

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE PROCUREMENT OF
PERCENTAGE OF INCOME PAYMENT PLAN
PROGRAM GENERATION FOR
CUSTOMERS OF DAYTON POWER AND
LIGHT COMPANY.**

CASE NO. 17-1163-EL-UNC

FINDING AND ORDER

Entered in the Journal on May 18, 2022

I. SUMMARY

{¶ 1} The Commission accepts the results from the competitive auction to procure generation supply for percentage of income payment plan program customers of the Dayton Power & Light Company d/b/a AES Ohio.

II. DISCUSSION

{¶ 2} The Dayton Power and Light Company (AES Ohio or the Company) is an electric distribution utility as defined in R.C. 4928.01(A)(6) and public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4928.54 requires the director of development services to aggregate percentage of income payment plan (PIPP) program customers for the purpose of establishing a competitive procurement process for the supply of competitive retail electric service for those customers, which shall be an auction. Additionally, under R.C. 4928.544, upon written request by the director of development services, the Commission shall design, manage, and supervise the competitive procurement process.

{¶ 4} By Order issued on March 2, 2016, in Case No. 16-247-EL-UNC, the Commission adopted a competitive request for propose (RFP) auction process to procure generation supply to serve PIPP load. The first phase of the competitive RFP process consists of an initial RFP auction during which certified competitive retail electric service (CRES) providers submit bids to serve the PIPP load for less than the standard service offer (SSO). If no CRES provider submits a bid to serve the PIPP load for less than the SSO, then

a supplemental PIPP auction is conducted where CRES providers may submit bids to serve the PIPP load at any price. Finally, if no CRES provider participates in either RFP auction, the electric utility may implement contingency measures to procure supply for the PIPP load. The Commission found that this process satisfies the requirements in R.C. 4928.542 to ensure reliable electric service to PIPP customers, reduce the cost of the PIPP program relative to otherwise applicable SSO, and results in the best value for persons paying the universal service rider. *In re Implementation of Sections 4928.54 and 4928.544 of the Revised Code*, Case No. 16-247-EL-UNC, Finding and Order (Mar. 2, 2016) (RFP Auction Order).

{¶ 5} AES Ohio, in consultation with Staff and the independent auction manager, CRA International Inc. (CRA), accepted bids for a competitive RFP auction on May 2, 2022. In that auction, no bidder submitted a conforming bid in the RFP process. Accordingly, pursuant to the RFP Auction Order, a supplemental auction was conducted on May 16, 2022. At that time, AES Ohio, again in consultation with Staff and CRA, accepted bids for its supplemental competitive RFP. The May 16, 2022 competitive RFP auction procured supply for 100 percent of the PIPP load for the June 1, 2022, to May 31, 2023, delivery period.

{¶ 6} CRA and Bates White Economic Consulting (Bates White), a consultant retained by the Commission to monitor the RFP auction, submitted reports regarding both the initial RFP auction and the supplemental RFP auction conducted on May 15, 2022. These reports consisted of both the confidential versions, filed under seal, and the redacted versions of the reports filed by CRA, which are publicly available in this docket. In the reports filed for the supplemental RFP auction, CRA and Bates White each recommend that the Commission find that the supplemental RFP auction, within the limits of its structures, had sufficient competitive attributes and resulted in a winning price that is reasonable.

{¶ 7} The Commission finds that the reports filed by CRA and Bates White do not contain any recommendation or evidence that the auction violated the RFP auction bidding rules in such a manner as to invalidate the auction. Further, the Commission finds that the competitive RFP auction process followed the process adopted by the Commission in the

RFP Auction Order and met the requirements of R.C. 4928.542. Accordingly, the Commission will not reject the results of the competitive RFP auction.

{¶ 8} As noted above, CRA and Bates White filed two sets of reports. In relation to each set of reports, Staff filed a motion for protective order pursuant to Ohio Adm.Code 4901-1-24. Each motion requests that the associated Bates White report regarding each auction be kept confidential and seeks identical treatment for the notifications of auction results filed by CRA. In support of the motion, Staff states that the documents are highly competitively sensitive because they identify details of various bids and parties making the bids in the auctions. Staff submits that disclosure of the information would be highly prejudicial to the bidding parties and the viability of any future auction Ohio.

{¶ 9} 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 nature of the reports filed by CRA and Bates White, the Commission finds that sensitive information contained within them should be deemed confidential and remain under seal indefinitely, or until otherwise ordered by the Commission. Accordingly, we find that the motions for protective order filed by Staff should be granted to the extent stated in this Finding and Order. Unless and until the Commission orders otherwise, the Bates White reports will be protected from public release. Further, the Commission finds that the names of unsuccessful bidders and the price of unsuccessful bids should be protected from public release indefinitely.

{¶ 10} However, the Commission finds that certain information regarding the competitive RFP auction contained in the reports submitted by CRA should be released to the public after a brief period of time to allow the winning bidder to procure any additional necessary capacity to serve the PIPP load. Accordingly, unless otherwise ordered by the Commission, the Commission finds that the redacted reports filed by CRA detailing the competitive RFP auction proceedings shall be subject to public release 21 days after the issuance of this Finding and Order.

{¶ 11} Finally, the Commission finds that the winning bidder and winning bid price shall remain confidential until ordered by the Commission.

III. ORDER

{¶ 12} It is, therefore,

{¶ 13} ORDERED, That the information set forth in Paragraph 9 be deemed confidential and remain under seal indefinitely or until otherwise ordered by the Commission. It is, further,

{¶ 14} ORDERED, That, unless otherwise ordered by the Commission, the information set forth in Paragraph 10 be subject to public release 21 days after the issuance of this Finding and Order. It is, further,

{¶ 15} ORDERED, That the information set forth in Paragraph 11 remain confidential until ordered by the Commission. It is, further,

{¶ 16} ORDERED, That AES Ohio is authorized to file tariffs, in final form, consistent with this Finding and Order. The Company shall file one copy in this case docket and one copy in its TRF docket. It is, further,

{¶ 17} ORDERED, That the effective date of the new tariffs shall be June 1, 2022, contingent upon final review by the Commission. It is, further,

{¶ 18} 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 accepting the results from the competitive auction to procure generation supply for percentage of income payment plan program customers of the Dayton Power & Light Company d/b/a AES Ohio electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio