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Betty McCauley – Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

Re: Case No. 06-1201-AU-ORD

Dear Ms. McCauley:

Enclosed please find the original plus ten (10) copies of The Dayton Power and Light Company's comments in the above captioned case.

Thank you for your assistance and your attention to this matter.

Very truly,

Alissa Stephens
Regulatory Operations

Enclosure

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The Dayton Power and Light Company • P.O. Box 8825 • Dayton, Ohio 45401

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Review of Chapters)
4901:5-17, 4901:5-19, 4901:5-21,)
4901:5-23, 4901:5-25, 4901:5-29,) Case No. 06-1201-AU-ORD
4901:5-33, 4901:5-35, and 4901:5-37)
Of the Ohio Administrative Code.)

**COMMENTS OF
THE DAYTON POWER AND LIGHT COMPANY**

I. INTRODUCTION

The Dayton Power and Light Company ("DP&L") is a public utility as defined by sections 4905.02 and 4905.03 of the Ohio Revised Code ("O.R.C.") and provides electric service to over 500,000 retail customers in West Central Ohio. DPL, through its subsidiaries DP&L and DPL Energy ("DPLE"), owns and operates approximately 4,400 megawatts of generation capacity, of which 2,800 megawatts are low cost coal-fired units and 1,600 megawatts are natural gas and diesel peaking units.

The Commission's Entry dated October 11, 2006 in the above captioned case requested comments from interested stakeholders regarding proposed changes to certain sections of the Ohio Administrative Code ("O.A.C."). These sections of the O.A.C. are related to governor's emergency power, fuel emergencies related to the generation of electricity, coal allotment and other matters affecting coal shortages, gas, propane, and heating oil emergencies and

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transportation fuel emergencies along with set-asides and emergency reporting.

DP&L submits the following comments to the proposed rules.

II. General Comments

DP&L supports the Commission's commitment and concerns regarding fuel emergencies and protecting any shortage that may impact the State of Ohio. However, the proposed rules retain certain concepts from existing regulations that should be updated and modified to reflect the current structure of the electric industry as it has evolved pursuant to S.B. 3, the 1999 legislation that deregulated Ohio's electric power industry and required Ohio's electric utilities to join Regional Transmission Operators "(RTOs)". Ohio is on the boundary between RTOs and, thus, some utilities within Ohio are members of PJM Interconnection, LLC ("PJM") and others are members of the Mid-West Independent System Operator ("MISO").

DP&L joined PJM in October 2004. PJM is an RTO which performs the reliability coordinator's duties to ensure the reliability of the largest centrally dispatched electric grid in the world by coordinating the movement of electricity in all or parts of 13 states and the District of Columbia.

III. 4901:5-19-01 Definitions

The Commission has defined "Priority Use" to include virtually every customer class including residential, but for some reason excludes small commercial customers. Therefore, when an Electric Power Producer, such as DP&L is required to fulfill electric requirements for Priority Use by its customers

there are very few customers that are left off the list. This makes customer messaging and targeting to achieve desired results extremely difficult and complicated. DP&L recommends that the priority use list should be less inclusive or should reflect different "tiers" of priority. As an example, maintaining power to hospitals, police, fire stations, and water and sewage treatment plants could be grouped within the highest priority with other types of customers recognized as a priority in a second or third tier.

IV. 4901:5-19-02 General Provisions

The requirements of this chapter are intended to provide the Governor with the means of managing, on a statewide basis, a continuing fuel shortage. These requirements are keyed to remaining days' supply of fuel for electric generation. DP&L believes that these proposed regulations, as drafted, would be triggered in non-emergency situations and do not recognize how fuel inventories are managed by generators operating within a multi-state interconnected transmission grid system operated by RTOs.

4901:5-19-02 (G) specifies that when any Electric Power Producer in the state reaches 20 utility normal burn days, or when it is determined that such action is appropriate, the Governor may order other Electric Power Producers with greater fuel suppliers to increase sales of electric energy. Electric Power Producer normal burn days are defined as the number of days that each Electric Power Producer can maintain its thermal output, through the generation of

electricity and/or through the purchase of electricity under existing contracts such that it can service its estimated normal load plus firm sales.

First, this proposed language and concept does not take into account that all Ohio utilities are members of RTOs who monitor electric generation on a real-time basis. Real-Time monitoring of fuels occurs when the RTO receives a cold weather forecast or foresees a potential fuel crisis (i.e. embargo, strike). Twenty Electric Power Producer burn days appears to be an arbitrary number and out of line with RTO requirements and should be revised. As discussed in more detail in DP&L's comments to Section 4901:5-19-05, PJM emergency plan defines "fuel limited" as 72 hours. The Commission should investigate the historical fuel inventory of Electric Power Producers before continuing to require a random and artificially high number of burn days. For example, DP&L and DP&E do not have any on site storage for any of its natural gas fired electric generating plants. These rules may have an opposite effect and lead to utilities seeking additional cost recovery to maintain excess fuel to comply with these rules.

