

## Senate Energy and Public Utilities Committee

Chris Hollon, AES Ohio - Opponent Testimony on Substitute Senate Bill 102

December 5<sup>th</sup>, 2023

Chairman Reineke, Vice Chair McColley, and Ranking Member Smith, my name is Chris Hollon, and I am Senior Counsel for AES Ohio.

AES Ohio, formally The Dayton Power & Light Company, serves over 525,000 customers in west-central Ohio. Our 2,900 employees and retirees have served as the backbone for reliable and affordable electricity across a 6,000 square mile service territory in 24 counties for over 100 years. AES is a US-based, global power company giving us a unique perspective to develop and deliver energy solutions. Our Dayton roots mean that we are completely integrated and invested in the Miami Valley community. We share the experiences we have so that we can bring innovation and a broad range of solutions to Ohio.

On behalf of AES Ohio, I am testifying to express our opposition to substitute SB 102. In June, AES Ohio also testified in opposition to SB 102. After a September, interested party meeting, AES Ohio recommended changes to the as-introduced version that are responsive to the concerns of legislators and stakeholders, provide greater transparency to the rate making process, and make other changes to moderate the high stakes nature of current electric security plan cases. Those recommendations are attached to this testimony. AES Ohio believes there is common ground for stakeholders to improve the ratemaking process balancing the needs of customers and the company. Unfortunately, at this time, Substitute SB 102 does not accomplish those goals.

The stability of Ohio's regulatory compact takes on special importance for AES Ohio as we complete the company's return to sound financials. The changes proposed in substitute SB 102 could disrupt important customer improvements the company is making to both the transmission and distribution grids. The attachment to this testimony would ensure a consistent state regulatory environment, make changes supported by a broad section of interested parties and play a key role in our ability to invest in the grid resulting in reliable service to Ohio customers.

We welcome conversations regarding energy policy and believe it is time for Ohio to develop a comprehensive energy strategy responding to emerging energy technologies and innovations. The AES Ohio team is available to discuss substitute SB 102 and the changes we have submitted. Thank you for the opportunity to testify today, and I am available to answer any questions from the committee.

AES Ohio – Senate Bill 102 Markup  
September 28, 2023

Below are the AES Ohio suggested deletions and additions to SB 102. Since the majority of this document is new language AES Ohio felt it would be more efficient to keep in a separate document for review. As stated during the September 25 interested party meeting, AES Ohio believes that any regulatory changes in Ohio need to ensure that electric utilities can continue making investments to offer a reliable and affordable distribution grid to its customers, while also being an important economic development partner for the state.

- Delete lines 1181-1189.
- Reinstate ORC 4928.141, 4928.142, and 4928.143.
- Delete lines 709-830 and insert below language:
  - (A) An electric light company may include in an application to increase rates under section 4909.18 of the Revised Code a request for approval to establish a distribution investment tracker to collect the revenue requirement relating to distribution infrastructure investments designed to maintain or improve safety, reliability, system efficiency, security, or grid resiliency, that either:
    - (1) With respect to an electric light company that chooses not to file a fully forecasted test period under section 4909.18 of the Revised Code, become used and useful after the date certain;
    - (2) With respect to an electric light company that chooses to file a fully forecasted test period under section 4909.18 of the Revised Code, become used and useful and are not included in the plant investment used in final rates under section 4909.15 of the Revised Code.
  
  - (B) Distribution infrastructure investments eligible for recovery through a tracker described in division (A) of this section shall include distribution capital investments and, to the extent they support the maintenance or improvement of reliable electric service, common, general, and intangible assets allocable to distribution service under the federal energy regulatory commission uniform system of accounts.
  
  - (C) The revenue requirement collected by the distribution investment tracker shall include the following:
    - (1) Depreciation;
    - (2) Property taxes, commercial activity taxes, and other applicable taxes;
    - (3) A fair and reasonable rate of return on the current period actual distribution rate base equivalent to the rate of return authorized for base distribution rates in the rate proceeding described in division (A) of this section.
  
  - (D) The revenue requirement to be collected by the distribution investment tracker shall be the difference in the revenue requirement on the current period distribution-related

rate base and the revenue requirement on the distribution related rate base included in the existing base rates.

(E) The revenue requirement collected by the distribution investment tracker shall be allocated to base distribution rate classes consistent with the allocation of base distribution rates approved in the rate proceeding described in division (A) of this section.

(F) The distribution investment tracker shall not collect on an annual basis more than an incremental four per cent of the base distribution revenue requirement approved in the rate proceeding in division (A) of this section.

(G) The company shall file a report with the public utilities commission on a quarterly basis regarding the revenue requirement eligible for collection under the distribution investment tracker.

(H) The commission shall allow recovery of the revenue requirement collected, subject to annual review and reconciliation. In its annual review, the commission shall determine whether the distribution infrastructure investments made by the company during the year under review were used and useful and prudent. The commission shall offset the revenue requirement to be collected under the distribution investment tracker by any reasonably certain cost savings realized from the related distribution infrastructure investments.

(I) When considering a subsequent application by the company for an increase in rates under section 4909.18 of the Revised Code, the commission shall include the date certain plant in service balance of used and useful distribution infrastructure investments being recovered through the distribution investment tracker in the new base distribution rates approved under section 4909.15 of the Revised Code.

(J) If the commission approves new base distribution rates in a proceeding described in division (I) of this section that reflects investments recovered up to that point through a tracker, the existing distribution investment tracker shall be adjusted accordingly in order to avoid any double recovery of the same investment.

- (A) An electric light company may include in an application to increase rates under section 4909.18 of the Revised Code a request for approval to establish a storm response tracker to collect the revenue requirement relating to distribution infrastructure investments and distribution operations and maintenance expenses necessitated by weather events not reflected in base distribution rates that constitute major events, as determined by the commission. Such distribution infrastructure investments shall:
  - (1) With respect to an electric light company that chooses not to file a fully forecasted test period under section 4909.18 of the Revised Code, be used and useful after the date certain;
  - (2) With respect to an electric light company that chooses to file a fully forecasted test period under section 4909.18 of the Revised Code, be used and

useful and not included in plant investments used in final rates under section 4909.15 of the Revised Code.

(B) Distribution infrastructure investments eligible for recovery through this tracker shall include distribution capital investments and common, general, and intangible assets allocable to distribution service under the federal energy regulatory commission uniform system of accounts.

(C)(1) The revenue requirement collected by the storm response tracker for eligible distribution infrastructure investments shall include:

- (a) Depreciation;
- (b) Property taxes, commercial activity taxes, and other applicable taxes;
- (c) A fair and reasonable rate of return equivalent to the rate of return authorized for base distribution rates in the rate proceeding described in division (A) of this section;
- (d) Eligible distribution operations and maintenance expenses.

(2) The revenue requirement shall not include any amounts otherwise collected in the distribution investment tracker under section 4909.173 of the Revised Code, another tracker, or base rates.

(D) The revenue requirement collected by the storm response tracker shall be allocated to base distribution rate classes consistent with the allocation of base distribution rates approved in the rate proceeding described in division (A) of this section.

(E) The company shall file a report with the public utilities commission on a semi-annual basis regarding the revenue requirement eligible for collection under the storm response tracker.

(F) The commission shall allow recovery of the revenue requirement, subject to annual review and reconciliation. In its annual review, the commission shall determine whether the eligible distribution infrastructure investments made by the company were used and useful and whether such investments and eligible distribution operations and maintenance expenses were prudently made and incurred.

(G) When considering a subsequent application by the company for an increase in rates under section 4909.18 of the Revised Code, the commission shall include the date certain plant in service balance of used and useful distribution infrastructure investments being recovered through the storm response tracker in the new base distribution rates approved under section 4909.15 of the Revised Code.

(H)(1) If the commission approves new base distribution rates in a proceeding described in division (G) of this section that reflects investments recovered up to that point through a tracker, the existing storm response tracker shall be adjusted accordingly in order to avoid any double recovery of the same investment or expenses.

- (a) Any amounts that remain to be collected and are not incorporated into base distribution rates at the time a storm response tracker is terminated shall be deferred as a regulatory asset.

(b) Any amounts that remain to be credited and are not incorporated into base distribution rates at the time a storm response tracker is terminated shall be a regulatory liability.

