

152 FERC ¶ 61,128
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

August 14, 2015

In Reply Refer To:
The Dayton Power and Light Company
Docket Nos. ER15-33-000
ER15-36-000
ER15-37-000
ER15-38-000
ER15-40-000
ER15-41-000
ER15-243-000

The Dayton Power and Light Company
1065 Woodman Drive
Dayton, OH 45432

Attention: Randall V. Griffin, Esq.

Dear Mr. Griffin:

1. On May 11, 2015, you filed, in the above-referenced proceedings, a Settlement Agreement (Settlement) between Dayton Power and Light Company (DP&L) and the other settling parties.¹ On June 1, 2015, American Municipal Power, Inc. and the Villages of Arcanum, Eldorado, Lakeview, Mendon, Waynesfield, and Yellow Springs filed joint comments in support of the Settlement. On June 1, 2015, Commission Trial Staff filed comments in support of the Settlement. No other comments were filed. On June 30, 2015, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.²

¹ The settling parties are DP&L, American Municipal Power, Inc., the Village of Arcanum, the Village of Eldorado, the Village of Lakeview, the Village of Mendon, the Village of Waynesfield, the Village of Yellow Springs, and Buckeye Power, Inc.

² *Dayton Power and Light Co.*, 151 FERC ¶ 63,019 (2015).

2. The Settlement addresses the rates for Wholesale Distribution Service charged to the Villages of Arcanum, Eldorado, Lakeview, Mendon, Waynesfield, and Yellow Springs and the rates charged under Attachment H-15 of the PJM Interconnection, L.L.C. Open Access Transmission Tariff (PJM OATT).

3. The Settlement provides that:

[t]he standard of review for any modification(s) to this Settlement requested by a Party to the Settlement that is not agreed to by the other Parties to the Settlement, including any modification to rates, terms, or conditions covered by the moratoria on filings in sections 3.7, 3.8, or 3.9 during the period of the applicable moratorium, shall be the “public interest” application of the just and reasonable standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008) and refined in *NRG Power Mrtg. v. Maine Pub. Utils. Comm’n*, 558 U.S. 165 (2010) (the “*Mobile Sierra Doctrine*”). Nothing herein shall be deemed to limit the rights of an entity that is not a Party to the Settlement to challenge the applicability of the PJM OATT Attachment H-15 Wholesale Distribution Charges pursuant to a complaint filed under FPA Section 206, subject to the burdens applicable to such complaints. Nothing herein shall be deemed to limit the authority of the Commission to initiate an investigation *sua sponte* under FPA Section 206, subject to the just and reasonable standard applicable to such proceedings. The Parties to the Settlement also acknowledge that the “public interest” standard, to the extent applicable to this Settlement, shall not adversely affect the ability of any Party to the Settlement or non-Party to the Settlement to challenge future DP&L filings under a “just and reasonable” standard.³

4. The Settlement resolves all the issues in dispute in these proceedings. The Settlement appears to be fair, reasonable and in the public interest, and is hereby approved. The Commission’s approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

³ Settlement, § 4.8.

5. We direct that the revised tariff provisions be filed in eTariff format, as required by Order No. 714,⁴ within 30 days of the date of this order to reflect the Commission's action in this order.⁵

6. This letter order terminates Docket Nos. ER15-33-000, ER15-36-000, ER15-37-000, ER15-38-000, ER15-40-000, ER15-41-000, and ER15-243-000.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁴ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

⁵ We note that DP&L states its intent to request that PJM make an eTariff filing to incorporate the revised Attachment H-15 into the PJM OATT once we approve the Settlement. Transmittal Sheet at 1.