Second, there is no need to develop a process by which the Governor would order generators to operate during an emergency. Those processes are already in place. In addition to managing multi-state transmission systems, the RTOs also manage the market process by which prices are set, so that electric generators operating within that multi-state transmission system are dispatched in an economically efficient manner that also ensures reliability of supply. Generators operating within these RTOs are required to inform the RTO each day of their availability for dispatch. Prices are set within the RTO area so that

supply matches demand. To the extent any particular region may have a unique problem with generation availability (due to outages or fuel supply problems or any number of potential reasons), the RTO may establish a higher price for generators in that region to ensure that they will generate at appropriate levels. PJM has emergency power under which it can order a generator to run if it is physically available to run.

Third, the proposed regulations should be modified to recognize the differences between types of fuel used. A coal fired plant will typically have an inventory target between 20 and 40 days. A natural gas fired plant, on the other hand, has zero inventory. There is no on-site storage of natural gas. Instead, there are contract rights between the generator and an interstate pipeline for the right to deliver a certain amount of gas each day.

Fourth, the proposition that if the Governor orders other Electric Power Producers with greater fuel suppliers to increase sales of electric energy will benefit the consumers of the State of Ohio is inaccurate and should be removed from the proposed rules. The RTO(s) currently manage this process. If this concept is adopted, then the final rules need to also allow recovery of the penalties that PJM will impose for deviating from PJM's procedures and operating protocol. In addition, the Commission should address any other potential conflicts between the authority of the Governor and the authority of PJM to operate a State of Ohio approved but regionally operated RTO. PJM dispatches generating units efficiently and effectively to maintain reliability even in fuel emergencies at lowest reasonable cost.

4901:5-19-02 (L) allows the Commission to alter or amend, in whole or in part, these rules and regulations. This section should be deleted or clarified to provide that any such modifications would be made consistent with due process rights of affected entities and pursuant to the normal administrative process for establishing new rules.

In Section 4901:5-19-02(D), the following sentence should be added at the end of the proposed language, "Electric Power Producers are not required to take action should the action adversely impact the safety of plant personnel or plant equipment."

V. 4901:5-19-04 Pre-Emergency Actions

Section 4901:5-19-04 (A)(2)(A) allows the Commission prior to an energy emergency, by Order, to require each Electric Provider to issue periodic reports to notify consumers about electric supply levels. Because the trigger points for such requirements are too high, the result will be customer confusion as electric "emergencies" are declared from time-to-time, but no "real" emergency occurs. Over time, customers will learn to ignore such notices, which could have very serious consequences if a real emergency actually does arise. Moreover, electric supply levels are considered sensitive business information and should not be required to be disseminated to the public. An announced impending emergency could drive fuel prices up beyond market levels, harming Ohio consumers and utilities. In addition, third party providers who purchase generation from outside the state of Ohio will not have access to the requested

information and will not have control over supplier inventory levels. This requirement should be removed from the proposed rules.

The trigger point of 20 utility burn days to notify the Commission is too high given normal operating and sound inventory management practices. While the typical "coal pile" at a coal-fired plant will vary, it is not uncommon for a coal pile to fall below 20 days supply periodically for short periods of time. The trigger for reporting a potential emergency and for declaring an emergency should be set at a level well below 20 utility burn days to avoid triggering these regulations as a result of normal operating practices. DP&L would suggest a trigger point that is more consistent with PJM's trigger of 72 hours.

VI. 4901:5-19-05 Action Taken Upon Declaration of Energy Emergency

There are two types of curtailment proposed in this section, voluntary and mandatory curtailment. Voluntary curtailment is issued upon declaration of an energy emergency by the Governor and when the statewide normal burn days reach 40 days. In such cases, Electric Power Producers are required to take certain actions including increasing its efforts to effect voluntary conservation, by all consumers, of at least twenty-five percent of all non priority use of electricity; implementing a public appeals campaign through the news media to its consumers; making appropriate suggestions for achieving usage reductions; and issuing periodic bulletins informing consumers of the fuel supply level.

Mandatory curtailment is described in stages. Stage 1 through Stage 4 is triggered by different statewide normal burn days ranging from 30 days to 15

days. The number of stages and associated burn days should be revised. A beneficial exercise for the Commission would be to examine historical inventory levels. This exercise would allow the Commission to establish levels that are just and reasonable and aligned with RTOs emergency operating procedures. These rules will increase the amount of inventory that Electric Power Producers operating in the State of Ohio are required to have. Requiring higher inventory levels which includes higher carrying costs will not only increase the price to produce generation in the State of Ohio but put them at a competitive disadvantage with out-of-state generators.