(2) Regulatory assets and regulatory liabilities described in division (H)(1) may be recovered or credited to customers through a new storm response tracker, base distribution rates, or another mechanism authorized by the commission.

- (A) An electric light company may include in an application to increase rates under section 4909.18 of the Revised Code a request for approval to establish up to two cyber security and regulatory trackers in addition to those authorized by section 4909.173 and section 4909.174 of the Revised Code to collect the revenue requirement relating to distribution infrastructure investments or distribution operations and maintenance expenses relating to single issues consistent with state policy. Such distribution infrastructure investments shall:

(1) With respect to an electric light company that chooses not to file a fully forecasted test period under section 4909.18 of the Revised Code, be used and useful after the date certain;

(2) With respect to an electric light company that chooses to file a fully forecasted test period under section 4909.18 of the Revised Code, be used and useful and not included in plant investments used in final rates under section 4909.15 of the Revised Code.

(B) Distribution infrastructure investments eligible for recovery through this tracker shall include distribution capital investments and common, general, and intangible assets allocable to distribution service under the federal energy regulatory commission uniform system of accounts.

(C)(1) The revenue requirement collected by a tracker approved under this section for eligible distribution infrastructure investments shall include:

(a) Depreciation;

(b) Property taxes, commercial activity taxes, and other applicable taxes;

(c) A fair and reasonable rate of return, equivalent to the rate of return authorized for base distribution rates in the rate proceeding described in division (A) of this section;

(d) Eligible distribution operations and maintenance expenses.

(2) The revenue requirement shall not include any amounts otherwise collected in the distribution investment tracker under section 4909.173 of the Revised Code, another tracker, or base rates.

(D) Any tracker authorized by this section shall not collect on an annual basis more than an incremental two per cent of the base distribution revenue requirement approved in the rate proceeding described in division (A) of this section.

(E) The company shall file a report with the public utilities commission on a semi-annual basis regarding the revenue requirement eligible for collection under any tracker authorized by this section.

(F) The commission shall allow such recovery, subject to annual review and reconciliation. In its annual review, the commission shall determine whether the eligible distribution infrastructure investments made by the company were used and useful and whether such investments and eligible distribution operations and maintenance expenses were prudently made and incurred. The commission shall offset the revenue requirement to be collected under any tracker authorized under this section by any reasonably certain cost savings realized from the related distribution infrastructure investments or distribution operations and maintenance expenses.

(G) When considering a subsequent application by the company for an increase in rates under section 4909.18 of the Revised Code, the commission shall include the date certain plant in service balance of used and useful distribution infrastructure investments being recovered through any tracker authorized under this section in new base distribution rates approved under section 4909.15 of the Revised Code.

(H)(1) If the commission approves an increase in rates as described in division (G) of this section that reflects investments recovered up to that point through a tracker, the existing tracker authorized under this section shall be adjusted accordingly in order to avoid any double recovery of the same investment or expenses.

(a) Any amounts that remain to be collected and are not incorporated into base distribution rates at the time a tracker authorized under this section is terminated shall be deferred as a regulatory asset.

(b) Any amounts that remain to be credited and are not incorporated into base distribution rates at the time a tracker authorized under this section is terminated shall be a regulatory liability.

(2) Regulatory assets and regulatory liabilities described in division (H)(1) of this section may be recovered or credited to customers through a new tracker authorized under this section, base distribution rates, or another mechanism authorized by the commission

- During the period that a tracker is authorized by the public utilities commission under sections 4909.173 to 4909.175 of the Revised Code, the commission, by order and on its own motion or upon good cause shown, may reduce the amount of, or terminate, any such tracker, if it determines that the tracker, on a normalized basis, has caused the company to earn a rate of return on equity on distribution rate base that is greater than two hundred fifty basis points in excess of the rate of return on equity most recently authorized for the company in an application to increase rates under section 4909.18 of the Revised Code.
- Not later than ninety days after the effective date this section, the public utilities commission shall adopt such rules and public notice requirements as it considers necessary to carry out sections 4909.173 to 4909.178 of the Revised Code.

Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under sections 4909.173 to 4903.175 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code.

