars if a smaller utility is given more.

9. The rate design for the DMR rate allocation is bad for manufacturers on secondary service (no demand component).

10. The Settlement creates several “blank checks” where DP&L can spend as much as it wants and obtain cost recovery from customers in whole or in part. For example,

    a. Possible costs associated with a Customer Group recommending smart grid and renewable infrastructure improvements –see discussion below.

    b. Non-commodity billing—implementation costs associated with system changes to allow DP&L to bill for supplier non-commodity services on a bill-ready basis.

    c. Supplier consolidated billing—implementation costs associated with system changes to allow supplier consolidated billing.

    For b and c above, 50% of the undefined, unlimited costs for the programs will be collected from customers. The Company is allowed to collect up to $20M (minus any deferral balances specified below) for these costs through the Regulatory Compliance Rider. In addition, the Company can defer for later recovery from customers any additional amounts.

11. Because of the large debt associated with DPL Inc. related to the purchase of DPL Inc. by AES (debt which DP&L, DPL Inc., and AES all agreed not to collect from customers), there is no guarantee that DP&L/DPL Inc. will not be in the same position in 5 years.

12. A provision in the Settlement requires AES to forgo collection of tax-sharing payments during the term of the DMR/DIR-B; however, DPL Inc. will continue to accrue the tax sharing liabilities on its books; therefore, at the end of the DMR/DIR-B collections, a large payment will be owed to AES by DPL Inc. Thus, DPL Inc. will likely be in financial difficulties again at that time, claiming the need for another financial integrity charge from customers.

13. The Settlement creates many new riders, initially set at $0, but will then be populated and will pass on many costs to customers (Smart Grid, Distribution Investment Rider, Renewable Energy Rider, Storm Cost Recovery Rider, Uncollectible Rider).

14. The Settlement requires DP&L to pay monies to many signatory parties in the first year of the ESP from shareholder dollars at the same time that DP&L states it does not have enough money to meet its debt obligations, obtain proper credit ratings, and invest in the system. DP&L has agreed to pay through shareholder dollars approximately $1.37M in the first year and over $3M for years 2-5.

15. In years 2-5, the Settlement requires DP&L to pay monies to signatory parties for various items that will then be collected from other customers through the EE/PDR rider, regardless of whether the payments or associated activities are related to EE/PDR, the costs are deemed to meet the EE cost-effectiveness test, and the costs are under the Staff’s cost-cap or EE budget for an undefined, unapproved POR. The amount requested to be passed through the EE/PDR rider is

approximately $2M. The preapproval for EE costs without the benefit of a POR case is problematic. Additionally, passing costs through the EE/PDR rider that are not related to EE unnecessarily inflates and skews the EE/PDR rider and costs of energy efficiency.

16. There are many additional provisions to the City of Dayton, such as upgrades to the airport up to $50,000 and removal of certain charges, where cost recovery is not specified or the amount that may be recovered from customers is undefined.

17. There are ED Rider/Credits under which DP&L will provide economic development credits to Honda and OHA paid for by all customers through the EDR.

18. Under the Reconciliation Rider, it is unclear as to whether DP&L is double recovering costs associated with the OVEC generating units as they have collected and deferred past costs related to OVEC costs (Staff does not support collection of $24M). Signatory parties are prohibited from contesting the recovery of the past OVEC deferrals.

19. There is allegedly a side deal with Sierra Club that requires the closure of 2 plants (regardless of whether they are profitable in the market) instead of the sale of those plants with proceeds passed onto customers. It is unclear whether the costs of closure will be passed onto customers.

20. DP&L appears to be "double dipping" by earning a return on any DIR-B investments paid for with customer dollars. DP&L is also requesting to recover items in its DIR that the PUCO has previously deemed to be inappropriate.

21. The Settlement will add .0033 per kWh to all SSO bills to collect the costs DP&L incurs to provide default service customers. If a manufacturer is not shopping, it will incur this energy charge that could be very costly.

22. AES has made commitments through the Settlement that will likely not be enforceable because AES is not a signatory party.

23. Although unclear, the Settlement appears to allow DP&L and its affiliates to procure or construct 300 MW of renewable (solar and wind) and request that the costs be passed onto customers. Also, it allows DP&L to implement a PPA for each renewable project and request that the costs be passed onto customers. It is not clear if construction costs and/or operational costs of the generating facilities are passed onto customers or just the purchase of capacity, energy, ancillaries, and renewable energy credits. Further, the Settlement has a requirement that the projects be built by 2022, but subject to regulatory approval. DP&L's affiliates may own up to 50%, but it is unclear if the affiliates' costs will also be passed onto customers.

24. Through the Regulatory Compliance Rider, DP&L is allowed to collect up to $20M for 5 separate deferral balances PLUS costs associated with implementing the non-commodity billing and supplier consolidated billing provisions in the Settlement.

<u>Why did OMAEG not settle?</u>

The price to pay to bailout AES for a bad purchase is too high. Manufacturers believe that DP&L, DPL Inc., and AES should honor their merger commitments in prior settlements and not pass through costs associated with the merger. After removing the current unlawful RSC charge ($73M), manufacturers also believe that customers' rates should decrease. Additionally, there is no guarantee that DPL Inc. will be in a better debt position at the end of the 5-year collection of the $625M from customers.

Additionally, the level of DMR/DIR-B revenue provided to DP&L under the Settlement exceeds the level granted by the PUCO to FirstEnergy. As mentioned above, there are concerns that FirstEnergy and others will come back to the PUCO for more money because of the disparity. There are also many problematic provisions in the as-filed version of the Settlement that will increase costs to customers as delineated above. Moreover, Staff is opposed to the Settlement. Thus, if the PUCO agrees with Staff (and others) on several of the issues listed above, the costs passed on to customers will be reduced. No customer groups, except OHA, are Signatory Parties.

For all of the above reasons, we believe that the Settlement has very little chance of survival in its current form. If the PUCO rejects the Settlement or modifies it significantly, and the Company withdrawals its ESP (which it will do because it believes its fall back is current rates, which includes the $73M), the Settlement will be withdrawn and the Signatory and Non-Opposing Parties to the Stipulation would not receive any of the benefits embedded in the Settlement. Without those benefits, there is no advantage to signing onto the Settlement and forgoing our litigation rights on all of these other issues that could cost customers millions of dollars, including the lawfulness of the current RSC charge of $73M.

Who is on and Who is off the Settlement?

Other than DP&L and DPL Inc. (importantly, not AES), the parties who have signed as Signatory Parties and Non-opposing Signatory Parties are listed below. Parties who Oppose the Settlement are also listed below.

Signatory Parties	**Non-opposing Signatory Parties**	**Parties Opposed**
City of Dayton	Honda	PUCO Staff
IGS (supplier)	OEC (enviro)	OMAEG
RESA (suppliers)		OEG (industrials)
Edgemont (low-income)		IEU (commercials)
PWC (low-income coalition)		Kroger Co.
OHA (hospitals)		Wal-Mart
MAREC (renewable group)		OCC (residentials)
		OPAE (low-income)
		Calpine (supplier)
		PJM Market Monitor
		PJM
		Unions
		ELPC (enviro)
		EDF (enviro)
		Adams County
		Monroe Twp,
		Sprigg Twp.
		Manchester Schools
		Adams County Schools

Parties that have not stated a position include: EnerNOC (demand response company), Energy Professionals (brokers), Dynegy, PJM Power Providers Group (generators), and Duke Energy Ohio.

Sierra Club has stated that it is likely to sign as it is executing a side deal with DP&L to close 2 coal plants by 2018, but they have not yet signed.