

# 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 November 30, 2022

### I. SUMMARY

{¶ 1} The Commission approves the results of the auction conducted on November 28, 2022, to procure generation supply for standard service offer customers of The Dayton Power and Light Company d/b/a AES Ohio.

### II. PROCEDURAL BACKGROUND

{¶ 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 an electric distribution utility as defined by R.C. 4928.01(A)(6).

{¶ 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, which 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, functions to make generation supply available to customers that are not receiving this supply from a competitive retail electric services provider. The SSO 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 The 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 ESP III to eliminate AES Ohio's distribution modernization rider. *ESP III Case*, Supplemental Opinion and Order (Nov. 21, 2019). 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).

{¶ 6} 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, to maintain the integrity of competitive wholesale and retail markets in the state, ESP I included and embraced 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 [AES Ohio's] next SSO is approved." *Id.*

{¶ 7} 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). *See* Finding and Order (June 16, 2021); Finding and Order (Feb. 10, 2021).

{¶ 8} On December 22, 2021, the Federal Energy Regulatory Commission (FERC) issued an order reversing its 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. Additionally, in order to incorporate the revised E&AS Offset in the BRA for the 2023/2024 delivery year, FERC directed PJM to submit a compliance filing within 30 days proposing 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).

{¶ 9} 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 No. EL19-58-010; ER19-1486-0, at 2 (Jan. 21, 2022).

{¶ 10} 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.

{¶ 11} 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. Finding and Order (Feb. 23, 2022) at ¶ 12.

{¶ 12} On August 12, 2022, AES Ohio filed an application to modify its CBP, seeking to hold auctions in November 2022 and March 2023 to procure SSO supply for the 2023/2024 delivery year. As proposed by AES Ohio, the November auction would procure a 12-month supply of 35 tranches while the March 2023 auction would procure both a 12-month supply of 25 tranches and a 24-month supply of 40 tranches.

{¶ 13} On September 21, 2022, over objections filed by Ohio Consumers' Counsel, the Commission approved the application and directed AES Ohio to adjust its CBP in accordance with the application. Finding and Order (Sept. 21, 2022); Entry on Rehearing (Nov. 16, 2022).

{¶ 14} On November 29, 2022, AES Ohio held the contemplated auction for a 12-month supply of 35 tranches.

{¶ 15} On November 30, 2022, 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 November 29, 2022 auction. 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.

{¶ 16} According to the reports filed by CRA and Bates White, for the 35 tranches of the 12-month product, the auction resulted in a clearing price of \$113.42 per megawatt hour for the delivery period of June 1, 2023 to May 31, 2024. 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.

{¶ 17} 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.

{¶ 18} On November 30, 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 November 30, 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.

{¶ 19} 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 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.

{¶ 20} 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: 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 CBP auction proceedings, subject only to redaction of any confidential information enumerated in Paragraph 19. The Commission's docketing division is directed to work with Staff to assure the appropriate public release of information.

{¶ 21} 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

{¶ 22} It is, therefore,

{¶ 23} ORDERED, That Staff's motion for protective order be granted and the information set forth in Paragraph 19 be deemed confidential and remain under seal indefinitely, until otherwise ordered by the Commission. It is, further,

{¶ 24} ORDERED, That, unless otherwise ordered by the Commission, the information set forth in Paragraph 20 be subject to public release 21 days after the issuance of the Finding and Order. It is, further,

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

**COMMISSIONERS:**

*Approving:*

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

PAS/hac

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Summary: Finding & Order approving the results of the auction conducted on November 28, 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