As described, DP&L is a member of PJM which is tasked with operating the interstate transmission system stretching from Illinois through Ohio, Pennsylvania, Virginia, Maryland, Delaware, and New Jersey and dispatching 164,000 MWs of generation within that region. PJM has a manual for Emergency Operations that focuses on how PJM and the PJM members are expected to respond to emergency conditions. Emergencies related to fuel shortages require departure from normal operating procedures in order to minimize the use of such scarce fuel. Additionally, to monitor fuel conditions on an ongoing basis, PJM requires both seasonal reporting and real-time reporting.

For seasonal reporting, prior to going in to the winter season, PJM will notify and request from all members with capacity resources, a by-unit report of fuel information. This information may be requested at other intervals as deemed necessary such as during a fuel crisis or forecasted period of severe cold weather. Participants are required to submit information on each unit which

includes: available primary fuel, available secondary fuel, projected fuel inventory, typical fuel inventory, average amounts of fuel per delivery, delivery frequency, and amount of firm gas schedules. This data provides a baseline that can be compared to data submitted in the real-time reporting process to assist in determining the severity of specific emergency conditions.

Real-time reporting is required when PJM receives cold weather forecast or foresees a potential fuel crisis (i.e. embargo, strike). Real-time updates of fuel limited units will be requested of members. A unit is considered fuel limited when it is not capable at running at its maximum capacity for the next 72 hours. If a unit has less than 72 hours of run time at maximum capacity due to any resource limitation then the following information is reported: Unit name, fuel type, maximum capacity, emergency minimum, current energy, and total burn hours remaining. PJM's operating manual states, in general, two days is a sufficient amount of time to alert governmental agencies of the situation and to receive appropriate assistance. Accordingly, these proposed rules and PJM's definitions of a fuel emergency are inconsistent.

4901:5-19-05(A)(8)(A) allows the Governor or the Commission, in consultation with the director of the Ohio Environmental Protection Agency, to request authorization from the proper authorities to curtail use of pollution control facilities. This section needs to allow cost recovery for any penalties or lost opportunity costs if ordered by the State to cease operation of environmental equipment. These rules should not cause the utility to incur a financial penalty if ordered to shut down pollution control equipment.

DP&L also suggests that the proposed language in section 4901:5-19-05(C)(2) and (D)(2) be deleted. The proposed language requires consumers to discontinue non-priority use of electricity on two and three days of each week respectively. Consumers may, in the alternative, elect to reduce total electricity consumption by twenty-five percent and fifty percent respectively below normal usage. Consumers choosing the alternative option must keep records sufficient to document the reduction. DP&L does not have the resources or systems in place to track this information and has no way to enforce this reduction.

VII. 4901:5-23-02 General Provisions

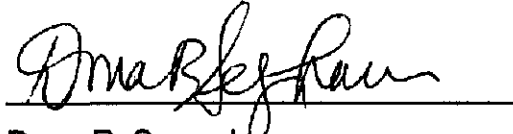
4901:5-23-02 (A) states in part, "the rules contained in Chapter 4901:5-23 of the Administrative Code cover the availability of coal for use other than electric power generation." The requirements of Chapter 4901:5-23 of the Administrative Code are keyed to the remaining supply of coal. However, in Section 4901:5-23-01, "consumer" is defined "as a person who consumes coal at a specified location." This would include electric power generating stations. This section should be clarified to state more clearly that these rules do not apply to coal used for electric power generation. The definition of "consumer" for this section of the regulations should also be revised as follows, "consumer means a person who consumers coal at a specified location other than an electric power generation facilities. "

VIII. 4901:5-23-04 Pre-Emergency Actions

4901:5-23-04 (A)(2)(B) allows coal suppliers to transfer coal supplies to other coal suppliers to fulfill priority use by customers of the recipient company. The following language should be added at the end of this section, "other than supplies designated for electric power generation."

DP&L appreciates the opportunity to comment on the proposed rules.


Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Dona R. Seger-Lawson", is written over a horizontal line.

Dona R. Seger-Lawson
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The Dayton Power and Light Company
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Dayton, OH 45432
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the forgoing Notice of The Dayton Power and Light Company was served by regular U.S. Mail, postage prepaid on December 15th, 2006 to the parties of record in this case.

By: 
Dona R. Seger-Lawson
Director, Regulatory Operations
The Dayton Power and Light Company
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Dayton, OH 45432